THE COMMON CONSOLIDATED CORPORATE TAX BASE – A NEW APPROACH IN THE CORPORATE TAX FIELD

Toma Elena

„Alexandru Ioan Cuza" University, Faculty of Economics and Business Administration, Iasi, telephone no.0744429256, e-mail: suman_elena@yahoo.com

Abstract: The Common Consolidated Corporate Tax Base, abridged „CCCTB", represents a new concept in the fiscal theory, which in the future will become a reality of fiscal practice in each EU's member states. The year 2007 represented a significant step in shaping the principles which will gouvern the CCCTB, as a result of the great meetings at the level of European Commission on the matter. We intend analyze the impact of the legislative initiative and also to describe, it's containt.

Key words: Common consolidated corporate tax base, fiscal competition, fiscal policy

1. Introduction

The problem of harmonising the Common Consolidated Corporate Tax Base, abridged „CCCTB", has been discussed within the framework of the European Commission, even since 2004. Though a better approach of this problem, when the stakes which concern the primar aspects to be harmonised in this area, occured in september 2007. Harmonising the common consolidated tax base remains a priority on the list of the Europeen Commission. Its foundation consists of the following motivations, at least.

2. Why the Common Consolidated Corporate Tax Base?

First of all, achieving a common consolidated corporate tax base represents a reaction of adapting the common legislation to the evolution of the globalization process. Extended in all the areas of the economic life, this process has no physical boundaries to stand in the way of the world wide expansion and development of the grand companies, and has marked the economy in the whole wide world.

As a second answer to the „Why the common consolidated corporate tax base?" question we find the basic idea of the European Union's construction through which they wished to find a unique economic frame, including common fiscal legislation. They also wish to create an attractive european economic space in order to place the foreign investments (where a harmonised legislation may constitute an advantage of localization).

In the third place a common consolidated corporate tax base would remove the world wide's groups trouble: the cost for managing the tax will remarkably diminish if we take into consideration the fact that now, a multinational group, which activates in all the member states, needs to work with 27 different systems of the corporate tax.

By comparison, in this case, the steps started early, even since 1977, when through the 77/388/CEE Directive, which concerns harmonising the indirect taxes such as VAT and of the excises duties at the European Union level, they proceeded to harmonise the VAT's tax base available for all the member states. The process of harmonising the VAT started to improve since 1 January 1993 along with the new created Unique Market.

The stated process has as foundation the fact that this tax represents, in the first place, the most important fiscal sourse as weight in GDP, in which the commom budget is being also formed. This process has also aimed to one of the four fundamental liberties such as the free circulation of merchendise and services, knowing that the VAT represents a fundamental element of this prices.

The things stand differently regarding the profit taxes of the economic agents which, now, stand on quite mobile and different principles. Until now, the fiscal politics in the domain have been orientated and limited to defining the general aspects in corporate tax' s domain and in adding rules regarding avoiding the double constraint. In conclusion we talk about 27 different techniques of the profit's constraint: each member state having its own system of taxing the economic agent's profit.

From the money politic's point of view, the member states sort of lost their sovereignty because they mostly took over this privilege from the European Central Bank. Concerning the fiscal political side, we can say that each Govern can establish its own objectives and fiscal strategies; this way, the fiscal politicy

and especially the one in the direct taxes domain, became an operating device in creating teritorial attractivities for the potential investors, starting with 2004.

Througout the 10 new commers in 2004, the tendency manifests also in Romania's and Bulgary's case. Their governs juggled with the level of the part tax or with some fiscal facilities which aim the investments or the reinvestments of the profit, concerning the profit tax. The other member states were forced themselves to reduce the level of the corporate tax in order to keep the important investors already localised on their own teritory or the potential new investors. In this way, they reached a sort of fiscal competition between the states with unwanted effects (the example of the Nokia Company being the most relevant in this case).

