

**„CCCTB AND THIRD COUNTRIES” - THE TOPIC
OF THE INTERNATIONAL CONFERENCE ORGANIZED
BY THE INSTITUTE FOR AUSTRIAN AND
INTERNATIONAL TAX LAW, VIENNA UNIVERSITY
OF ECONOMICS AND BUSINESS IN THE PERIOD 30TH-31ST
OF JANUARY 2012 AT VIENNA¹**

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In the period 30th-31st of January 2012 in the ceremony hall (Festsaal) of Vienna University of Economics and Business (Wirtschaftsuniversität Wien) took place the conference with international participation organized by the Institute for Austrian and International Tax Law (Österreichisches & Internationales Steuerrecht) on the topic of the common consolidated corporate tax base (CCCTB and Third Countries)³. The conference had as object the presentation – by well-known specialists, university professors and researchers – of the most important third country related issues of the European Commission’s directive proposal regarding the common consolidated corporate tax base of the undertakings having their fiscal residence in the EU or the subsidiaries situated in the EU of companies resident in third countries⁴.

¹ The present paper was previously published by the author in the “Curierul Fiscal” Law Journal no. 3/2012, with the title “*International Conference organized by the Institute for Austrian and International Tax Law, Vienna University of Economics and Business „CCCTB and Third Countries” - 30th-31st of January 2012, Vienna*”, pp. 51-53.

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³ The denomination CCTB represents an abbreviation for the formula *Common Consolidated Corporate Tax Base* (a common tax base for company taxation). The concept refers to a common tax system applicable to company taxation throughout the EU; the consolidated character of the tax base is based on the fact that the taxation system implies the summarization of all of the profits and losses of the undertakings or groups of undertakings from different Member States on whose territories they are carrying out their activities, in order to establish a global profit or loss for the entire activity which takes place within the EU. The tax base calculation is carried out with the summarization of the incomes of the undertakings and the deduction of the expenses and other categories of deductible amounts, the objective being the creation of a net taxable profit.

⁴ We are mentioning here the fact that the common consolidated company tax base refers to the companies which have their fiscal residence in the EU and the EU based subsidiaries of the undertakings from third countries.

The discussions of the conference had as starting point the European Commission's directive proposal published at 16th of March 2011⁵, regarding the establishment of a common computing system of the tax base for profit taxation of the companies which are activating in the European Union and the application of the „one-stop shop system” for filling of fiscal declarations.

According to the Commission, the new regulation will permit undertakings to consolidate their profits and losses at a European level, as long as the profits and losses in case were realized on the territory of the European Union. The first proposals, regarding the elaboration of a unic set of norms for computing the common consolidated corporate tax base for the companies carrying out their activities in the EU, took place in September 2004 and were analyzed at the ECOFIN's informal meeting. The conclusion of the discussions was the necessity to establish a work group of the European Commission on this topic. The current directive proposal came out after the publication of several notices of the European Commission on this topic in 2007 and after the consultations which took place with members of the business and academic environment.

The major aim of the directive proposal was the identification of a unic modality of tax base computation for the profit tax of companies, able to remove in a systematic way the principle obstacles which exists in the case of profit taxation of the undertakings which are carrying out their activities in more than one EU Member State of the Internal Market, by offering common rules for the computation of tax base.

The major obstacle regarding the profit taxation of companies carrying out commercial activities with transborder character in the UE is the existence of 27 different fiscal systems in the EU, every system having his own specific rules regarding the determination of tax base.

The common tax base proposed by the European Commission comes with a common set of rules applicable to undertakings carrying out their activities at the territory of the EU. Computing the profits and losses of the companies takes place with the consolidation of profits and losses realized at the level of the European Union. Companies opting-in for the CCCTB system will not be obliged anymore to respect the different fiscal rules regarding tax base calculation of the Member States in which they are carrying out their activities, instead they will respect the unic set of normes of the CCCTB.

