DIGITIZATION AND HARMONIZATION OF CORPORATE TAXATION IN THE EU

The digital economy is changing the way in which people communicate, consume, and operate. Digital companies grow much faster than the economy in general, and this trend is expected to continue. Digital technologies bring a lot of benefits to the company and, from a tax perspective, create opportunities for tax administrations and offer solutions for reducing administrative burdens, facilitating cooperation between tax authorities and addressing tax evasion. However, digitization also brings pressure on the international tax system to change business models. The Common Consolidated Tax Base (hereinafter: CCCTB) is a system of common rules for the calculation of the tax base of enterprises that are tax resident in the EU and permanent business units of third country companies in the EU. The common tax framework sets out the rules for calculating the tax base of each company (or permanent establishment), the tax burden of individual entities, the consolidation of the tax base, if there are other members of the group and the distribution of the consolidated tax base for each eligible Member State. However, the CCCTB with its current scope would not offer a structural solution to some of the important challenges in taxing businesses of the digital economy. This is because the CCCTB has a limited scope (it is mandatory only for large multinational companies) and because the definition of a permanent establishment in the CCCTB follows the one currently applied internationally. The profit allocation rules in the CCCTB may not sufficiently capture the digital activities of a company. The rules on a taxable nexus for digital activities should be included in the CCCTB. With respect to allocating the profits of large multinational groups, the formula apportionment approach in the CCCTB should be adapted in order to effectively capturing digital activities.

1 Introduction

In applying the current corporate tax rules for the digital economy there has been a mismatch between the place where the profits are taxed and the place where the value is generated. In particular, the current rules are no longer appropriate in the current situation where online trading across borders without a physical presence is easier when businesses rely heavily on intangible assets that are difficult to evaluate and when content created by users and data collection become the main activities for creating the value of digital enterprises. Internationally recognized bodies, such as the G20, recognize the need to take measures to adapt the rules on corporation tax to the digital economy. The Organization for Economic Co-operation and Development (OECD) examined this issue in the framework of the OECD / G20 project to prevent erosion of the tax base and profit reorientation. At its meeting in March 2017, the G20 group asked the OECD to prepare an interim report on the consequences for the taxation of digitization for the G20 finance ministers' meeting in April 2018. However, it is unlikely that the agreement at a global level will be difficult to achieve[1].

2 Digitization of corporate taxation

Current corporate income tax rules are based on the principle that profits should be taxed where the value is generated. However, they were mainly formed at the beginning of the 20th century for traditional private enterprises and determine in what circumstances the country has the right to tax ("place of taxation") and how much corporate income is allocated to each country ("amount of taxation"), largely with regard to the physical presence in that country and without taking account of the value generated by the participation of users in that jurisdiction. This means that for taxation purposes non-residents become taxable persons in each country only if they are present as much as is typical for a permanent establishment there. However, such rules do not capture the global reach of digital activities when a physical presence is no longer required for the provision of digital services. Therefore, new indicators of a significant economic presence are needed in order to determine the taxation rights in relation to new digitized business models[2].

2.1 Basic elements of digitalization of corporate taxtaion

When a business is taxable in a particular country, it is still necessary to determine the profits generated by this business and attributive to that country. In the current corporate tax framework, transfer pricing rules are used to impute the profits of multinational groups to different countries on the basis of an analysis of the functions, assets and risks within the value chain in the group. In the context of taxing corporate profits attributable to a permanent establishment, a hypothesis on a separate entity is set up, and the OECD pricing guidelines for transfer pricing are used by analogy. However, the current rules developed for traditional business models do not reflect the fact that digital business models have different characteristics than traditional in terms of value creation. This distorts competition and negatively affects public revenues. The digital economy is heavily dependent on intangible assets, such as user data, and develops data analytics methods to gain value from user data. These business patterns are increasingly important factors of value creation in multinational groups and are difficult to evaluate. The challenge of identifying and valuing intangible assets and determining their contribution to creating value within the group

[1] OECD *Report on Action 1 of the Action Plan to Prevent Erosion of the Tax Base and Profit Reduction* "Addressing the Tax Challenges of the Digital Economy", 2015.

[2] Council Conclusions (5 December 2017) - *Responding to the challenges in taxing profits in the digital economy* (FISC 346 ECOFIN 1092).

requires new methods for attributing profits that better capture the creation of value in new business models.

