



October 20, 2010

Workshop on the Common Consolidated Corporate Tax Base (CCCTB) Comments on document CCCTB/RD/003 Transactions and dealings between the group and entities outside the group

Introduction

The BUSINESSEUROPE Task force on CCCTB is pleased to have been given the opportunity to provide some preliminary remarks in relation to dealings between the CCCTB groups and entities outside the group. Since this is an area where we have provided comments earlier we will limit our remarks to specific issues. The positions taken by the Task Force may be subject to revision as other areas of the CCCTB are explored and discussed.

General remarks

Provisions dealing with entities outside the group constitute a very important part of the CCCTB. We endorse the efforts done by the Commission to create a harmonised framework in this area.

Detailed remarks

Para. 8-9 – Given the objectives of the internal market, a switch over clause to credit, where the corporate tax rate is low, is only acceptable vis a vis third countries (i.e. not in relation to Member States that chooses to stay outside the CCCTB).

In this respect, we endorse the requirement of a minimum statutory rate of 40 % of the average statutory corporate rate in the Member States.

However, the switch over clause should be combined with an escape clause giving the taxpayer the opportunity to provide evidence of any commercial justification also with respect to transactions falling outside of the threshold. This would foster a reasonable level of predictability and contribute to a CCCTB that is both attractive and competitive.

Para. 10 – When assets are sold, the value of the pool will be decreased by the proceeds of the sale. The proceeds are therefore taxable as future depreciation is reduced by the amount received for the asset. By this construction, proceeds exceeding the written-down value of the entire pool, will be taxed as ordinary income while proceeds less than the written-down value of the entire pool will be taxable, but immediately offset by a write-down of the value of the pool, therefore having no



immediate tax consequences. Future depreciation will however be reduced. If the proceeds exceed the written down value of the individual asset in the pool, there will be no immediate taxation but future depreciations are reduced and higher taxes will therefore be levied.

This mechanism should be sufficient to deal with sales of assets and avoiding having to identify the taxable value of each asset. However, as expressed in comments on earlier Working papers, it could be appropriate to have more than one pool of assets.

Para. 11-12 – In relation to income which does not qualify for exemption, a relief by ordinary credit seems reasonable. However, in order to provide sufficient relief, the credit should be combined with a right to carry forward any outstanding credit for at least 3-years. Any outstanding credit would be terminated when exiting the CCCTB.

Para. 13 – From a business perspective, a pooling system or overall tax credit would be preferable to calculating the allowable credit individually for each Member State/third country and each type of income. First of all, a pooling system is simpler to administrate. Secondly, it evens out the foreign taxes (high/low) levied, thereby providing for adequate relief.

Para. 14 – We support the idea of having related expenses represent a fixed percentage of the inflow, giving the taxpayer the right to prove that it incurred lower expenses.

Para. 16-21 – We endorse the provisions on associated enterprises. We have a minor comment regarding para. 18. We believe it should read ...*participates directly or indirectly*....

On behalf of The BUSINESSEUROPE Task force on CCCTB

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