

News Analysis: CCCTB Opponents Stake Out Different Positions

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Several EU member states, including Ireland, Poland, Latvia, and Slovakia, oppose the European Commission's plan for a common consolidated corporate tax base, each with slightly different grounds for opposition.


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Various EU member states, including Ireland, Poland, Latvia, and Slovakia, oppose the European Commission's common consolidated corporate tax base (CCCTB) plan, each with slightly different grounds for its opposition.

The views of the CCCTB opponents matter because new EU direct tax legislation must be adopted unanimously, at least in principle. Therefore, each of the 27 member states holds a veto over the commission's pending proposal.

Even if the European Union adopts the CCCTB proposal using the enhanced cooperation procedure -- which allows a subset of member states to adopt legislation -- comparing and understanding the differences in the positions of the member states that oppose the plan is illuminating.


Background

The European Commission won't introduce a CCCTB proposal in 2008 as planned, as a result of the Irish voters' rejection of the Lisbon Treaty in June. (For prior coverage, see *Doc 2008-20500* [[PDF](#)] or *2008 WTD 188-1* )

Nevertheless, the commission still expects to propose a CCCTB directive before long, perhaps in the spring of 2009.

The CCCTB is intended to allow a company to use a single set of tax rules to calculate its income in all EU member states where it operates. The plan should remove hurdles to efficient EU company operations resulting from the absence of cross-border loss offsetting, burdensome transfer pricing compliance rules, and the lack of a central EU tax authority.

The largest and most powerful EU member states, including Germany, France, Italy, and Spain, have expressed their firm support for the CCCTB project.

EU Tax Commissioner László Kovács, in a March 2007 speech in Washington, said 20 member states support the CCCTB plan, while the remaining 7 say they oppose it. (For prior coverage, see *Doc 2007-5669* [[PDF](#)] or *2007 WTD 44-1* )

Ireland has long said it rejects the plan outright because it would infringe on national sovereignty -- that is, it would deny member states the freedom they now enjoy to define their direct company tax bases the way they want. Ireland also argues that the ultimate EU goal behind the CCCTB is to harmonize national corporate tax rates.

How does the Irish position compare with the positions of other member states who oppose the CCCTB?

Opponents' Views

Poland

A May 2006 Polish Ministry of Finance statement on the CCCTB says the ministry opposes the plan's consolidation mechanism for the income of company groups, Michal Tarka, a tax lawyer and senior legal adviser in Warsaw, told Tax Analysts.

The same ministry statement says the government opposes the sharing of tax revenue among member states based on a formula. The government would support, however, introducing a common corporate tax base as an obligatory and not optional instrument, Tarka said.

Tarka's comment refers to the debate over whether companies should have the choice to opt in to the CCCTB once established, or whether all companies should be required to use the method to calculate their taxable profits.

Poland also would prefer that the future provisions establishing the CCCTB did not refer to either international accounting standards or international financial reporting standards, Tarka said.

In May 2007 the Ministry of Finance issued another CCCTB position statement. The ministry said that despite its opposition to the plan, "the government declares its readiness to continue and participate in working on the consolidation and sharing mechanism," Tarka said.

The second statement also says that the selection of the factors for sharing revenue under the plan "should play a role in the determination of taxation terms of intragroup transactions and particularly in the development of a common approach to the application of transfer pricing by enterprises," Tarka said.

Therefore, "the position of Poland is an individual position," Tarka said, a position that is "independent from the positions of other EU member states."

The Polish Confederation of Private Employers, or Lewiatan, stated in a May 15, 2008, report that the CCCTB would likely have an insignificant effect on inbound foreign investment in Poland, said Janusz Fiszer, a partner with White & Case in Warsaw.

However, the report also says that the CCCTB project could lower Polish tax revenues and increase the workload of the Polish tax administration, Fiszer said.

"In general, there is a view that the strong position of those EU countries which are in favor of the CCCTB may trigger its implementation in an 'enhanced cooperation' mode, which, in turn, may force Poland to accept the CCCTB, thus avoiding the risk of slowing down foreign investment," Fiszer said.