The objective of the proposal for Council Directive 2018/0072 on the establishment of rules on corporate taxation in relation to an important digital presence is to address issues arising from the digital economy by defining a comprehensive solution within the existing Member States' corporation taxation systems. The proposal provides for a common system for the taxation of digital activities in the EU, which takes due account of the characteristics of the digital economy[3].

The proposal lays down the rules for the determination of taxable nexus for digital enterprises operating on a cross-border basis, in the event that they are not physically market-based (hereinafter referred to as 'significant digital presence'). New indicators are needed for such an important digital presence in order to determine and protect the Member States' taxation rights in relation to new digitized business models. The proposal also sets out the principles for attributing profits to digital business. These principles should better capture the creation of the value of digital business models that relies heavily on intangible assets[4].

2.1 Field of use

The scope covers corporate taxable persons who are registered or established in the EU and companies that are registered or established in a jurisdiction outside the EU, with which no double taxation agreement was concluded with the Member State where the tax was paid. significant digital presence of the taxpayer has been established. The proposal does not affect undertakings that are registered or established in a jurisdiction outside the EU with which a valid double taxation agreement with a Member State of a significant digital presence has been concluded with a Member State in order to prevent any breach of those double taxation agreements. Otherwise, if a valid tax agreement with jurisdiction outside the EU includes a similar provision on an important digital presence that creates similar rights and obligations with regard to the relevant non-EU jurisdiction.

[3] OECD (2018), Tax Challenges Arising from Digitalisation - Interim Report 2018: Inclusive Framework on BEPS ("Tax challenges arising from digitization - Interim Report 2018: *Inclusive Framework on Erosion of Tax Base* and Profit Orientation"), OECD Publishing, Paris.http: //dx.doi.org/10.1787/9789264293083-en.

[4] Report of 22 February 2018 on the proposal for a Council directive on a common basis for corporation tax (COM (2016) 0685 - C8-0472 / 2016 - 2016/0337 (CNS)) and Report of 26 February 2018 on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (COM (COM) (COM (2016) 0683 - C8-0471 / 2016 - 2016/0336 (CNS).

A digital service is a service that is provided through an Internet or electronic network and whose characteristics allow it to be largely carried out automated and with minimal human intervention[5]. In order to exclude a taxable lex exclusively based exclusively at the place of consumption, the sale of goods or services made possible by the use of an Internet or electronic network is not considered to be a digital service. For example, providing access (for payment) to the digital market for the purchase and sale of cars is a digital service, and not the sale of a car through such a site itself[6].

The provision of a service with minimal human mediation means that the supplier-side service is provided with minimum human intervention, without taking into account the level of human intervention on the user's part. Service provided with minimum human intervention will, as such, be dealt with in circumstances where the supplier first establishes the system, is regularly maintained or repaired in the event of problems related to its operation.

2.2 An important digital presence

The notion of an important digital presence should determine the taxable nexus in each jurisdiction. It should therefore be considered as an addition to the existing concept of a permanent establishment. The proposed rules for determining the taxable nexus of a digital company in a Member State are based on revenues from the provision of digital services, the number of users of digital services or the number of digital service contracts. These criteria are approximations to determine the "digital footprint" of a company in jurisdictions on the basis of certain indicators of economic activity. It should reflect the reliance of digital businesses on a large database of users, their attendance and contributions, and the value generated by users for these businesses. The criteria should cover different types of business models. Digital business models are very diverse. Some may have a very large database of users, but in others this database may be smaller, but they can still include significant user contributions if each individual user contributes a lot of value. In addition, the criteria should provide comparable treatment in different Member States, regardless of their size, and exclude insignificant cases.

For the three above-mentioned user criteria (revenue, number of users and number of contracts), different valid thresholds are set. There is an important digital presence in a Member State if one or more of the following criteria is met: if the revenue from the

[5] This definition is identical to the definition of 'electronically supplied services' in Article 7 of Council Implementing Regulation (EU) No. No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112 / EC on the common system of value added tax and including the same type of services.

[6] Proposal for a Council Directive on the common system of revenue tax arising from the provision of certain digital services (hereinafter referred to as "digital service tax") (COM (2018) 148 final).

provision of digital services to users in each jurisdiction exceeds 7 000 000 € during the tax period, if in the Member State during the tax period more than 100 000 users digital services or if more than 3 000 business contracts for digital services are concluded.

