COORDINATION OF CORPORATE TAXATION AT EUROPEAN UNION LEVEL

Coordination of tax policy is one of the basic elements that can contribute to greater economic integration in the European Union. Treaty of Rome Treaty establishing the European Economic Community (EEC, the EU and the Community) in Article 2 lays down that the EEC should have as its primary task to establish a common market by gradually approximating the economic policies of the Member States, as well as to promote the harmonious economic development, and constantly balanced economic growth, increased stability, accelerated raising of the standard of living and closer relations between the countries to which they belong. The Treaty of Rome in Article 3 also includes those activities EEC, to be carried out in order to satisfy the above-specified purposes. Among these activities, it provides that Member States must remove all obstacles to the free movement of goods, services, people and capital (four freedoms). Taxes and customs duties levied by Member States on a national basis may be one of the most significant obstacles to implementation of the four freedoms of the Treaty of Rome.

1 Tax Policy of EU

In the Member States, large differences in tax structure and tax rates were found in relation to sales taxation, excise duties, corporate taxation and personal taxation. In the field of direct taxation, a general turnover tax in the form of value added tax was introduced in France; West Germany had a cumulative or cascade turnover tax and Italy a one-level turnover tax. Excise duties were even more diverse, since fiscal charges of all types were included in this category of duty. Turnover of excise duties was often carried out with the help of state monopolies on production and sale. In the field of corporate taxation, there was also a similar diversity, since three taxation systems were developed, a classical system, a system of shared rates, and an input system. In the system of personal taxation, there were also large differences, in particular with regard to exemptions and financing methods.

In 2011, the Competitiveness Pact proposed six measures aimed at creating the competitiveness of the internal market in the European Union. Initially, the Competitiveness Pact was designed for the territory of the euro area Member States, but non-EU Member States were also invited to join together.

Creating a common corporate tax base is a very important but extremely controversial part of the Competitiveness Pact. Although the Competitiveness Pact was renamed the "Pact for the Euro", the original objective of strengthening economic integration with the Member States remained unchanged. The euro pact is intended to strengthen the

coordination of economic policies between Member States with the aim of improving competitiveness and facilitating a greater degree of convergence between Member States. The euro pact also includes the coordination of Member States' fiscal policies. Direct taxation issues remain within the competence of the Member States, but in developing the company's overall tax base, fiscal neutrality must be pursued to ensure consistency between national tax systems while respecting national tax strategies, thereby indirectly contributing to the sustainability of public finances and the competitiveness of European companies. Within the framework of the EU Pact, the harmonization of tax policies includes:

- exchange of best tax practices,
- avoiding harmful practices and making proposals to combat tax fraud and evasion,
- the development of a common corporate tax base.

The main objective of the Euro Pact is to promote convergence between Member States in order to reduce the economic imbalances that have contributed to the economic crisis. However, the Pact for the Euro can also have a profound political influence in terms of creating a union in the Union and contributing to the creation of a two-speed Europe. In March 2011, the three objectives of tax policy coordination, as defined in the Pact for the Euro, were further developed. The development of a common corporate tax base was included in the Commission's proposal for a Council Directive on the Common Consolidated Corporate Tax Base (CCCTB). The European Commission has proposed a common mechanism for calculating the corporate tax base, the consolidation of tax bases from different Member States and the subsequent distribution of the consolidated tax base between the Member States in accordance with the distribution mechanism. The system proposed by the European Commission is similar to that used in other market economies, such as the United States of America and Canada, where the consolidated tax base is allocated between countries and countries on the basis of a distribution mechanism.

The CCCTB system should provide more favorable conditions for investment in the single market, while reducing management costs. Enterprises would gain competitive advantages in the internal market, mainly due to the elimination of transfer (transfer) prices, the transfer of losses through national systems in the group as well as the reorganization of the duty-free system. The positive effects of the introduction of the CCCTB model, on the other hand, outweigh the introduction of certain additional financial and administrative costs that should be taken into account by the national tax authorities in case of system implementation at first instance. The introduction of the CCCTB would increase the transparency of taxation across EU Member States, thereby helping to reduce fiscal uncertainty, as international companies could reasonably calculate in advance how much the real tax burden would be at the level of the whole company. This system would discourage companies from certain types of behavior for

purely fiscal reasons, which would reduce the distortion of investment decisions and increase economic efficiency or optimize the allocation of resources.

2 Harmonization of indirect taxes

2.1 Harmonization of customs duties and excise duties

Indirect taxes such as value added tax, excise duties and customs duties are collected from the sale of goods or services. These charges may impede the free movement of goods and services on the internal internal market of the EEC. The EEC Treaty contained a number of specific provisions on indirect taxation, in particular with regard to the establishment of a customs union, the harmonization of indirect taxes and the prohibition of discriminatory and protective taxation of the product. Harmonized EU legislation on indirect taxes and customs union was established on the basis of specific contractual provisions, while regarding the direct taxation in the contract we do not find relevant provisions.

With the establishment of the EEC, a customs union was established. Indirect taxes have been properly coordinated within Member States. The elimination of trade barriers to the four fundamental freedoms began with the establishment of a customs union in the Member States. In Article 9.1, the Treaty of Rome explicitly provides that the EEC is based on a customs union covering all trade in goods and which includes a prohibition on customs duties on imports and exports between Member States and all charges having equivalent effect while at the same time adopting a common customs tariff in relations with third countries countries. Customs Union means a total ban on import and export customs duties between Member States and charges having an equivalent effect to customs. The common customs tariff at the external borders of the European Union is also taken into account. The Common Customs Tariff entered into force on 1 July 1968.