We can conclude by analizing all this, that the European Commission's legislative proposition of harmonising the common consolidated corporate tax base has as motivation this phenomenon of „fiscal competition" along with the other three motifs mentioned before. There is no doubt that this legislative measure was considered important imediatly after the member states have diminished their corporate tax rates, in 2005 and 2006.

2.1. The analysis of the Corporate Tax Rates, beging whit 2005's

This fiscal competition, sometimes camouflaged, in the sense of lowering the tax rates, is not to blame because the new commers must fit into the catching-up process of the member states with high performance at the level of macroeconomic meter, such as: rythm of economic development, unemployment rate, general price meter, etc (this process was initially used by the new commers and after that by the other member states). This phenomenon of diminishing the interstates ecarte, reporting on the level of economic development, comes as a purpose itself for the creation of the European Union. This new created space aims to be an international economic power in competition with the other economic forces of the world.

Starting with 2005, we witness a general process of reducing the corporate tax rate.We can notice in the following table that a number of 17 countries have reduced their tax rates as it follows:

Table no. 1 : Corporate Tax Rates in Europeen Union 27

Country	**2004(%)**	**2005(%)**
Austria	*34*	*25*
Belgium	34	34
Danmark	*30*	*28*
Finland	*29*	*26*
France	*34.33*	*33.83*
Germany	*27.9*	*25*
Greece	*35*	*32*
Ireland	12.5	12.5
Italy	*34*	*33*
Luxembourg	30.38	30
Netherlans	*34.5*	*31.5*
Portugal	*30*	*27.5*
Spain	35	35
Sweden	28	28
United Kingdom	30	30
Ciprus	15	15

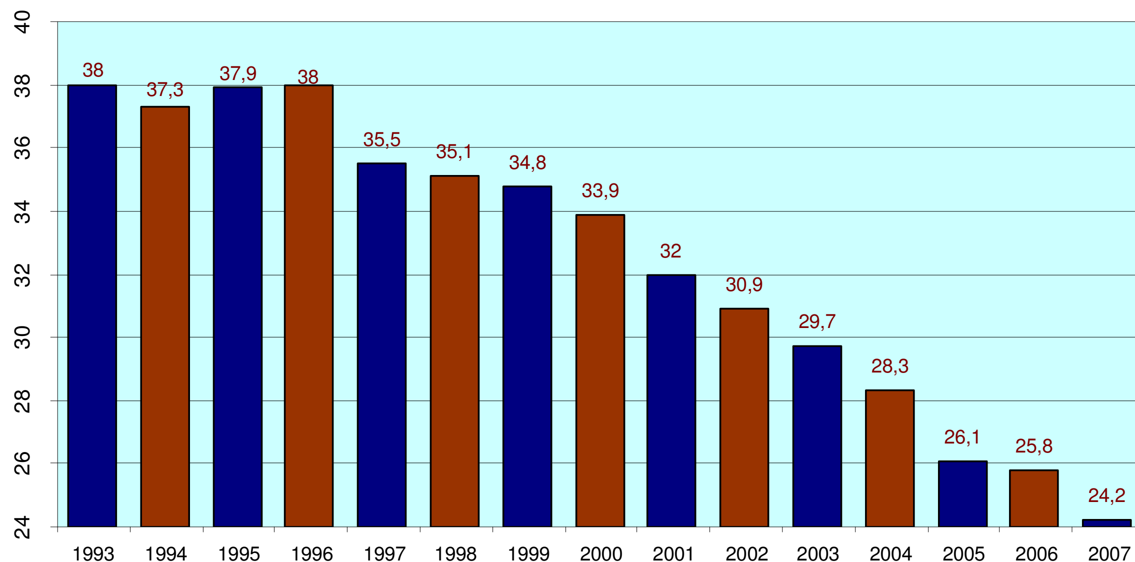
Czech Republic	*28*	*26*
Malta	35	35
Estonia	*24 for profit distributed* *0 for profit reinvestment*	*23 for profit distributed;* *0 for profit reinvestment*
Hungary	*18*	*16*
Latvia	*19*	*15*
Lithuania	*19*	*15*
Poland	*27*	*19*
Slovenia	25	25
Bulgaria	*15*	*12.5*
Romania	*25*	*16*