It is essential that each threshold is set high enough to reliably exclude small cases in which profits attributable to a digital presence would not even cover the cost of meeting the tax liabilities of a permanent establishment, and the proportionality of the measure in applying these three alternative thresholds is therefore ensured. The revenue threshold is set to cover the estimated cost of meeting the obligation to run an additional permanent establishment, even at low rates. The threshold for the number of users should reflect a similar value in monetary terms based on the average revenue per user. The threshold for the number of business contracts should be set to take into account only contracts between companies, since the value of these contracts is likely to be much higher than contracts concluded with individuals. Therefore, the threshold for the number of contracts between companies should be significantly lower than the user-related threshold.

2.3 Gains linked to an important digital presence

The proposed rules for the allocation of profits of an important digital presence are based on the current framework used for permanent establishments. They confirm the principle that an important digital presence should be attributed to the profits it would earn through some important economic activities carried out via the digital interface, in particular when dealing with other parts of the company, if it were a separate and independent company would carry out the same or similar activities on the same or similar terms, taking into account the means used, the functions performed and the risks assumed. Therefore, the OECD-approved approach remains the fundamental principle for attributing profits to an important digital presence. However, the framework needs to be adapted consistently to reflect how the value is generated in digital activities. In fact, in the case of a functional analysis of a permanent establishment, the criterion of the functions of management personnel that are important for risk taking and the economic ownership of assets in the context of digital activities is not sufficient to ensure that the attribution of profits is an important digital presence that would reflect the creation of value. Such a situation occurs when an important digital presence is provided through a digital interface without any physical presence in a particular jurisdiction, or where no significant function of management personnel is performed in the relevant digital presence[7].

[7] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Single Digital Market for Europe Strategy COM (2015) 192 final of 6 May 2015).

In the functional analysis of an important digital presence, activities carried out by the company through the digital interface related to data and users should be regarded as economically important functions that are important for attributing economic ownership of assets and risks to an important digital presence. The allocation of profits should take into account the development, improvement, maintenance, protection and exploitation of intangible assets in carrying out economically important activities in the context of a digital presence, even if they are not linked to the functions of staff in the same Member State.

It follows that the functions related to the development, improvement, maintenance, protection and exploitation of unique intangible assets would be characterized by an important digital presence. Each of the economically important activities contributes to the creation of value in digital business models in a unique way and is an integral part of these models. Therefore, the profit distribution method would often be regarded as the most appropriate method for attributing profits to an important digital presence. In this regard, expenditure on research, development and marketing (which can be attributed to an important digital presence in relation to expenditure attributable to the main headquarters and / or any other important digital presence in other Member States), as well as the number of users in each Member State and the data collected by Member States.

The proposed rules only provide general principles for the allocation of profits of an important digital presence, as detailed guidelines on the allocation of profits could be developed in the relevant international forums or at EU level.

3 Harmonization of corporate taxation

Member States are becoming increasingly aware of these negative guidelines and are therefore striving to take steps towards harmonizing direct taxation of companies in the EU internal market[8]. In the event that a group of related companies operates in different profit taxation systems, it must distribute the profits among these different systems. Member States apply separate accounting rules in determining the profits of each member in the group and the source rule in the case of a profit connection with the Member State where the profit is located. Separate accounting takes into account the market principle or the rule of transfer pricing, when determining the value of transactions between members of a group. The use of separate accounting and the rules of market prices is very complex and inhibits the development of the common market. Therefore, the European Commission has proposed that Member States move from a separate accounting system to a consolidation system or a distribution

[8] Lenartova G. (2010), *Tax Harmonization in the European Union*, University of Economics in Bratislava, Faculty of Business Management, Department of Corporate Finance, Bratislava.

mechanism for the profits generated by the group of companies in the EU. The transition from separate accounting to the distribution mechanism mechanism through the consolidation of profits requires a lot of political adjustment, since the adoption of the rules on income taxation requires the agreement of all Member States[9].

3.1 Basic elements of the CCCTB

The CCCTB is used to tackle some of the major tax barriers that limit 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 emergence of double taxation. Businesses face 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[10]. The CCCTB is an important initiative which contributes to eliminating the barriers to the completion of the single market[11], identifying in the Annual Growth Survey as an incentive to stimulate growth from the outset to accelerate the growth and creation of new jobs[12].

The proposed system of corporate taxation would be technically carried out in three steps. 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. Coordination through the CCCTB has no intention of resorting to the harmonization of tax rates. 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

---

[9] Grivec J. (2007), *Harmonization of corporation tax in the EU*, Management, Year V, 4/2007, pp. 99-105.