Concerning excise duties, the process of coordination began in 1970. On the basis of the so-called White Paper of June 1985, the European Commission submitted a number of proposals for harmonizing the tax arrangements for tobacco, alcohol and mineral oils. However, the proposals submitted were confronted with a large resistance of the Member States. In addition to the harmonization of tax rates, the greatest resistance to the adjustment of the regime as well as the budgetary risk of the Member States was greatest. In response to this reluctance of the Member States, the European Commission prepared revised proposals for directives in 1989 and 1990. These proposals reflect the new concept of regulating the area based on harmonization by introducing minimum tax rates and classes. The Directives were finally adopted in

1992. Since then, the European Commission has developed further amendments to excise duty directives and adopted an updated directive on the general excise regime.

2.2 Harmonization of indirect traffic taxation

In addition to the establishment of the Customs Union, the harmonization of value added tax began to start. The basis for the harmonization of indirect transport taxation was explicitly required in Article 99 of the Treaty of Rome to examine the European legislation on how the laws of individual Member States regarding turnover taxes, excise duties and other the forms of indirect taxes, including the countervailing measures applicable to trade between Member States, should be harmonized in the interests of the common market.

The inadequacy of indirect taxes on transport can hinder the free movement of goods and services. EEC has been intensively engaged in the policy coordination field that affects intra-Community trade. The first important document in this area was the Timbergen Report (1953), which dates back to the year of the creation of the European Coal and Steel Community. The Tinbergen Committee stressed the equivalence of value added tax levied in a country that follows the principle of destination or in a country that respects the principle of origin, as long as the tax is levied on all types of goods at the same tax rates. At that time, the principle of use was adopted exclusively for international sales, while the competence of the European Coal and Steel Community was only for the coal and steel sector. Following the alignment of the area, the Tinbergen Committee proposed the application of the principle of use also for trade in this sector.

Another important document during this period was the Neumark Report (1963). The findings of this report recommend the replacement of the gross turnover tax, which at that time existed in most of the EEC Member States with value added tax, which was already in force in France at the time. The report also stresses the need to eliminate tax barriers within the EEC and suggests that indirect taxation of transport be transposed from the principle of destination, which requires the adjustment of fiscal limits for its implementation to the principle of origin. EEC followed recommendations on the creation of value added tax as the basic form of traffic taxation, and also decided to maintain the principle of origin as a tax system governing intra-Community trade in goods.

At the end of the sixties, the first and second VAT Directives were in force. Although the implementation of the provisions of the directives was the first step in the harmonization of turnover taxes in the Community, only the general structures of the system were determined, and all the rest was left to the Member States which

themselves determined the volume of VAT and the level of tax rates. With the introduction of the Sixth VAT Directive adopted in 1977, a uniform systematic VAT system was adopted in full in all Member States. In 2007, the Sixth VAT Directive was replaced by Council Directive 2006/112 / EC of 28 November 2006 on the common system of value added tax (Eighth Directive), which has until now been amended several times.

Legal and natural persons in EU Member States can sell, buy and invest in all EU Member States without having to carry out checks or other formalities in crossing national borders. In addition to these findings, the fact that the administrative costs of legal persons in transactions of goods and services in other EU countries are gradually decreasing. In accordance with the Single European Charter, fundamental changes to the current taxation on the principles of free movement of goods are introduced. Under the transitional regime, the sale of goods across the frontier line between the majority of business partners is taxed at the purchasers of the countries for which the goods are intended. After the entry into force of the final regime, such sales are taxed at the seller in the country of origin of the goods. The tax regime separates three main forms of sales:

- sales between business partners,
- sales to entrepreneurs who are not liable to pay VAT,
- sale to individuals (natural persons).

In the sales system between business partners, the taxable person is an importer of goods and represents a source of regular VAT incomes for tax authorities. Every taxable person has a specific VAT registration number. The seller applies a zero VAT rate in which two conditions must be met, namely that the goods must physically cross the border from one country to another, and business partners must have a VAT registration number.

The buyer must notify the seller of his VAT registration number. The seller meets the usual recurring periodic returns reports that enter into a separate column of sales to other EU Member States who are exempted from VAT. The seller must also provide a declaration indicating the registration numbers of VAT buyers from EU Member States, together with data on the total value of sales to each of them for the period covered by the declaration. The invoice must include the VAT registration number for both the buyer and the seller and all other relevant VAT information.

In the case of legal transactions between economic operators of EU Member States who are not liable to pay VAT, they are considered to be a refund of VAT as if they are business partners who are subject to taxation.

Natural persons traveling from one EU country to another for the purpose of purchasing goods must pay VAT where they bought goods and are not subject to this tax when returning to their own EU Member State. The procedure for charging VAT is the same as that applicable to citizens resident in the EU Member State where the purchase was made.

The importation of goods from non-EU countries is subject to the rules governing the payment of VAT and the payment of customs duties. If goods travel through the transitional regime, there is no need to pay VAT until the goods leave the regime. Goods exported to non-EU countries will not be subject to VAT, provided that the normal customs formalities for the export of goods are carried out.

