

**Comments on document CCCTB\WP\036**  
**Common Consolidated Corporate Tax Base Working Group**  
**– Points for discussion on ‘Administrative and Legal Framework’ –**

Introduction

In March 2006 the Commission issued a questionnaire regarding the administrative and legal framework for the CCCTB (WP030). This was followed by a working paper on the same topic in May 2006 (WP036). The comments below refer to the latter of these documents as we understand the questionnaire to have been overruled by the working paper.<sup>1</sup> If the Commission Services would find it useful, we are glad to give our comments also on the preliminary questions raised in the questionnaire.

The purpose of this note is to give some preliminary remarks on this difficult and important topic. The UNICE Task Force on CCCTB intends to work on the issue in further detail and means to provide for more detailed comments in due time. As usual, the positions taken below may be subject to revision as other areas of the CCCTB are explored. We are grateful for the opportunity to express our views.

Fundamental objectives

The importance of adopting well functioning administrative rules for the CCCTB cannot be overemphasized. Correctly implemented, it will promote *simplicity*, reduce *compliance costs* and ensure a streamlined and *common application* of the CCCTB in all countries. Improperly designed, however, it could lead to increased complexity and compliance costs. If this were to be the case, the very purpose of the CCCTB regime would be falsified. The Task Force therefore urges the Commission to put these considerations at the forefront in each step of designing the administrative framework.

The Commission paper is a good start to the introduction of the topic. We do, however, believe that it is too much focused on current practices and not enough on how administration in a new and truly competitive system should look like. It must be underlined that the very reason for working towards a pan-European system is that current practices are not equipped to face the ever fiercer competition from growing outside markets and that there is an immediate need for radical improvements of the tax systems and the administrative procedures if the Lisbon objectives are to be reached.

One-stop-shop

With this in mind, we would like to emphasize that one of the most fundamental benefits of a CCCTB is to reduce the compliance cost of having to deal with up to 25 systems monitored by 25 tax authorities by replacing it with the option to choose to be taxed according to a common and consolidated tax base. For the CCCTB to have any significant impact on the compliance burden, however, it must not only provide for a single set of rules, but also allow for a *single compliance* in a *single location*.<sup>2</sup> If the system were to

---

<sup>1</sup> According to the Commission, the purpose of the questionnaire was merely to receive some preliminary technical input from the Member States. CCCTB\WP\030, p. 2.

<sup>2</sup> UNICE Task Force on CCCTB Comments on document CCCTB\WP\035, p. 1.

require the corporate group to continuously deal with the tax administration in each Member State, the fact that there is a common set of rules would not significantly reduce compliance costs. We therefore believe that it is essential that the administrative framework follows the CCCTB concept and that it is developed around a *one-stop-shop* approach where a single Member State is responsible for handling all tax affairs of a given group.

Notably, this approach would mean that the taxpayer only has to file one tax return in one country for the entire group. Most reasonably this would be to the tax authority in the Member State where the ultimate EU-parent is residing. Similarly, the approach would mean that the 'one-stop-shop' authority is solely responsible for the audit of the books. It must be recognized that under the CCCTB, the computation of the tax base is no longer a local matter with respect to the individual entity. Consequently, the tax audit of a separate company is not to be carried out by the individual local authority in each member state where the group is active.

Obviously, the tax administration of the parent state will sometimes lack the capacity needed to carry out the audits in other Member States. Thus, where required, the local authorities may, on the request of the 'one-stop-shop' authority, need to support in the execution of the tasks at hand. Several ways of structuring such an interaction can be envisaged. To lower compliance costs, however, the crucial point is to allow the taxpayer to only have to interact with one administration.

The 'one-stop-shop' approach must equally apply to the apportionment of the calculated profit or loss. For obvious reasons, it is not acceptable that an apportionment decision made by the appointed tax authority (i.e. the one in the parent state) can be ignored or overruled by the tax administration of another Member State. This is absolutely crucial if the CCCTB is to resolve the problem of double taxation. We strongly oppose a system where several tax authorities shall be consulted to come to a common agreement. Considering the current experiences on the Transfer Pricing area, such an approach would be very time consuming and often result in double taxation. As we see it, the only reasonable approach is to give the 'one-stop-shop' authority the ability to make an apportionment ruling which is authoritative for the taxpayer (i.e. which the taxpayer can rely on). Any disagreement between the Member States shall be resolved at a common and single point of authority.

In its working paper, the Commission elaborates on the problem of having a different application of the CCCTB due to different interpretation and approaches in the various Member States. By providing for a 'one-stop-shop' regime with one audit in one state, this problem would be resolved with respect to the individual entities in the group. That is, all entities in a group would be audited according to the same approach regardless of where they are situated. Indeed, the issue would potentially still be relevant with respect to the relation between different groups (having head offices in different Member States). This does, however, seem very hard to avoid and can only be mitigated by providing for a clear and simple CCCTB-legislation. It should also be noted that different application of the same tax rules is not a unique problem for the CCCTB. It is currently often the case with respect to different authorities in the same Member State.

Finally, we find it unfortunate that the Commission paper on several occasions expresses doubt on the 'one-stop-shop' approach. As we can see it, this is of key importance if the CCCTB is to reach its fundamental goals of reducing compliance costs and avoiding double taxation. We therefore urge the Commission to take this into sincere consideration in its future discussions on the administrative framework.

## Miscellaneous

In addition, the Commission paper raises some miscellaneous issues. In paragraph 15, it is suggested that the tax returns should be submitted within 6 months after the end of the taxable period. This is a very short period, especially considering the fact that it comprises the finalization of a tax return for the entire group.

Paragraphs 8 and 14 elaborate on an analogy to the Master File concept as developed in the Code of Conduct for Transfer Pricing Documentation Requirements. Unfortunately, the concept is not elaborated on in any detail for the purpose of the CCCTB. It is thus not easy to understand. Bearing this in mind, we are at least *prima facie* reluctant to such an approach as we envisage a large administrative burden connected thereto. Before any position is taken, however, we do encourage the Commission to explain its ideas on this issue further.

Clarification is also needed with respect to the suggestion made in paragraph 29 that the CCCTB legislation “*will be Community legislation to be transposed by MS via national laws [...]*”. Without fully recognising the essence of this statement, we would like to emphasize that the introduction of a CCCTB needs to be made by means of a regulation. As we can see it, a CCCTB based on a directive proposal would fall short of ensuring a *common* tax base.

## Conclusion

In conclusion, we strongly encourage the Commission to have simplicity, low compliance costs and a streamlined and common application of the CCCTB as primary objectives when designing the administrative framework.

It is absolutely crucial that the administrative framework evolves around the ‘one-stop-shop’ concept, meaning a single compliance, audit and apportionment procedure in relation to one single Member State, acting as agent for the CCCTB country group. On request, this Member State should get assistance from local authorities. From the taxpayer’s perspective, however, there should only be one counterpart.

Finally, the master file concept and the statement that CCCTB will be transposed via national laws is not well understood and could lead to increased complexity and uncertainty. At the very least, it needs to be clarified.

On behalf of the UNICE Task Force on CCCTB

Krister Andersson

July 14, 2006