[10] Communication from the Commission "*EUROPE 2020 - A strategy for smart, sustainable and inclusive growth*", COM (2010) 2020 of 3 March 2010.

[11] Communication from the Commission "*Towards a Single Market Act - For a highly competitive social market economy - 50 proposals for improving work, business and exchanges*", COM (2010) 608 of 27 October 2010.

[12] Communication from the Commission "*Annual Growth Survey: Promoting EU action on a comprehensive response to the crisis*", COM (2011) 11 of 12 January 2010.

both their competitiveness in the internal market and the regulation and balancing of the budgetary needs of each Member State in tax planning[13].

The CCCTB model can be available for all sizes of businesses. In the first phase of the implementation of the CCCTB, multinational companies should not be involved and thus some tax barriers in the single market that relate to the operation of multinationals could be resolved. With regard to multinational companies, the introduction of the CCCTB would entail the loss of benefits offered by some Member States' tax systems. International companies that exploit the tax differentials between Member States to themselves would be deprived of tax benefits by introducing the CCCTB[14].

In particular, the CCCTB contributes to the reduction of tax obstacles and administrative burdens, making it simpler and cheaper for SMEs, as they can extend 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. Small and medium-sized enterprises would have less coordination costs in the event of accession to the CCCTB, which would have a positive impact on the decision to commercial extension to another Member State[15].

The CCCTB would be optional in the first stage. Since not all companies are bound by cross-border operations, the CCCTB will not force companies that do not plan to expand outside the national territory to bear the costs of introducing a new system of determining the tax base. The CCCTB will apply autonomous rules only to the calculation of the tax base for corporate income tax, which will not affect the preparation of annual or consolidated accounts within entities that decide to join the CCCTB group.

The CCCTB introduces a single 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 national tax arrangements 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 the 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 separate profit-sharing practice remains in place in

---

[13] Aujean M. (2008), The CCCTB Project and the Future of European Taxation in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna, pp. 11-37.

[14] Spengler C. in Malke C. (2008), Comprehensive Tax Base of residual reference to GAAP or Domestic Tax Law? in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna, pp. 63-93.

[15] Neale T. (2008), CCCTB: How fare we got and what are the next steps? in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna, pp. 63-93.

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 as to the extent to which high capital mobility, globally, diminishes the benefits of fiscal coordination within the EU[16].

A more important advantage of the CCCTB is the ability to identify profits and losses at the level of an international company, which would allow covering corporate losses at EU level. Profits and losses of the group of companies should not be differentiated by countries in which individual subsidiaries of the group are located, but at 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[17].

3.2 Implementation of the CCCTB

Various impact studies of the CCCTB model have been carried out at the EU level, where various options for setting a common tax base are being addressed in order to improve the competitiveness of the situation of European companies by offering them the opportunity to calculate corporate profits in the EU in accordance with one method of rules and thus chooses the legal environment that best suits their business needs, while eliminating the fiscal costs associated with the existence of separate national tax systems.

On the basis of the EU, four options for harmonizing corporate taxation were developed[18]. The first two forms result in a high level of loss of sovereignty of taxation and should not be accepted in most Member States. These are the "European Corporate Income Tax" , where tax revenues would be charged by the EU budget and not by the budgets of the Member States and the "Harmonized System of Taxation of Legal Entities in the EU", where, apart from tax rates, income tax would be fully harmonized

---

[16] Martini Jimenez A. in Calderon Carrero J. M. (2008), Administrative Cooperation – Exchange of Information in the Context of the CCCTB in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna, pp. 93-112.

[17] Tenore M. (2008), Requirements to Consolidate and Changes in the Level of Ownership in Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna, pp. 63-93.

[18] Spengler C. et al. (2008), ZEW – »*Study on the impact of reforms of corporate income taxation systems at the EU level on the size of the tax bases of the EU companies, using the model "European Tax Analyzer"*« 2007, Study EU »*Expert study on the corporate tax compliance costs for businesses going EU cross border – comparison under the current regime, the CCTB and the CCCTB regime*«, Brussels.

and companies would have to use the same definition of the common tax base, the consolidated group and the distribution mechanism.