Under existing regulations, a taxable person carrying out taxable transactions for which he is liable to pay tax in more than one Member State must fulfill his VAT obligations (identification, forecast and payment) in each of those Member States. Since the Member States have considerable discretion in determining the VAT obligations (the content of the forecast and their frequency), a taxable person may face a number of different obligations that he must fulfill in the Member States.

Under the existing scheme, undertakings which have obligations in a Member State where they are not established are obliged to pay directly to the Member States where the transactions are subject to VAT. This applies both to traders based in the EU and to traders established outside the EU. Similarly applies to tax refunds where Member States can reimburse the amount or transfer the surplus to the next tax period.

The supply of electronic services by non-established taxable persons to non-taxable persons constitutes an exception to the normal principle of payments and repayments. Non-established traders using a special scheme for electronically supplied services shall make a single payment to the Member State of identification which then distributes the corresponding amounts to the Member States of consumption. There is a special arrangement for the refund of input tax to taxable persons not established and supplying electronic services.

The poor performance of the recovery procedure under the Eighth Directive has, for many years, been a major problem both for traders and for the national authorities of the Member States. Complaints were received from traders and their representative organizations in which they regret the delay in receiving refunds. Therefore, an alternative way of updating the existing VAT refund procedure was determined. Under this procedure, refund requests are still dealt with by the Member State where the VAT was paid and the recoverable amount is determined by the deduction rules in the Member State in which the costs were incurred. Payments shall be made by that Member State directly to the taxable person requesting the refund. The changes

primarily concern the use of modern technology for the submission of recovery claims. The taxable person submits his claim for refund electronically via a web portal managed by the financial authority of the country where the taxable person is established. Thus, it is no longer necessary to submit original invoices or import documents, as the necessary information regarding these documents is transmitted electronically.

For business-to-business transactions that are subject to VAT in the Member State in which the buyer is established, the buyer's duty to pay a tax means that taxation is incurred at the place of consumption, without the supplier being taxed in the Member State of consumption. In the event that the taxable supply of goods or services is carried out by a non-established taxable person, the national law may provide for the transactions for which this mechanism is applicable for the payment of VAT.

The extension of the scope of the compulsory reverse charge mechanism extends to cases where a taxable person without headquarters supplies goods or services which are installed or installed by or on behalf of the supplier, services related to immovable property and services where the buyer is a taxable person identified for VAT. The use of the reverse charge mechanism relieves a non-established trader of certain tax obligations, such as the submission of tax returns. When a trader is charged VAT on the costs incurred in the Member State where the transaction was carried out, he must claim a refund of VAT through the refund procedure, as he can not deduct input VAT through the VAT return. The reverse charge mechanism is linked to the introduction of a one-time tax scheme for the refund process.

The distance selling of goods is usually taxed in the Member State of receipt of the goods dispatched by the seller. However, there is an exception, as distance selling remains taxable in the Member State of departure if two conditions are met. The total value of the goods delivered to the Member State of receipt in the previous calendar year did not exceed EUR 100 000 or EUR 35 000 if the Member State of destination believes that the threshold of EUR 100 000 would lead to a significant distortion of the conditions of competition. The supply must not contain excise goods, which means that the distance selling of excise goods is always taxed in the receiving country, without taking into account the above-mentioned threshold. Nevertheless, a Member State must allow a taxable person making distance sales to opt for taxation in the Member State of receipt if the threshold of EUR 35 000/100 000 is not reached.

The threshold had to be set at a level that would exclude companies that do not deal regularly with distance selling. A threshold of EUR 150 000 excluded traders from the distance selling regime who only occasionally transport goods to their customers in another Member State. On the other hand, retailers who regularly sell remotely are obliged to pay VAT in Member States where they are not established. By using a one-

time tax scheme, traders significantly simplify their VAT obligations, which they have to fulfill in each Member State where they carry out taxable transactions.

In the definition of exempt insurance and financial services, stakeholders face a considerable legal complexity of the various administrative practices, which creates legal uncertainty for economic operators and tax authorities. The result of this legal uncertainty is an increasing number of court cases and increased administrative costs for economic operators and administrations for the use of these exemptions. It is therefore imperative to clarify the rules governing the exemption from VAT for insurance and financial services in order to create greater legal certainty and reduce administrative costs for economic operators and administrations.

Another problem concerns hidden VAT in the cost structure of insurance and financial services. In financial and insurance services, all economic operators strive to improve their competitiveness, as they are increasingly exposed to competition between themselves as a result of a trend towards a single pan-European market, as well as to competition from economic operators located outside the EU. Grouping within the sector has largely led to the need for efficiency, but strategies for reducing costs are reflected differently. The development is fostering the creation of a wider regulatory framework for an integrated European financial services market. This increases competition between providers of insurance and financial services with steady steps towards equal operating conditions. In this environment, economic operators have developed various techniques to improve their own competitiveness. With these techniques less value is created internally, but it is provided by independent third parties as suppliers of insurance and financial products. In doing so, there is a problem that such services can not be included in the VAT exemption for financial and insurance services and are therefore charged with VAT. This VAT is often not deductible for the client because it does not have the right to deduct, since it itself carries out exempted insurance and financial services. Non-deductible VAT becomes part of the cost. Solutions are achieved through three measures:

- clarification of the rules governing the exemption from VAT for insurance and financial services;
- extending the existing choice of taxation by transferring the right of option from Member States to economic operators;
- the introduction of a cost-sharing group enabling economic operators to pool investments and redistribute the costs for those investments exempt from VAT from the group to its members.