Source: modified by „ KPMG's Corporate and Indirect Tax Rate Survey 2007", p. 5 -11, http://www.kpmg.com/Services/Tax/Business/IntCorp/CTr

In 2007, the average of the corporate rate taxes, which concerns the European Union, was 24.2 %, lower with 3,6 % than the registered average at OECD, with 3.8 % than the registered average at Latin America and with 5, 9 % lower than Asia-Pacific, according to a study of KPMG.

From chart number 1 we can observe a descendent trend regarding of the average corporate tax rates, but in 2005 we can notice a more sudden drop then in the other years, as a result of legislative measures taken by the 17 member states of the Union to reduce the corporate tax rate. The descendent trent has maintained in 2006 and 2007 as a consequence of the lowering of the corporate tax rates in the following states: Portugal has modified, starting with 2007, to 25 % the corporate tax rate, Spain has lowered to 32.5%, Czech Republic to 24%, Cyprus to 10%, Bulgaria to 10%, and Slovenia to 23%.

Chart no. 1 Corporate Tax Rate
EU 1993 - 2007



Source : http://www.kpmg.com/Services/Tax/Business/IntCorp/CTR

3. A short discussion about technical elements of the „CCCTB"

It was enforced a new way of thinking the profit constraint system because of all these many reasons, in elaborating a Common Consolidated Corporate Tax Base "CCCTB", materialized in a working document which is to be found on the priority list of the European Commission, in the moment of speaking.

The history of this legislative first step begins in july 2004, when the European Commission elaborated the draft-document on the edge of this problem. This document was analyzed later on, within the framework of ECOFIN, in september 2004. Elaborating a common fiscal tax base, in taxing the profit of the companies, joined a common timetable of development in the area of the competition between the enterprises of the European Union. The efforts of the European Union in what concerns the common consolidated corporate tax base shaped in a new document named „The common consolidated corporate tax base: the draft of the technique background".

Throughout this document they accomplished to trace the corporate tax base as a sequel to the arguments of the European Commission's experts with the collegiate and business environment.

Between the formative elements of the fiscal tax base of the corporate tax, the taxpayer draws our attention. Moreover, the companies which carry on their activities on the Union's teritory will have the possibility to choose the common consolidated corporate tax system, wether if they are resident in a member state or if they have a permanent etablishment. Only the fiscal consolidated companies have the compulsoriness to use this new system, starting up 2010.[194] Talking about the fiscal consolidated companies, we have to underline the fact that the document defines them as a group in which over 75% of the suffrage are owned by the parend company. In the other cases in which the group is not being fiscaly consolidated, the option for common consolidated corporate tax base is being used by all the companies which are members of the group or by neither of them.

The option remains valid for at least five year. It also quietly renews itself for another three years if the tax payer hasn't manifested his denial in writing. In order to make possible a continuity in applying the system corporate tax in case that the tax payer who already uses the stipulations of the tax base is being taken over by a company which hasn't chosen this system, will continue to calculate the owed tax until the end of the 5 or 3 years period, respecting the stipulations of the common consolidated corporate tax base.

The document elaborated by the Commission stipulates the general rule of calculating the taxable profit and also gives a list of the main taxable or exempt income, deductible and non-deductible expenses. In detail, the taxable income represent all the acquired income of the society from all the sources: monetary or non-monetary, of exploitation, financial or exceptional. That leaves us with the exempt income and the investment income which diminishes the acquisition or the production price of the assets like dividends. The deductible expenses represent all the expenses made by the society in order to accomplish the activity object. On the list of non-deductible expenses we fiind the following: corporate tax expenses, penalties, expenses for the shareholders or/and the personnel, liquidating the fixed assets from the luxury goods category, entertainment and representation costs (only 50% of them being recognized).