The other two forms of harmonization could be politically acceptable, as they would include the following elements: the optional participation of both Member State and related entities, the common distribution formula, the determination of the relevant tax authority where the parent company is located and the use of the domestic tax system of a Member State that participates in the system . These two forms are the "Common Tax Base (consolidated) basis" where, within the groups of entities of the Member States, they would agree on the definition of distribution revenue, group and cross-border losses, and "Home State Taxation", where the participating entities would charge distributed income, consolidation and cross-border losses on the basis of the tax rules of the home country and on the principle of mutual cooperation.

3.3 Consolidation, reorganization and distribution mechanism

Consolidation is an essential element of the CCCTB, introduced by the proposed EU directive, since the main tax obstacles facing societies in the Union 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 taxable persons is automatically offset by the profit generated by other members of the same group. Consolidation must include rules for distributing the result among the Member States in which the members of the group own their business units. Eligibility for consolidation is determined in accordance with a two-part test based on control (more than 50% of the voting rights) and ownership (more than 75% of equity) or profit rights (more than 75% of entitlements to entitle to profits) . Such a test ensures a high level of economic integration between members of the group, as shown by the relationship between control and a high level of participation. That threshold must be met throughout the tax year, otherwise the company must immediately withdraw from the group. Membership in the group must last at least nine months[19].

Rules on the reorganization of undertakings are also laid down to safeguard the rights of Member States in the field of taxation. In the event that a company joins the group, the market loss before 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, no loss is incurred during the consolidation period. Transactions between a taxable person and an affiliated company that is not a member of the same group are subject to price adjustments in accordance with the provisions of the proposed EU

[19] Oestreicher A. (2008), CCCTB – Methods of Consolidation in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna, pp. 517-547.

Directive, in accordance with an independent market principle, which is a generally accepted criterion.

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 provided with a safeguard clause[20].

Example: Calculation of the tax base on the basis of a distribution mechanism - all companies in the CCCTB group show positive tax results

Table: Calculation of the tax base

company	*sale*	*payroll*	*employees*	*fixed assets*
A	*15.000*	*1.500*	*3*	*30.000*
B	*60.000*	*6.000*	*7*	*150.000*
C	*150.000*	*15.000*	*8*	*300.000*
D	*200.000*	*20.000*	*10*	*380.000*
E	*5.000*	*500*	*2*	*10.000*
sum	***430.000***	***43.000***	***30***	***870.000***

Through the distribution formula, we calculate the distribution proportions (DO) for individual companies

a.) We calculate the shares through a distribution mechanism, where we take into account both sales revenues, fixed assets and employment

DO = 0,33 x (sales / total sales + (0,5 x (wages / total wages) + (employed / jointly employed)) + axis / total axis)

*DOA = 0.33 x (15.000 / 430.000 + (0.5 x (1.500 / 43.000) + (3/30)) + 30.000 / 870.000) = 0.33 * (0.0349 + (0.5 x , 0349 + 0.1) + 0.0345) = 0.0451*
DOB = 0.33 x (0.140 + (0.5 x (0.140 + 0.233)) + 0.172 = 0.1645
DOC = 0.33 x (0.348 + (0.5 x (0.348 + 0.266)) + 0.345 = 0.33
DOD = 0.33 x (0.465 + (0.5 x (0.465 + 0.333)) + 0.437 = 0.430
DOE = 0.33 x (0.012 + (0.5 x (0.012 + 0.060)) + 0.012 = 0.02

[20] EU Commission (2007), *CCCTB; Possible elements of the sharing mechanism*, Brussels, 13 November 2007.

b.) We calculate shares through a distribution mechanism, where we take into account turnover and fixed assets without employment

DO = 0.5 x (sales / total sales + axis / total axis)