The aim of clarifying the rules governing the exemption from VAT for insurance and financial services is to ensure a more uniform use of the VAT exemption, thereby creating greater legal certainty for economic operators and reducing their administrative burden to comply with the rules.

In accordance with the extended choice of taxation, the economic operator is the one who decides whether he wants to be fully taxable. In case it exercises this right, it may deduct input VAT on its investments just like any other economic operator. This creates the same operating conditions for the financial sector that have not been achieved so far, since only a few Member States have granted this option to companies, and under different conditions. At the same time, the necessary flexibility is provided for the Member States to define the rules for the use of this option, which they adapt to their national tax control structures. On the basis of the cost-sharing model, in particular small-scale operators can pool their investments (eg computer technology of specialized personnel) into groups that can buy these investments at better market conditions and redistribute exempted VAT payments to members of the group.

3 Harmonization of direct taxation

Contrary to indirect taxes, direct taxes (personal income tax, corporate income tax), capital duty are payable on income and capital flows. Direct taxation interferes with the fundamental freedoms, namely the free movement of persons (natural or legal) and the free movement of capital. Free movement of persons includes the right to free stay and business creation, which means that natural persons (workers, self-employed, students, pensioners, etc.) can freely choose their place of residence in the EU. In the common market, not only work and entrepreneurship are subject to the right to free movement, but this also applies to capital. Investors should be able to invest their funds where they consider the risk / yield ratio to be the best. Moreover, the right to establish a seat constitutes a need for the free movement of capital as a cross-border establishment of undertakings which normally involves cross-border movement of capital (assets).

Concerning direct taxation, the EU accepts some sort of agreement that the harmonization of personal income tax should not directly affect these benefits, which still need to be organized at the national level. Co-ordination of corporate taxation is indirectly taken into account in Article 100 of the Treaty of Rome, which provides that the Council of the European Union acting unanimously, on a proposal from the Commission, will legislate on issues relating to the approximation of those provisions of laws, regulations or administrative provisions in the Member States , which directly affect the establishment or functioning of the common market.

Since the establishment of the EU, corporate taxation has received special attention, as this topic is one of the most important elements for the establishment and completion of the internal market. The Neumark report published in 1962 in the area of taxation of legal persons includes several recommendations on the field of corporate taxation.

In the Tempell report issued in 1970, a number of initiatives were proposed aimed at achieving a limited degree of harmonization of the taxation system of legal persons, the creation of a tax base and tax rates.

In 1975, the European Commission submitted appropriate proposals for directives recommending a uniform corporate tax rate of corporation tax of between 45 and 55 per cent, a system of partial credit imputations following the example of the French fiscal method with a single tax rate for the shareholder of the company in divided dividends and a 25% rate of tax on deducting all other dividends other than dividends transferred by subsidiaries to a parent company located in one of the Member States. However, these proposals were not accepted, since the European Economic Community at that time considered that it was necessary to harmonize the rules for setting the tax base before harmonizing tax rates.

In the following, the EEC focused more on the system of calculating losses and proposed a directive on the transfer of losses to future tax periods. The European Commission has proposed to harmonize the legislation for the transmission of the loss backwards for three years and the unlimited transfer of the loss to the next tax periods. Unfortunately, Preldog was unfortunately subsequently withdrawn. In 1988, the European Commission prepared a proposal to harmonize the tax base of companies, which, due to unwillingness to accept the majority of Member States, has never been established. In 1990, the European Commission temporarily suspended the broad objective of harmonizing corporation tax and instead focused on eliminating the remaining forms of double taxation. It made recommendations in three main areas, namely; the elimination of tax obstacles to cross-border investments and intra-Community shares, the establishment of a minimum legal tax rate of corporation tax of 30% and the preparation of common rules for calculating the tax base in order to avoid excessive tax competition. Among the three aforementioned objectives, some progress was made only for the first objective.

The EU Treaty does not contain specific legislative powers in the field of direct taxation. The legislation on business taxation is based on Article 115 of the Treaty on European Union (hereinafter TFEU), which forms the basis for a Directive approximating those laws, regulations and administrative provisions of the Member States which directly affect the establishment or functioning of the internal market and provides for the consensus and consultation procedure . Article 65 TFEU relates to the free movement of capital and allows Member States to deal differently with taxable persons who are not in the same situation with regard to their place of residence or the place where their capital is invested. Articles 110-113 TFEU require Member States to open negotiations on the elimination of double taxation in the Community and Article 55 prohibits discrimination on grounds of equity participation in undertakings.

However, most of the direct taxation regulations do not fall within the scope of EU legislation.

