

The European Commission's action plan on corporate taxation

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A fair and efficient corporate tax system in the European Union

On 17 June 2015 the European Commission launched its action plan on corporate taxation. Titled 'A Fair and Efficient Corporate Tax System in the European Union', the plan identifies a number of measures designed to address corporate tax challenges and issues of abuse. The Action Plan includes:

- The re-launch of the Common Consolidated Corporate Tax Base (CCCTB)
- a number of initiatives to ensure effective taxation where profits are generated
- measures for a better tax environment for business
- a public consultation aimed at improving tax transparency
- a list of non-cooperative tax jurisdictions.

The ambitious action plan has been developed at a time when the Organisation for Economic Co-operation and Development (OECD) is working to address Base Erosion and Profit Shifting (BEPS).

Common Consolidated Corporate Tax Base

The European Commission has proposed to re-launch the CCCTB. An ambitious project, the aim of the CCCTB is to reduce compliance costs, simplify restructurings, and minimise tax arbitrage.

At present, a company or group of companies is required to comply with the different rules of each Member State in which they operate. If implemented, the CCCTB would compel companies in at least two Member States to compute their group taxable income according to a uniform set of rules. It is not proposed that a common corporate tax rate in the EU will be introduced under the CCCTB.

In order to address the issue of transfer pricing manipulation, intra-group transactions would be ignored under the proposed CCCTB. Under these circumstances, the OECD transfer pricing guidelines would no longer be relevant with respect to transactions between group members.

Unlike its 2011 proposal, the European Commission intends for the CCCTB to be compulsory for EU multinational enterprises.

The proposed CCCTB will not be adopted in one single phase, but rather on a step-by-step basis. It is expected that the Commission will present a new legislative proposal in 2016.

Cross border loss offset / double taxation dispute resolution mechanisms

While the CCCTB proposal is being constructed, the Commission has proposed that two initiatives should be implemented expeditiously.

First, the Commission has recommended that group entities should be able to offset losses that they make in different Member States. This immediate measure will address the general unavailability of cross-border loss relief within the EU. It will also potentially address some of the ambiguities that arose from the European Court of Justice (ECJ) decision of Marks & Spencer plc vs. David Halsey [2005] EUECJ C-446/03 and subsequent decisions.

Second, the Commission is seeking to develop a new dispute resolution framework, which will include clearer rules and more stringent timelines for resolving double taxation issues between Member States.

Amendment to the definition of permanent establishment / changes to Controlled Foreign Corporation rules.

In order to ensure that profits generated in the European Union are taxed at the place where the actual activities take place, the Commission has proposed to align aspects of the Action Plan with that of the current OECD BEPS project. For example, the Commission has proposed to adjust the definition of permanent establishment and to amend the Controlled Foreign Corporation rules.

Public list of non-cooperative tax jurisdictions

In order to encourage third party countries to apply minimum standards of good tax governance, the Commission has published a list of countries that Member States perceive as non-compliant in the areas of transparency, exchange of information, and fair tax competition.



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Public consultation on tax transparency

In addition to the Action Plan, the Commission is launching a public consultation on corporate tax transparency in the EU. The aim of the consultation is to determine whether requiring companies to disclose more information about the taxes they pay could help tackle tax avoidance and aggressive tax practices in the EU. The consultation will close on 9 September 2015.

Grant Thornton comment

A fair and simple tax code is central to a vibrant economy, based on trust and integrity in markets, dynamic businesses, and communities where business and people thrive. This will enable business to grow while paying their fair contribution towards public services.

The European Commission's action plan is aimed at achieving these goals within the EU, whilst encouraging certain non-EU countries to embrace good tax governance.

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Although there are a number of advantages to the CCCTB, it is very likely that unanimity will not be reached in the European Council. It will be interesting to see, nonetheless, whether a number of Member States will adopt the CCCTB under an enhanced cooperation model.

If you would like to discuss any of the areas raised, please speak to your usual Grant Thornton contact. Alternatively details of your local Grant Thornton member firm can be found at grantthornton.global.

Date	Action
17 June 2015	<ul style="list-style-type: none"> • Launch of the European Commission's Action Plan on Corporate Taxation. • Launch of public consultation on tax transparency in the EU.
9 September 2015	<ul style="list-style-type: none"> • Close of public consultation of tax transparency in the EU.
Immediate	<ul style="list-style-type: none"> • Publication of an EU-wide list of third country non-cooperative tax jurisdictions. • Agreement on common anti-avoidance measures, linked to BEPS (e.g. adjusting the definition of 'permanent establishment' and amending the Controlled Foreign Cooperation rules).
2016	<ul style="list-style-type: none"> • New CCCTB Proposal • Improvements to current mechanisms to resolve double taxation disputes in the EU. • Proposal for cross-border loss offset
2017	<ul style="list-style-type: none"> • European Council discussions on common tax base
Post-2017	<ul style="list-style-type: none"> • European Council discussions on consolidation



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