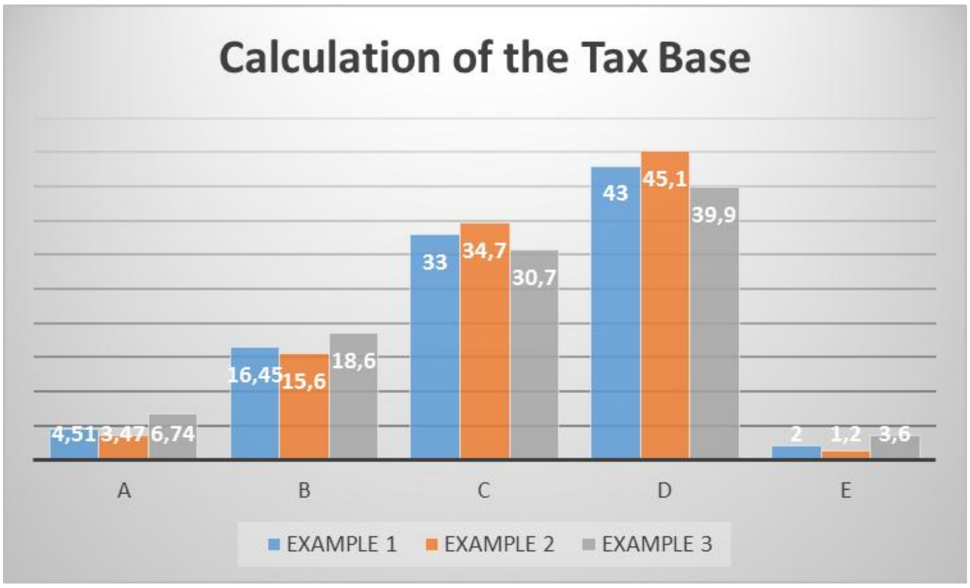
DOA = 0.5 x (15.000 / 430.00 + 30.000 / 870.000) = 0.5 x (0.0349 + 0.0345) = 0.0347
DOB = 0.5 x (0.140 + 0.172) = 0.156
DOC = 0.5 x (0.348 + 0.345) = 0.347
DOD = 0.5 x (0.465 + 0.437) = 0.451
DOE = 0.5 x (0.012 + 0.012) = 0.012

c.) We calculate the shares through a distribution mechanism, where we take into account the elements of employment without sales and fixed assets

DO = 0.5 x (wages / total wages + employees / total staff)

DOA = 0.5 x (1.500 / 43.000 + 3/30) = 0.5 x (0.0349 + 031) = 0.0674
DOB = 0.5 x (0.140 + 0.233) = 0.186
DOC = 0.5 x (0.348 + 0.266) = 0.307
DOD = 0.5 x (0.465 + 0.333) = 0.399
DOE = 0.5 x (0.012 + 0.060) = 0.036

Figure: Calculation of the Tax Base



With regard to the distribution of the tax base through the CCCTB system in companies, certain discrepancies are observed. The example A shows the distribution of the tax base through all three elements of the distribution formula (sales, work and fixed assets). In the example B, we *excluded the work (salaries and employees) from the distribution formula. The analysis shows that the distribution of the tax base increases with those companies that have a higher percentage of sales and consequently a higher percentage of the value of fixed assets, while the share of the distribution of the tax base in those companies with a lower percentage of sales and the value of fixed assets consequently decreases. From this point of view, such a distribution formula would be fairly fair, since companies that achieve higher sales values would possibly also be heavier taxed through a higher tax base (possibly because taxation also depends on the tax rate, which is determined by individual countries in accordance with its national law). Through the example C, we excluded from the distribution formula revenues from sales and value of fixed assets, so that only fixed costs remain - wages and the number of employees, which indirectly affects the value of fixed costs. Due to the rigid system of value of these items, there is a visible deviation in the case of companies that have low values of revenues from sales and fixed assets.*

4 Conclusion

The introduction of the CCCTB would increase the transparency of taxation across individual EU Member States, thereby helping to reduce tax uncertainty, as international companies could reasonably calculate in advance how much the actual tax burden will be at the level of the whole company. This system would discourage companies from a particular type of behavior for purely fiscal reasons, which would reduce the distortion of investment decisions and increase economic efficiency or optimize the allocation of resources.

The proposal for a CCCTB would be the optimal solution to ensure fairer and more efficient corporate taxation within the EU. The CCCTB with its current scope would not offer a structural solution to some of the important challenges in taxing businesses of the digital economy. This is because the CCCTB has a limited scope (it is mandatory only for large multinational companies) and because the definition of a permanent establishment in the CCCTB follows the one currently applied internationally. The profit allocation rules (the formula apportionment) in the CCCTB may not sufficiently capture the digital activities of a company. The rules on a taxable nexus for digital activities should be included in the CCCTB. With respect to allocating the profits of large multinational groups, the formula apportionment approach in the CCCTB should be adapted in order to effectively capturing digital activities. The Commission welcomes the amendments in the reports of the Committee on Economic and Monetary Affairs of the European Parliament on the Common Corporate Tax Base and the CCCTB as a good base for further work on ensuring a fair taxation of digital activities. The Commission stands ready to work with Member States and the

Parliament to examine how the provisions in this Directive can be incorporated into the CCCTB[21].