In the 1990 Taxation Guidelines (SEC (90) 601), the European Commission gave priority to the three previously announced proposals, which were subsequently adopted, namely the Merger Directives (90/434 / EEC), which deal with capital gains in (90/435 / EEC), which eliminates the double taxation of dividends paid by a subsidiary in one Member State to a parent company in another Member State and to the Arbitration Convention (90/435 / EEC) , which introduces a procedure for settling disputes concerning the profits of related companies. The characteristics of sharp debates between Member States are reflected in the proposed Directives on the payment of interest and royalties paid by parent companies and subsidiaries in 1991: although the proposal was amended two years later and endorsed by the European Parliament, the Commission subsequently withdrew it since the Council could not agree on it. In 1998, a new version of the proposal, which was adopted as Directive 2003/49 / EC, was presented as part of the Monti package.

In 1991, the Ruding Committee of Independent Experts was established, which proposed in its report a work program to eliminate double taxation, harmonize tax rates for businesses, and ensure full transparency of the various Member States' tax reliefs in order to encourage investment. The Commission then proposed amendments to Merger Directives or parent companies and subsidiaries (COM (93) 293) and drew attention to the two long-standing proposals for directives, namely the transfer of loss (COM (84) 404) and the losses of business units and subsidiaries in other Member States (COM (90) 595). In 1996, the Commission presented a new approach to taxation. In corporate taxation, the corporate governance code of corporate taxation was adopted as a resolution of the Council in 1998. Its report was presented by the European Commission in 1999, setting out 66 tax procedures, which should be abolished within five years. In 1998, Member States asked the Commission to draw up an analytical study on the taxation of corporate income in the European Community. A study, prepared by two expert groups (SEC (2001) 1681), was published in 2001. In a communication (COM (2001) 582), the Commission found that the main difficulty of businesses stems from the need for internal market to face different national rules. The Commission has proposed a number of different approaches to provide companies with a common basis for their activities in the EU: taxation in the home country, an optional common consolidated tax base, a European company tax, or a mandatory and fully harmonized tax base. The proposals were addressed at the 2002 conference. In 2004, a working group was set up and its results were published in the Commission's proposal for a Commission directive (COM (2011) 121). The proposed "common consolidated corporate tax base" (CCCTB) would mean that companies would have, inter alia, a single tax administration system where they could apply for a refund. It

could also consolidate all gains and losses from operating in the EU. Member States would retain the competence to determine corporation tax entirely.

3.1 Harmonization of taxation on mergers, divisions, transfers of assets and the exchange of shares in companies of different Member States

In the Member States of the European Union, tax neutrality in status changes is required in a separate directive or directive, which provides that the tax system and tax policy must play an undisputed role in the process of company transformation. This area is dealt with in detail in Directive 90/434 / EEC (with amendments) on the common system of taxation applicable to mergers, divisions, transfers of assets and exchange of shares of companies from different Member States. The fundamental premise of the directive is that mergers, divisions, transfers of assets and exchanges of shares in capital companies must not give rise to taxation. The directive facilitates reorganisations (mergers, divisions, transfers of assets, swapping of equity holdings) by postponing taxation under certain conditions (for example, capital gains on an asset are not taken into account in the merger or division, but only at a later sale). A more favorable tax regime may also be imposed by other companies (not only equity securities whose capital is securities), such as a limited liability company. The EU's solution to this directive was to not be taxed on capital gains when the merger or payment of assets occurs, but on the accumulation of this profit. This solution is interesting for the creation of "European companies", as many companies usually merged with the merger of companies originally established in different Member States.

In 2005, the directive was amended. The validity of this Directive has also extended to the field of the transfer of the registered office of a European company (SE) and the European Cooperative Society (SCE) from one Member State to another and also provides for the exemption of capital gains taxation in the event that the acquiring company owns shares in a transferring company .

3.2 Harmonization of the taxation system of parent companies and subsidiaries

Council Directive 90/435 / EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States has been substantially amended several times. In order to create conditions similar to those in the internal market in the Community in order to ensure the efficient functioning of such an internal market, it is necessary to integrate into groups of companies from different Member States. These operations must not be impeded by restrictions, shortcomings or distortions arising in particular from Member States' tax

regulations. Therefore, for such groupings of companies from different Member States, tax rules should be set up which are neutral from the point of view of competition and enable companies to adapt to the requirements of the internal market in order to increase productivity and improve their competitive power at the international level. The result of such grouping is the formation of groups of parent companies and subsidiaries.

Prior to the entry into force of Directive 90/435 / EEC, the existing tax rules governing the relationships between parent companies and subsidiaries differed in different Member States and were generally less favorable than those applicable to parent companies and subsidiaries in the same Member State. Therefore, cooperation between companies from different Member States was in a less favorable situation compared to the participation of companies from the same Member State. This less favorable situation had to be resolved by the introduction of a common system at Community level in order to facilitate the integration of companies into groups.

Where a parent company receives a distributed profits from a connection with its subsidiary, the parent company's state must either refrain from taxing that profits or tax that profit and at the same time allow the parent company to deduct a portion of the corporate tax relating to that profit and paid by the subsidiary. In order to ensure fiscal neutrality, the profits distributed by the subsidiary to its parent company should be exempt from withholding tax.

The payment from the distribution of profit and the receipt of this payment by the permanent establishment of the parent company must result in the same treatment as is used between the subsidiary and the parent company. This includes situations where the parent company and the subsidiary are located in the same Member State and the permanent establishment in another Member State. On the other hand, it seems that the Member State concerned may consider situations where a permanent establishment and a subsidiary are located in the same Member State, without prejudice to the application of the principles of the contract under national law.

