Transactions and Dealings between the Group and Entities outside the Group

Workshop on the CCCTB

20th October, 2010

Relief for Double taxation (1)

Exempt income:

- Received profit distributions (both portfolio dividends and direct investments)
- Proceeds from the disposal of shares
- Income from permanent establishments located in third countries

Relief for Double taxation (2)

Exempt income – Switchover clause:

- Credit method instead of exemption method if the level of taxation in the third country has not reached at least 40% of the average statutory corporate tax rate or a special tax regime is available in the country (with a substantially lower level of taxation compared to general regime)
- No switchover, when there is an double taxation agreement concluded between the Member State and third countries before the CCCTB enters into force which does not foresee this switchover.

Relief for Double taxation (3)

Exempt income – Disallowance in certain share disposal cases:

- <u>No exemption of share disposals</u> in as far as assets with significant hidden reserves were transferred through an intra-group transaction within the current or previous tax year to the group member to be disposed of.

Relief for Double taxation (4)

Interest, Royalties and other income which does not qualify for exemption:

- Deduction from the tax liability of the taxpayer method for the taxes levied at source (other Member State or third country)
- According to the treatment of income (shared between the members of the CCCTB group) the credit for source taxation will be shared through the formula as well.
- Relief limited to 'ordinary' credits' (exemption when 'full' credits are foreseen under a double taxation convention concluded before the entering into force of the CCCTB)
- Credits from source taxation are calculated for each source and type of income separately, i.e. no 'credit pooling.
- To tackle the discrepancy that withholding taxes are levied on gross amounts and the taxation of profits in the CCCTB is based on net amounts, it is considered in the absence of proven lower elated expenses to apply a fixed percentage of 2% of the inflow as deemed related expenses.

Withholding Tax in the Member State of Source

Payment of dividends, interest and royalties by a taxpayer to a recipient outside the group may trigger withholding tax in the Member State of source:

- Dividends – no share out of withholding tax on dividends between group members
- Interest and Royalty payments – proceeds from applying withholding tax on such payments are shared out between the Member States of the group members according to the formula. The reason behind: the deduction for the underling interest and royalty expenses are also shared out between group members according to the formula.

Associated Enterprises (1)

Associated enterprises are defined to delineate the scope for transfer pricing rules. The approach applied follows Article 9 of the OECD model.

- A taxpayer participates directly in the management or control or capital of a non taxpayer or a tax payer not in the same group.
- The same persons participate directly or indirectly in the management or control or capital of a tax payer and a non taxpayer or a tax payer not in the same group.
- The relation between a head office and its permanent establishments.

Associated Enterprises (2)

Definitions:

- Control: >20% of voting rights
- Capital: >20% participation in ownership rights
- Management: a position to exercise significant influence in the management of the associated enterprise;
- Rule for indirect participations: threshold calculation for successive tiers. Assumption – more than 50% voting rights is seen as 100% for qualification purposes.
- Influence by an individual: Rule for family member necessary.