Finally, Poland recognizes the likelihood that under the CCCTB regime, it would have less flexibility to maintain a corporate tax system that is competitive vis-à-vis other EU member states, Fiszer said.

Latvia

Latvia believes it might well lose revenue under a future CCCTB because the plan's tax base definition could enforce a narrower tax base than Latvia now has in place for company taxes, Ilona Bauda, an attorney with Gencs Valters Law Firm in Riga, told Tax Analysts. In other words, with a narrower base but the same corporate tax rate, Latvia would see its tax revenue fall.

Latvia is also concerned that the CCCTB would raise the administrative burden on small and medium-size enterprises without offering SMEs any benefits, Bauda said, because SMEs generally don't have cross-border activities.

Latvia and other member states opposed to the plan have nevertheless participated in the commission's CCCTB working groups, Bauda said, "at least to some extent . . . to influence the proposal."

Bauda also said that even though they oppose the CCCTB plan, those member states still wanted "to be better informed about developments and trends in this area."

Bauda said Latvia plans to work with the other member states that oppose the plan to vote down the "most inadequate CCCTB provisions." Bauda noted that important aspects of the CCCTB, including how the company tax revenue would be divided up among member states, remain unresolved.

Finally, Bauda said Latvian companies that would participate in the CCCTB might not be able to enjoy pending Latvian tax breaks to increase economic growth.

Slovakia, Czech Republic

In his March 2007 speech in Washington, Kovács said Slovakia opposes the CCCTB plan because the tax base under the CCCTB would likely be narrower than the tax base Slovakia has in place to support its favorable flat tax system.

Nevertheless, Slovakia and the neighboring Czech Republic -- which has been on the fence about the CCCTB -- both seem to be gravitating toward accepting the CCCTB project, said Niko Härig, an attorney based in Cologne and Düsseldorf.

Slovak Prime Minister Robert Fico has publicly stated that while Slovakia was not in favor of the CCCTB, Slovakia would still accept whatever the outcome might be, Härig said.

Slovak Minister of Finance Jan Pociatek has even said that the CCCTB plan would amount to a needed step and would be beneficial from a long-term perspective, Härig said.

Härig also said the Slovak and Czech press have not dealt much with the CCCTB project. In Slovakia, people are focused on the euro adoption, he said, and the CCCTB is not viewed as urgent in either member state.

Nevertheless, Härig said he is surprised that the Czech Republic has not voiced stronger opposition to the CCCTB in light of Czech efforts in the last year to adopt a flat tax rate.

Despite the Czech interest in a competitive tax system, the Czech Ministry of Finance has promised not to block the CCCTB but instead to amend its national law to comply with the pending CCCTB directive, Härig said.

Bulgaria

Bulgaria hasn't been formally listed as an EU member state that opposes the CCCTB. In fact, a September 2007 survey in Bulgaria by KPMG International found that about 70 percent of businesses support the CCCTB plan, according to an October 2007 report by Svetla Kostadinova, executive director of the Institute for Market Economics in Sofia.

However, Kostadinova's report argues that those Bulgarian businesses were misguided and that the business community should oppose the CCCTB plan, according to a translation of the report she provided to Tax Analysts.

The report says that the CCCTB method for calculating the tax base is unclear; that the CCCTB rules won't be flexible once in place; that the CCCTB would cause uncertainties for companies, especially SMEs; that only large companies are lobbying for the plan because they know it will benefit them; and that the CCCTB would place a heavy burden on national tax administrations.

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Cross Reference: For prior coverage of the effect of Ireland's Lisbon Treaty rejection on the CCCTB plan, see *Doc 2008-20500* [[PDF](#)] or *2008 WTD 188-1* .

For prior coverage of the CCCTB views of EU Tax Commissioner László Kovács, see *Doc 2007-5669* [[PDF](#)] or *2007 WTD 44-1* .