Given the treatment of permanent establishments, Member States should lay down conditions and legal instruments to protect national tax revenues and avoid circumvention of national legislation in accordance with the principles of the TEU and taking into account internationally accepted tax regulations. Where groups are organized in the form of chains and the distribution of profits to the parent company takes place through a chain of branches, double taxation with the exception of a credit on tax already paid is eliminated. In the case of a tax credit on tax already paid, the parent company must be able to deduct any tax paid by any subsidiary in the chain, provided that the conditions of the Directive are met.

3.3 Harmonization of the system of taxation of interest and royalty payments of affiliated companies

Council Directive 2003/49 / EC on the common system of taxation applicable to interest and royalty payments made between associated companies of different Member States has proved effective within the limits of its scope. In a single market that has the characteristics of the internal market, transactions between companies from different Member States must not be taxed less favorably than deals with companies in the same Member State.

National tax regulations, together with bilateral and multilateral agreements, where they exist, can not always ensure the elimination of double taxation, and their use often results in burdensome administrative formalities and problems with the availability of the funds of these companies. It is necessary to ensure that payments of interest and royalties in a Member State are taxed only once. Elimination of the taxation of payments of interest and royalties in the Member State in which they are incurred, irrespective of whether the tax is collected by deduction at source or by assessment, is the most appropriate way to eliminate those formalities and problems and to ensure equitable tax treatment of national and cross-border transactions ; in particular, such taxes must be abolished in respect of such payments made between affiliated companies from different Member States and between permanent establishments of such companies. The regime is intended to apply only to the amounts of any interest or royalty payments agreed between the payer and the beneficial owner if there is no special relationship between them. It is also necessary that Member States do not prevent the adoption of appropriate measures to prevent fraud or abuse.

3.4 Harmonization of the tax base of corporate income tax

Companies wishing to cross-border across the EU face high barriers and distortions of the market due to 28 different corporate tax systems. Tax obstacles to cross-border business are particularly large for small and medium-sized enterprises, which usually do not have the means to eliminate market inefficiencies. The network of conventions on the avoidance of double taxation between Member States does not provide a suitable solution. The current Union legislation on taxation of legal persons deals with only a small number of specific problems.

A system that would allow companies to treat EU corporations as a single market in relation to EU corporate income tax would facilitate the cross-border activity of resident companies in the EU and promote the objective of making the EU more competitive for international investment. Such a system could best be achieved by allowing groups of taxable companies in more than one Member State to regulate their

tax matters in the EU on the basis of a single set of rules for calculating the tax base and cooperating with one tax administration. These rules should also be available to entities that are liable to pay corporate income tax in the EU and are not part of the group. Thus, under the aegis of the Commission of the EU and its working bodies, the idea of creating a system of a common consolidated corporate tax base (hereinafter CCCTB) was formed.

The CCCTB is used to tackle some of the major tax barriers that restrict growth in the single market. In the absence of common tax regulations, the interaction of national tax systems often leads to excessive taxation and the occurrence of double taxation. Companies are faced with major administrative and coordination costs. Such a situation creates barriers to investment in the EU and results in non-compliance with the priorities set out in the Europe 2020 Strategy - A strategy for smart, sustainable and inclusive growth. The CCCTB is an important initiative which contributes to eliminating the barriers to the completion of the single market, identifying in the Annual Growth Survey as an incentive to stimulate growth from the outset to accelerate the growth and creation of new jobs.

The proposed system of corporate taxation would be technically in three stages. All taxable profits and losses of each group of companies would be consolidated, irrespective of the location of individual companies in the group. The established tax base of a group of companies would be attributed to the individual group companies using the distribution formula. The tax base attributed to an individual group company would be taxed at the national tax rate of the country in which the company is located. When determining the tax rate for the established share of the profits of an undertaking located in its territory, Member States would remain independent.

A common approach would ensure the coherence of national tax systems on the basis of a common tax base, but would not interfere with the rights of countries to form a tax rate. Each Member State will apply its own tax rates to its share of the taxable person's tax base. Differences in the determination of the tax rates of individual Member States provide for a degree of tax competition which is supposed to be maintained on the internal market. It allows Member States to take into account both their competitiveness in the EU internal market and the regulation and balancing of the budgetary needs of each Member State in tax planning.

In particular, the CCCTB contributes to reducing tax obstacles and administrative burdens, making it simpler and cheaper for SMEs, as they can expand their activities across the EU. The approach of SMEs to the CCCTB means that small and medium-sized enterprises operating across borders use the CCCTB rules to calculate their tax base. In the event of accession to the CCCTB, SMEs would have less coordination costs,

which would have a positive impact on the decision to commercial extension to another Member State.

The CCCTB introduces a uniform set of tax regulations in the EU Member States and uses only one tax administration model. An undertaking opting for the CCCTB ceases to be subject to a national tax arrangement in respect of all tax matters governed by the common rules of the CCCTB. A company that does not meet the conditions or does not opt for a CCCTB system is still subject to the rules applicable in national tax legislation.

With the introduction of the CCCTB, problems arising from jurisdiction contracts and the taxation of revenues generated by European companies outside the EU or outside the CCCTB area could arise. If a practice of separate profits would remain in use in relation to non-EU countries, this would probably lead to the parallel use of different systems. This would entail an administrative burden for businesses, which would reduce the benefits of taxation through the CCCTB. The question arises, to what extent high capital mobility, globally, diminishes the benefits of fiscal coordination within the EU.