Fiscal reimbursement could be also requested with the help of a unic fiscal declaration in conformity with the „one –stop shop” system. The tax base which will be determined in the CCCTB system will be shared between the Member States in which the undertaking is carrying out activities and will be taxed after the taxation rates applicable in every of the mentioned Member States⁶. Filling fiscal declarations, carrying out tax audits and the following up of the fiscal reimbursement process will be performed by the tax authorities of principal Member State, where the undertaking is carrying out his economic activities. The European Commission directive proposal includes clear procedural normes regarding the opting-in modalities for the optional CCCTB system, the

⁵ European Commission, Brussels, 16.3.2011, COM (2011) 121 final 2011/0058(CNS), *Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)*.

⁶ For more details regarding the common corporate consolidated tax base of undertakings and the answers to the frequently asked questions, please see the press release of the European Commission MEMO/11/171 from 16 March 2011, Bruxelles.

transmission of fiscal declarations, the harmonization of the relevant formulas and the coordination of audits.

The most important advantages of the common corporate consolidated tax base consists in: the avoidance of bureaucracy and the compliance costs associated with different taxing rules and systems applicable in different Member States regarding tax base computing and the transmission of fiscal declarations; the avoidance of conflict of jurisdictions between national tax authorities and the double taxation of companies; increasing the transparency of company taxation in the EU and the avoidance of harmful fiscal competition; increasing the global competitiveness of the EU and the attractiveness of the European Union from the perspective of direct foreign investments; the facilitation of the activity of undertakings in other Member States of the European Union, by reducing the establishment costs of a new subsidiary; the elimination of the complex transfer pricing system applicable in the present for intra-group transactions; stimulating research and development activities and innovation by the deductible character of this kind of expenses.

Taking into consideration the fact that the rules of common consolidated corporate tax base are applicable in an equal manner to the subsidiaries of third country companies resident in the EU, as far as these undertakings fulfills the califications conditions mentioned in the directive proposal – the international conference organized by the Institute for Austrian and International Tax Law treats actual issues.

The workings of the international conference took place in two days and were presented nine major discussion topics, moderated by the members of the conference scientific committee: his Excellence *prof. Michael Lang* and his well-known colleagues *prof. Pasquale Pistone, prof. Joseph Schuch, prof. Claus Staringer and prof. Alfred Storck*.

The discussion topic of every panel session was introduced by the session chairman and presented afterwords by the keynote speakers, authors of a scientific article on the topic of the panel session. The speech of the authors was briefly discussed by the commentators (experts from non-EU countries, members of the Member States' fiscal administrations, EU officials, university professors of famous universities, employees of great international companies, representatives of law firms and economic consultancy firms⁷ etc.).

The first day of the conference was dedicated to aspects regarding the taxation of EU resident companies and non-resident companies, to withholding taxation, transparent

⁷ Between the participants were university professors from: Harvard Law School (USA), University of Zürich (Switzerland), University of Mannheim (Germany), University of Salzburg (Austria), Maastricht University (Estonia), Universitatea din Uppsala (Sweden), University of Bern (Poland), University of Economics from Wrocław (Poland), Sofia University (Bulgaria), Sorbona Law School (France), University of Bocconi (Italy), University Paris I – Pantheon Sorbonne (France), Victoria University of Wellington (New Zealand), New York University School of Law (USA), Faculty of Law University of Georgia (USA), Tilburg University (Netherlands), Maribor University (Slovenia), University of Bologna (Italy), University of Bergamo (Italy), Victoria Univeristy (Canada), Mendel University of Brno (Czech Republic), Queen Mary Univeristy of Londra (Great Britain), European University Institute Firenze (Italy), University of Salerno (Italy), Varşovia University (Poland); experts from the European Commission and OECD, representatives from the minister of finance from Germany, Italy and Denmark and other representatives of international law firms and economic consultancy firms from France, Italy, Netherlands, USA, Turkey, Austria, Germany and, Denmark.

entities and reimbursement of gifts granted to charitable entities from third countries. After the workings of the conference the participants ended the working day in a traditional Austrian atmosphere in the „10er Marie”, restaurant situated in the hystoric center of Vienna, where the Mayor of Vienna organized a feast in the honour of the event. The second day of the conference was allocated to discussions of the panel sessions regarding active transfer issues in third countries and interest deductibilities.

The seriousness, rigor and professionalism of the Austrian colleagues certainly deserves our appreciation and is a model for organizing similar events in our country.