Concerning the fiscal depreciation, are being considered fixed assets those which have a usage period bigger than a year and have an entrance value bigger than 1000 EUR. What looks different than the usual fiscal practice is the Commission's wish to calculate the fiscal depreciation variously in categories of fixed assets (named pools) in case that all these are utilized on medium or short term, or individual fixed assets if they are utilized on long term. In case of the long term fixed assets we need to bookkeep them separatly in order to combine all the following rules: entrance value of minimum 5.000.000 EUR and usage period of minimum 25 years. The buildings will be depreciated with a rate of 2.5% per year, while the other long term fixed assets will be depreciated with a rate of 4%. We consider this change a favourable one, especially when it comes to the price of managing the corporate tax which will be reduced allong with the physical time affected by the depreciation's calculation.

The income and the expenses' will be registered after the bookkeeping of engagement principle and the bad debts provisions are totally educible by respecting some certain conditions. On the other hand, the fiscal losses will be recovered from the upcomming profits, in an unlimited time period, while the former profit recuperation is forbidden. The common consolidated corporate tax base would result from the sum of

[194] www.ec.europa.eu.int, in "Groupe de travail sur l` assiete commune consolidee pour l` impot sur les societes" (GT ACCIS), p.28

the individual profits obtained by each group's daughter-company with no concern for the member state which gave it (mentioning that it will be allot and taxed with the legal rate from that state).

It's also important to mention that the European Commission's legislative proposal aims to create a new fiscal tax base but not a unique rate tax; it also has been harmonised the base of VAT's of application without a unique rate, but qith a minimum threshold.

At the september 2007 debates they drew the most important rules of profit's apportionment. Moreover, the apportionment will took place by taking into consideration the next five key-elements: salaries, fixed capital values, sales level, incorporation criterion and the possible sector formula. It also came to an intermediate form of the profit's apportionment. This profit makes possible the three following key-elements: work factor (with two elements: salaries and number of employes), asset factor and sales factor.

The tax base of each taxable entity will be calculated with the following formula[195]:

$$CCCTB_A = \left(\frac{1}{3}\left(\frac{1}{2}\frac{PayRoll_A}{PayRoll_{Group}} + \frac{1}{2}\frac{NoEMP_A}{NoEMP_{Group}} \right) + \frac{1}{3}\frac{Assets_A}{Assets_{Group}} + \frac{1}{3}\frac{SalesT_A}{SalesT_{Group}} \right) \times CCCT$$

Where: NoEMP = number of employees;

The impact of introducing the system will be major, especially when it comes to reducing the red tape (this one being an obstacle in the way of placing the foreign investments, though it creates an attarctive european economic space for the potential investors from out of Europe) which works with one specific law and remarkably reduces the administration tax price.

The idea of a unique common consolidated corporate tax base has the support of 78% of Union's experts (according to a 2006 boring made by the European Commission); the most fanatic advocates were the ones from Cehia, Denmark and Spain with a maximum percent of 100; in Italy the proposition was sustained by 96% of the questioned ones, while in Greece, Louxemburg, Polland, Slovenia and Sweden only 90% agreed. The least bit enthusiastic were those from Great Britain with only 62% in favour of changing the system, while in Ireland and Slovakia 50% opposed to the initiative of the European Commission.

In Romania the project was sustained by 90% of those questioned; the people noticed the positive impact over the red tape's reduction, a steel present disaster of the administrative romanian system[196].

4. The „ CCCTB" – Impediments and possible solutions

An obstacle in the way of functionality of the common consolidated corporate tax base consists of the inconsistently bookkeeper's system at the level of the member states, pointed out by the European Commission. At the moment, there are 27 accounting systems either of anglo-saxonic origins or french continental origins. The differences between the accounting systems of the member countries are related to the degree of independency between bookkeeping and fiscality. If in Great Britain the fiscal legislation does not „contaminate" the accountancy (which offers the investor a real information on the patrimony), in the other member states, the fiscality leaves it's mark on the accountancy, in different proportiones, it's purpose being to supply the information for the fiscal devices. Another alternative would be eliminating from the accountancy area the way of calculating the owed corporate tax . A possible solution is adoption of the International Financial Reporting Standards (IFRS) by the EU's member state. Anyhow, the European Commission has left the problem opened to discution, so that the member states can make propositions on the matter.