A more important advantage of the CCCTB is the ability to identify profits and losses at the level of an international company, which would enable the loss of businesses at EU level to be covered. Profits and losses of a group of companies should not be distinguished by countries in which individual subsidiaries of the group are located, but from the outset all taxable profits and losses, irrespective of the location of individual companies in the group, would be consolidated. Thus, the spillover of profits between the companies of the group would lose sense, as the introduction of such a system would also eliminate the need to determine the transfer prices for transactions between individual companies of the CCCTB system.

The taxpayer's income must be taxable, unless explicitly exempted. The CCCTB system exempts income in the form of dividends, proceeds from the disposal of shares of a company that is not part of the group and the profit of permanent establishments abroad. In granting double taxation, most Member States exempt dividends and proceeds from the alienation of shares, in order to avoid the calculation of the deduction of tax paid abroad, to which taxpayers are entitled, in particular where such a justification must be taken into consideration the corporation tax levied by the taxable person the company is paid by the dividend payer. It is also necessary to simplify the exemption of income from the rest of the world. Taxable income should be reduced by operating expenses and some other items. Deductible operating expenses should normally include all the costs associated with the sale and expenses associated with the creation, maintenance and insurance of income. R & D costs and costs arising from the collection of equity or debt for business purposes should be

deducted. A list of non-deductible expenditure should also be prepared. Tangible and intangible long-term assets should be depreciated separately, while remaining required to be included in the group of assets. Depreciation in the group means simplification for tax authorities and taxpayers, since it eliminates the need to prepare and maintain the list for each type of fixed asset and its useful life.

When transferring the loss, taxpayers are allowed to transfer the loss to a future period for an indefinite period of time, and the transfer of loss to the previous period may not be allowed. Since the loss is transferred in the future to the taxpayer to pay tax on his real income, there is no reason to limit the deadline for the transfer to the future period. The transfer of losses to the previous period is relatively rare in the practice of the Member States and entails the excessive complexity of the procedures.

Consolidation is an essential element of the CCCTB, as the main tax barriers faced by companies in the EU can only be addressed in this context. Consolidation eliminates formalities relating to transfer pricing and double taxation within the groups. In addition, the loss incurred by taxpayers is automatically offset by the profits generated by other members of the same group. Consolidation must include rules for the distribution of the result among the Member States in which the members of the group own their business units.

The distribution formula of the consolidated tax base contains three equally weighted factors (work, assets and sales). The labor factor is calculated on the basis of remuneration for work and number of employees (each item represents half). The asset factor consists of all tangible fixed assets. Intangible and financial assets should be excluded from the formula because of their mobile nature and the risks of avoiding the system. Finally, sales must be taken into account in order to ensure the fair participation of the Member State of destination. These factors and weightings must ensure that profits are taxed where they are earned. As an exception to the general principle, where the result of a distribution does not represent a fair amount of business activity, a substitution method is defined with a safeguard clause.

Rules on the reorganization of undertakings are also laid down to safeguard the rights of Member States in relation to taxation. In the event that a company joins the group, the market loss before the consolidation should be carried over to the future period to be deducted from the distributed share of the taxable person. If the company leaves the group, it is not allocated to the loss incurred during the consolidation period. Transactions between a taxable person and an affiliated company that is not a member of the same group is a co-subject of a price adjustment in accordance with an independent market principle, which is a generally valid criterion.

In the administrative area, groups of companies have the possibility of cooperating with only one tax administration (the main tax authority), which is the tax administration of the Member State in which the parent company of the group (principal taxpayer) is resident for tax purposes. A general anti-abuse rule is also included, complemented by measures to limit certain types of abuse. These measures include restrictions on the deductibility of interest paid to affiliated undertakings which for tax purposes are residents of a low-tax country outside the EU that does not exchange information with the Member State of the payer on the basis of an agreement comparable to Council Directive 2011/16 / EU on mutual assistance the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums and regulations on foreign subsidiaries.

4 Conclusion

The main advantage of fiscal harmonization at EU level (tax harmonization) is to reduce costs at the level of national tax systems, given the fact that, due to different tax systems, countries have higher costs in collecting taxes, and the mobility of tax factors is further facilitated by tax evasion, since the taxation of income from other countries are much more difficult. The advantages of fiscal harmonization are also in the elimination of disruptions in the internal market, as the free movement of goods, services, persons and capital is applicable. Due to high tax burdens in one and low in another Member State, taxpayers are motivated to transfer activities to countries with a lower tax burden. Due to differences in the amount of the tax burden, production factors are moved to countries with a lower tax burden. In the case of corporate income tax, we note that companies do not move their production to countries with lower production costs, but to countries with lower taxes, as they can outweigh the higher production costs. It may happen that in the long run, a company that is less efficient will survive in the common market, but it is also less taxed. Differences in VAT have a negative effect on trade between Member States, as different tax systems create fixed costs in the form of barriers to trade, resulting in more difficult integration of small and medium-sized enterprises into trade flows. The unwritten rule is that if tax differences are small, factor mobility is less likely, as it can lead to knowing the cost as a benefit.

