Chambers Ireland Submission on the Common Consolidated Corporate Tax Base (CCCTB)
8 January 2016

The Commission believes that the CCCTB system can be an effective tool against aggressive tax planning and at the same time retain its attractiveness to the business.

What are your views?
We do not believe that a CCCTB will be an effective tool against aggressive tax planning. Rather than specifically providing a means to address aggressive tax planning by certain companies within Europe, a CCCTB would constitute a complete revision and of the EUs corporate tax system. This would have a huge impact on companies based within the EU, and would likely lead to increased costs in terms of administrative overheads and in some cases effective tax rates.

There are more appropriate measures to tackle aggressive tax planning and indeed the EU has already made progress to this end by moving towards an elimination of hybrid mismatches, common approaches to assessment of transfer pricing risks, and the sharing of tax rulings between relevant authorities.

We also believe that given that the OECD will shortly be delivering proposals around anti-BEPS measures, it makes little sense for the EU to pre-emptively and in parallel develop an additional set of structures to address aggressive tax planning. It would be prudent to wait until the OECD BEPS proposals and their impact on EU based companies have been considered by the Commission before deciding whether it is necessary to develop a CCCTB.

The Commission envisages re-launching the CCCTB in a staged approach which will consist of 2 steps: Firstly, agreement on the tax base, secondly, moving on to consolidation.

What are your views on the staged approach?

We do not believe there is any merit in beginning this process unless there is clear consensus as to what the end goal will be, and indeed whether it is possible to achieve the stated aim (countering aggressive tax planning) through a CCCTB. The competitiveness of EU based companies should be the preeminent concern of the Commission at present, and the uncertainty created by implementing a staged process with no clear end result will not support existing businesses or the EUs attractiveness as a location for international investment. We recommend that the EU engage fully with the development of a common implementation of the OECD BEPS proposals to provide certainty to EU based companies and ensure that we are part of an international tax framework.

We fully support the common implementation of the OECD BEPS principles throughout the EU. The adoption of an international standard will ensure that EU based companies are competing on a par with their international competitors and are not disadvantaged by any measures introduced specifically within the EU.

What are your views on making the proposal for a CCCTB obligatory for all EU companies which are part of a group?
CCCTB must not be made mandatory for all companies. Companies must be given the choice as to whether to opt in to a CCCTB or not. For some companies, a CCCTB will be unsuitable and will result in increased costs and administrative burden. This runs counter to one of the original reasons for a CCCTB, i.e. simplification of processes and reduced administrative costs for companies.

What are your views on offering non-qualifying companies the option to apply the rules?
As above, the CCCTB must not be made mandatory. As a general rule, companies should be able to opt in or out.

Which of the elements of the CCCTB system would you reinforce so that the system can better respond to tax avoidance?
Full engagement with the OECD BEPS recommendations is the most appropriate means for the EU to respond to tax avoidance without eroding the competitiveness of companies based within the EU.

In your view, can hybrid mismatches be effectively addressed through any other measures than the one suggested above?
Given that relationships with companies outside the common rules would not be covered by this measure, it would be ineffectual. The EU Code of Conduct Group on Hybrid Mismatches has already made some recommendations in this area, as will the OECD BEPS proposals. These recommendations could be usefully implemented by member states before considering any additional measures.

What are your views on making the existing framework for R&D more favourable?
The most effective means of making the EU as a whole more encouraging of the development of, and investment in, R&D is to allow member states to retain the flexibility to design their own national R&D policies that will complement their domestic industrial policies.

Is there anything else you would like to bring to the attention of the Commission?
Member States must be allowed to retain their tax sovereignty in order to develop the tax policies that are most appropriate to their requirements. The ability to formulate tax policy and decide on base rates independently is a crucial component of a member states ability to

develop their economic and social policies. A CCCTB would considerably impede a member states capacity to successfully manage their economic and industrial policies.

Maintaining the competitiveness of EU based companies is a primary concern, and there is a risk that by implementing a CCCTB, we will be disadvantaging these companies vis a vis their international competitors. The high mobility of many MNCs means that any uncertainty around future tax structures will cause them to consider their location and investment decisions. The EC must ensure that a CCCTB or stages towards it does not reduce competitiveness.

The logical steps would be to await the OECDs BEPS recommendations in 2016 and to engage with these on a European level, ensuring common implementation of these proposals across member states.