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SUMMARY REPORT ON THE REPLIES RECEIVED IN RESPONSE TO THE QUESTIONNAIRE ON CORPORATE TAX AS BARRIER TO EU EXPANSION OF SMALL AND MEDIUM-SIZED ENTERPRISES

Background

The European Commission announced in its Company Taxation Communication (COM(2003) 726) of November 2003 that it would in due course make a recommendation to Member States for a pilot tax scheme which would allow small and medium-sized enterprises (SMEs) to use the tax rules of their home state for calculating their EU-wide taxable profits ("Home State Taxation") on an experimental basis for five years. The objective is to address the business tax problems that SMEs experience when expanding across borders and that often prevent them from benefiting fully from the Internal Market's potential. Against this background, DG Taxation and Customs Union in July 2004 published an "Outline of a possible experimental application of Home State Taxation to small and medium-sized enterprises" and a "Questionnaire on corporate tax as barrier to EU expansion of small and medium-sized enterprises" and called upon interested stakeholders to complete and return in an anonymous form the questionnaire. After one prolongation the final deadline for replying to the questionnaire expired on 31 December 2004.

Under the scheme under consideration, in simple terms, the profits of a group of companies active in more than one Member State would be computed according to the rules of one country's tax system only, the system of the Home State of the parent company or head office of the group. Each participating Member State would continue to tax at its own corporate tax rate its share of the profits of the group's business activities in that State. No harmonisation of rules is sought.

The questionnaire was intended to gauge the support of the EU SME community for this project and collect some useful information in this respect. There was no intention to draw an EU representative sample in order to conduct a statistical analysis. It should also be noted that various replies were incomplete which explains that in the presentation of the results below some figures might at first sight appear to be inconsistent. Moreover, the geographical spread of replies is very uneven. Still the Commission services consider that the replies received in response to the questionnaire provide useful insights also into some of the economic effects of the scheme.

The Commission services wish to thank all participating businesses for replying to this questionnaire and providing their comments on the possible Home State Taxation pilot scheme part for small and medium-sized enterprises. The outcome of the consultation will be taken into account in the Commission services further work on the subject. A recommendation on the subject is now in principle foreseen in the Commission work programme for 2005.

Main results

- 194 replies were received in response to the questionnaire: 168 from Germany; 8 from Poland; 6 from Austria; 2 respectively from Belgium, the Czech Republic and Italy and 1 respectively from Denmark, France, Luxemburg, Slovakia, the United Kingdom and from an unspecified third country.
- 63 replies were given by businesses run as partnership and 130 by business run as incorporated companies.
- 55 replies considered that the different existing business tax laws and arrangements within the Internal Market discourage businesses from expanding to another Member State while 136 replies were not of this opinion (Question 1).
- Asked, if they could use their domestic business tax rules to work out the taxable profits for all European Union countries, where they do business, using their own language and file all the calculations only with their 'home' tax authorities, whether they would consider creating a new, or expanding an existing, establishment in one or more EU states, 96 businesses replied positively and 94 negatively (Question 2).
- 99 of the respondents were interested in participating in a five years pilot scheme as described while 91 respondents were not (Question 3).
- The following – sometimes related or overlapping - tax issues were mentioned as being considered important to business expansion in the Internal Market (Question 4):
 - The level of taxation (mentioned 17 times)
 - VAT compliance issues and lack of VAT uniformisation (mentioned 10 times)
 - The understandability, transparency, reliability and simplicity of tax laws (mentioned 9 times)
 - Administrative burden (mentioned 7 times)
 - The treatment of losses (mentioned 6 times)
 - The lack of harmonisation of tax systems and tax rates (mentioned 5 times)
 - Tax base differentials between Member States (mentioned 4 times)
 - Complexities of the national tax systems
 - Tax advisor costs
 - Transfer pricing issues
 - The tax treatment of joint-ventures
 - The risk of double taxation
 - The tax treatment of equity (own capital)
 - Lack of a uniform EU mineral oil tax
 - Car taxation issues
 - The tax treatment of cross-border mergers
 - Thin capitalisation rules
 - Inheritance tax