Weak tax harmonization can be characterized as fiscal competition, as countries with a high level of prosperity and, consequently, higher taxes, rich countries that can offer better infrastructure to investors, experienced and trained workforce, better business, legal and social environment and public services. With these options, countries can raise tax rates and still maintain mobile factors within the borders. Even the unity of the tax rate would have no positive consequences, since the peripheral countries would no longer have any competitive advantage, given that the taxes in the

developed countries would be the same. This would lead to a strong concentration of companies in more developed countries and a loss of investors in countries where investment is necessary. However, I must point out that fiscal competition also yields positive results, as countries try to make the tax sector more efficient, and indirectly, the state needs less tax revenues and relieves both physical and legal entities.

5 Literature

1. Wilson J.D., Theories of Tax Competition, Natonal Tax Journal, 52, 1999.
2. Stefaniak-Kopoboru J., Kuczewska J., European enterprises in crisis time, Managerial Economics No. 14, 2013.
3. Garcia.Cuenca E., Navarro Pabsdorf M, Mihi-Ramirez A.: Fiscal Harmonization and Economic Integration in the EU, Inzinerine Ekonomika-Engineering Econnomics, 2013, 24(1).
4. Baldwin, R.E., Krugman P, Agglomeration, Integration and Tax Harmonization, Eurpoean Economic Review, 48.
5. Joung L. Larch M, Fische J, 101 Proposals to reform the Stability and Growth Pact, Why so many? A survey, Public Finance and Management 8(3), 2008.
6. European Commission, Tax Policy in the EU, October 2011.
7. European Commission, Focus on the Chrisis, The Main Impacts on EU Tax System, taxation Trends in the EU, Brussels, 2011.
8. Marzinotto B., Sapir A, Wolff G.B, What Kind of Fiscal Union? Policiy Brief 2011/006, Bruegel 2011.
9. Masson P.R., Fiscal Dimensions of EMU, Economic Journal, 106(437), 1996.
10. Cnossen S., Shoup C., Coordination of Vat v Cnossen S., Tax Coordination in the EU, Kluwert, Deventer.
11. Gondor M., From Total to structual harmonization on the field of European Direct Taxation, The Annals of The Stefan cel Mare University of Suceava. Fascicle of The Faculty of Economics and Public Administration, Vol. 11 No. 1(13), 2011.
12. Auerbach A. J., The Future of Capital income Taxation, Fiscal Studies 27(4).
13. Deweraux M.P., Griffith R, Klemm A., Corporate Income Tax Reforms and International Tax Competition, Economic Policy, 35, 2002.
14. Kind H.J., Midelfart K.H., Schjelderup G. Corporate Tax System, Multinational Enterprises and Economic Integration, Journal of International Economics, Elsevier 65(2).
15. Direktiva Sveta 2005/19/ES z dne 17. februarja 2005 o spremembah Direktive 90/434/EGS o skupnem sistemu obdavčitve za združitve, delitve, prenose sredstev in zamenjave kapitalskih deležev družb iz različnih držav članic.
16. Uredba (ES) št. 2157/2001 o statutu evropske družbe (SE) in Direktivo 2001/86/ES o dopolnitvi Statuta evropske družbe glede udeležbe delavcev. dne

22. Julija 2003 je Svet sprejel Uredbo (ES) št. 1435/2003 o statutu evropske zadruge (SCE) in Direktivo 2003/72/ES o dopolnitvi statuta evropske zadruge glede udeležbe delavcev.
17. Direktiva Sveta z dne 23. julija 1990 o skupnem sistemu obdavčitve matičnih družb in odvisnih družb iz različnih držav članic (90/435/EGS).
18. Aujean M., The CCCTB Project and the Future of European Taxation v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
19. Sporočilo Komisije „EVROPA 2020 – Strategija za pametno, trajnostno in vključujočo rast", COM(2010) 2020 z dne 3. marca 2010.
20. Sporočilo Komisije „K aktu za enotni trg – Za visokokonkurenčno socialno tržno gospodarstvo – 50 predlogov za izboljšanje skupnega dela, poslovanja in izmenjav", COM(2010) 608 z dne 27. oktobra 2010.
21. Sporočilo Komisije „Letni pregled rasti: spodbujanje ukrepov EU za celovit odziv na krizo", COM(2011) 11 z dne 12. januarja 2010.
22. Spengler C. in Malke C., Comprehensive Tax Base of residual reference to GAAP or Domestic Tax Law? v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
23. Neale T., CCCTB: How fare we got and what are the next steps? v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
24. Martini Jimenez A. in Calderon Carrero J. M., Administrative Cooperation – Exchange of Information in the Context of the CCCTB v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
25. Tenore M., Requirements to Consolidate and Changes in the Level of Ownership v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
26. Navarro A. in Soter Roch M. T., Mesaurment of Income and Expenses v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
27. Litwinczuk H. in Supera – Markowska M., Depreciation Rules in CCCTB v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
28. Moreno Gonzales G. in Sanz Diaz-Palacios J. A., The CCCTB: Treatment of Losses v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
29. Oestreicher A., CCCTB – Methods of Consolidation v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.
30. Komisija EU, CCCTB; Possible elements of the sharing mechanism, Brussels, 13 November 2007.
31. Amparo Grau Ruiz M., Administrative Cooperation – Excange of Information in the Context of the CCCTB v Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, 2008.