We add to this the eventual government's reticence to introduce in the national fiscal legislations the common foresight by subjective or objective motifs.

The making of an unique framework of corporate tax does not represent the solution in order to attract foreign investments, but only one of the factors which can contribute to the creation of the location advantages, along with the other factors such as: the existence of a well done infrastructure, fiscal and

---

[195] www.ec.europa.eu.int, in „Annexe au document CCCTB/WP/060, Synthèse des règles de répartition éventuelles", p. 1

[196] "Tibuna Economica" Review, no. 42/2007, p. 60

monetary stability, the lack of red tape. All these factors contribute to transform the state into an attractive teritory for the investors.

In Romania, such a legislativ project would be usefull taking into consideration the ascending rythm of developing the foreign investments, but it will incounter obstacles in the stated process, like in most of the states.

On the course of harmonising the fiscal legislation with the common legislation in the area, Romania has already made progress, now being in full process of introducing the IFRS. This way, the Fiscal Code has been elaborated taking into account the preadhasion's conditions which are to be found in „Assessment", chapter 10, also partially adopting a series of international standards. Partial encounters of the International Accounting Standards were included into the Order No. 94/2001 and No. 306/2001 of the Minister for Finance. These regulations belong to the romanian accountancy system and are mantained nowadays in the new Order No.1752/2005 Minister for Finance which canceled the regulations mentioned before.

The new order No. 1752/2005 has been written according to the european directives; all the judicial persons who develop their activity in Romania are obliged to submit this regulation. Moreover, starting with 2006, through the Order No. 907/2005 of the Minister for Finance, the credit institutions are obliged to make „a distinctive set of financial situations coresponding to the IFRS for their own necessities of informing the users, other than the state institution", meanwhile the public interest entities can chose the preparation of financial situations according to IFRS.

Starting with 2007 the companies listed are also obliged to draw up financial situations according to the IFRS. It's imposed to mention that through International Standards of Financial Reference we understand „International Standards of Financial Reference" (IFRS), International Accounting Standards (IAS) and afferent Interpretations (Interpretations SIC-IFRIC), the amendments that follow those standards and the relevant interpretations, the standards and the future afferent interpretations, just as they are approved by the European Union, translated and published in romanian."[197]

5. Conclusions

In conclusion the legislative initiative of the European Commission , once adopted and added to the national level represents another step closer in the direction of unrolling the unifying process which aims also the fiscal legislation area.

Bibliography:

1. Anderson Crister, Eberhartinger Eva, Oxelheim Lars, National Tax Policy in Europe, Springer Publishing, 2007
2. Bogdan Victoria, Armonizarea contabilă internațională, Editura Economică, Bucureşti, 2004
3. Florescu Dumitru ,Fiscalitatea in Romania, Allbeck Publishing, Bucuresti, 2005
4. ***, Ghid pentru înțelegerea şi aplicarea Standardelor internaționale de Contabilitate- IAS 12 Impozitul pe profit, CECCAR Publishing, Bucureşti, 2004
5. *** Legea contabilității nr. 82/1991 .
6. *** OMFP 94/2001
7. *** OMFP 306/2001
8. *** OMFP 907/2005
9. *** OMFP 1121/2006
10. *** Euroconsultanță Review, ediția martie 2007
11. *** Tribuna Economică Review, no. 23/2007
12. *** Tribuna Economică Review, nr. 42/2007
13. www.kpmg.com
14. www.europa.eu.int
15. www.ec.europa.eu.int

[197] Order No. 907/2005 of the Minister for Finance