5 References

[1] Aujean M. (2008), The CCCTB Project and the Future of European Taxation in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna.

[2] Communication from the Commission "*Annual Growth Survey: Promoting EU action on a comprehensive response to the crisis*", COM (2011) 11 of 12 January 2010.

[3] Communication from the Commission "*EUROPE 2020 - A strategy for smart, sustainable and inclusive growth*", COM (2010) 2020 of 3 March 2010.

[4] Communication from the Commission "*Towards a Single Market Act - For a highly competitive social market economy - 50 proposals for improving work, business and exchanges*", COM (2010) 608 of 27 October 2010.

[5] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Single Digital Market for Europe Strategy COM (2015) 192 final of 6 May 2015).

[6] Council Conclusions (5 December 2017) - *Responding to the challenges in taxing profits in the digital economy* (FISC 346 ECOFIN 1092).

[7] EU Commission (2007), *CCCTB; Possible elements of the sharing mechanism*, Brussels, 13 November 2007.

[8] Floris De Wilde M. (2014), *Tax Competition in the European Union - Is the CCCTB-Directive a Solution?* Erasmus University Rotterdam Erasmus Law Review, Vol. 7, No. 1 1.

[9] Grivec J. (2007), *Harmonization of corporation tax in the EU*, Management, Year V, 4/2007.

[10] Lenartova G. (2010), *Tax Harmonization in the European Union*, University of Economics in Bratislava, Faculty of Business Management, Department of Corporate Finance, Bratislava.

[11] Martini Jimenez A. in Calderon Carrero J. M. (2008), Administrative Cooperation – Exchange of Information in the Context of the CCCTB in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna.

[12] Neale T. (2008), CCCTB: How fare we got and what are the next steps? in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna.

[21] Report of 22 February 2018 on the proposal for a Council directive on a Common Corporate Tax Base (COM(2016)0685 – C8 0472/2016 – 2016/0337(CNS)) and Report of 26 February 2018 on the proposal for on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM(2016)0683 – C8 0471/2016 – 2016/0336(CNS)).

[13] OECD (2018), Tax Challenges Arising from Digitalisation - Interim Report 2018: Inclusive Framework on BEPS ("Tax challenges arising from digitization - Interim Report 2018: *Inclusive Framework on Erosion of Tax Base* and Profit Orientation"), OECD Publishing, Paris.http: //dx.doi.org/10.1787/9789264293083-en.
[14] OECD *Report on Action 1 of the Action Plan to Prevent Erosion of the Tax Base and Profit Reduction* "Addressing the Tax Challenges of the Digital Economy", 2015.
[15] Oestreicher A. (2008), CCCTB – Methods of Consolidation in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna.
[16] Proposal for a Council Directive on the common system of revenue tax arising from the provision of certain digital services (hereinafter referred to as "digital service tax") (COM (2018) 148 final).
[17] Report of 22 February 2018 on the proposal for a Council directive on a common basis for corporation tax (COM(2016)0685 – C8 0472/2016 – 2016/0337(CNS)) and Report of 26 February 2018 on the proposal for on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM(2016)0683 – C8 0471/2016 – 2016/0336(CNS)). (2016) 0685 - C8-0472 / 2016 - 2016/0337 (CNS)) and Report of 26 February 2018 on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (COM (COM) (COM (2016) 0683 - C8-0471 / 2016 - 2016/0336 (CNS).
[18] Report of 22 February 2018 on the proposal for a Council directive on a Common Corporate Tax Base
[19] Spengler C. et al. (2008), ZEW – »*Study on the impact of reforms of corporate income taxation systems at the EU level on the size of the tax bases of the EU companies, using the model "European Tax Analyzer"*« 2007, Study EU »*Expert study on the corporate tax compliance costs for businesses going EU cross border – comparison under the current regime, the CCTB and the CCCTB regime*«, Brussels.
[20] Spengler C. in Malke C. (2008), Comprehensive Tax Base of residual reference to GAAP or Domestic Tax Law? in Lang M. et.al., *Common Consolidate Corporate Tax Base*, Linde Verlag, Vienna.
[21] Tenore M. (2008), Requirements to Consolidate and Changes in the Level of Ownership in Lang M. et.al., Common Consolidate Corporate Tax Base, Linde Verlag, Vienna.