- Although this was not asked for, several respondents referred to the importance of non-fiscal factors for cross-border expansion of businesses. Notably the following issues were mentioned:
 - The need for more subsidies (mentioned 3 times)
 - Language problems (mentioned 3 times)
 - The role of trade unions (mentioned 2 times)
 - The need for a more uniform and liberal labour law (mentioned 2 times)
 - Working time
 - Logistics
- In commenting on the design of a possible pilot scheme, the following observations were made:
 - The pilot scheme could alternatively be targeted at the European Company Statute (mentioned 2 times)
 - The treatment of losses that were accumulated previous to the participation in the pilot scheme is extremely important.
 - Only an optional scheme could be of interest.
 - In any event, the scheme should not encompass a common tax rate.
 - The allocation key is of very important for deciding the usefulness of the scheme.
- Many respondents did not or only incompletely provide data on their own business (Question 5). On that basis, the following results can be reported:
 - 63 of the respondents are large scale enterprises (LSE) in the EU definition. 31 of these would be interested in participating in a five years pilot scheme as described while 30 are not. It should be noted that most of the responding LSEs were just above one of the relevant thresholds in the SME definition and that participation of a sub-group is in principle possible.
 - 85 of the respondents are medium-sized enterprises in the EU definition. 45 of these would be interested in participating in a five years pilot scheme as described while 40 are not.
 - 44 of the respondents are small scale enterprises in the EU definition. 23 of these would be interested in participating in a five years pilot scheme as described while 21 are not.
 - As regards business tax compliance (in absolute terms and/or in relation to the relevant group turnover) and work on business tax issues (man days/per year replies no clear pattern of reply emerged (sub-questions iv) and v)). Many respondents indicated that it was not possible for them to provide meaningful figures in this respect. Despite the anonymous format some were also not willing to share internal information. It is noteworthy that estimates about the business tax compliance cost in relation to the group turnover range from 0,05% to 5%.
 - Regardless of their size or country of origin respondents were on average 2 – 3 times subject to a tax audit over the last ten years (sub-question vii)).

Conclusions

On the basis of the replies given to the questionnaire it can be concluded that

- around one-third of the SMEs in the EU consider corporate taxation as an important obstacle to cross-border expansion;
- around one-half of the SMEs in the EU acknowledge the potential and the positive contribution of the Home State Taxation approach for helping and encouraging their economic activities in other Member States;
- around one-half of the SMEs in the EU show, at least in principle, interest to take part in an appropriately designed pilot scheme;
- the interest to take part in the pilot scheme is, in relative terms, highest among medium-sized enterprises.

The Commission services are mindful of the fact that these results are subject to methodological reservations and do not meet statistical standards of representativeness. It is nevertheless considered that these results confirm the positive outcome of the public consultation held in 2003 and provide additional arguments in favour of testing the merits of the Home State Taxation approach in an appropriately designed pilot scheme for SMEs.

Annex: Summary table of the replies given to the questionnaire

Summary of replies to the DG TAXUD "questionnaire on corporate tax as barrier to EU expansion of small and medium-sized enterprises" – Questions 1) – 3)

<i>Member States</i>	<i>N° of replies received</i>	<i>Inc.</i>	<i>Partner-ships</i>	<i>Question 1</i>		<i>Question 2</i>		<i>Question 3</i>	
				YES	NO	YES	NO	YES	NO
Belgium	2	1		1	1	2		1	1
Czech Republic	2	2		1	1	1	1	1	1
Denmark	1	1		1		1		1	
Germany	168	107	61	45	120	81	84	83	82
Estonia									
Greece									
Spain									
France	1	1			1	1		1	
Ireland									
Italy	2	2			2		2		2
Cyprus									
Latvia									
Lithuania									
Luxemburg	1	1			1		1	1	
Hungary									
Malta									
Netherlands									
Austria	6	5	1		6	2	4	3	3
Poland	8	8		4	4	6	2	7	1
Portugal									
Slovenia									
Slovakia	1	1		1		1		1	
Finland									
Sweden									
UK	1	1		1		1			1
Outside EU	1		1	1					
total	194	130	63	55	136	96	94	99	91