

Common (Consolidated) Corporate Tax Base – A Personal View

Christoph Spengel, University of Mannheim / ZEW



IFA Austria, 8 October 2018, Vienna



Agenda

1. C(C)CTB: Institutional Background and Re-Launch 2016
2. Quantitative Assessment: Impact of the CCTB Introduction on Effective Tax Burdens in Member States (2011 Draft Council Directive)
3. New Items as of C(C)CTB Re-Launch (October 2016)
4. Conclusion

1. C(C)CTB: Institutional Background and Re-Launch 2016

Perspective of internal market (2001: Company Taxation in the Internal Market)



































- Uncoordinated co-existence of MS separate tax systems
 - High compliance costs, risk of double taxation, enhanced scope for tax planning, insufficient transparency
- Distortion of investment, financing and location decisions

Proposals for tax harmonization in the European Union

- March 2011: draft Council Directive for a CCCTB
 - Harmonized determination of corporate taxable income
 - Consolidation of individual corporate tax bases
 - Formula apportionment
 - No consensus for tax consolidation among Member States
- October 2016: re-launch of draft Council Directive as a two-step process within „Action Plan for a Fair and Efficient Corporate Tax System“ (June 2015)
 - Harmonized determination of corporate taxable income (CCTB)
 - Consolidation and formula apportionment as a second stage (CCCTB)
 - CCCTB as instrument against tax planning/BEPS

1. C(C)CTB: Institutional Background and Re-Launch 2016

CCTB provisions and Member States' current national tax law – need for adjustment?

Selected issues of the CCTB draft Council Directive	Article	Need for adjustment in EU Member States	
		Major	Minor
Depreciation			
Commercial and office buildings	Article 33 (1) a)		
Industrial buildings	Article 33 (1) b)		
Long-life fixed tangible assets (useful life ≥ 15 years)	Article 33 (1) c)		
Medium-life fixed tangible assets (useful life ≥ 8 years and < 15 years)	Article 33 (1) d)		
➔ Asset pool (useful life < 8 years)	Article 37		
Fixed intangible assets	Article 33 (1) e)		
Valuation of inventory	Article 19		
➔ Tax incentives for R&D	Article 9 (3)		
Provisions for legal obligations	Article 23		
Provisions for pensions	Article 24		
Avoidance of double taxation of dividends	Article 8 d)		
Domestic dividends			
Foreign (non-EU) dividends			
Interest deduction limitation rules	Article 13		
➔ Loss relief			
Inter-temporal	Article 41		
Cross-border	Article 42		
➔ Notional interest deduction schemes	Article 11		

Major adjustment needs with regard to:

Depreciation:

- Classification of assets (useful life vs. category)
- Depreciation rates
- Pool method for short-life assets

R&D tax incentives

- Design / type of incentive

Loss relief

- Especially cross-border

Notional interest deduction / AGI

- General availability and design

1. C(C)CTB: Institutional Background and Re-Launch 2016

Main differences between the 2011 and 2016 C(C)CTB draft Council Directives

Tax base element	2011	2016
Depreciation	Differences w.r.t. economic life of assets; differentiation of assets subject to pool depreciation (Art. 36/39 (2011), Art. 33/37 (2016))	
Inventory	FiFo, weighted average (Art. 29 (1))	FiFo, LiFo, weighted average (Art. 19 (2))
Inter-company dividends	95% exemption (Art. 11 c), 14 g))	100% exemption (Art. 8 d))
Interest deduction limitation	Not available	Available (Art. 13), see also ATAD
Cross-border loss relief	Not available	Temporarily available until consolidation (Art. 42 (1))
Notional interest deduction	Not available	AGI (Art. 11)
R&D tax incentive	Not available	R&D super-deduction (Art. 9 (3))

2. Quantitative Assessment: Methodology

– European Tax Analyzer

- Model firm approach to calculate and compare country-specific effective tax burdens
- See for the following analyses: Spengel et al. (World Tax Journal 2012, pp. 185)

Model firm

- Initial capital stock (balance sheet)
- Corporate planning estimators (e.g. interest rates, employees)
- Corporate finance plan (debt vs. equity, dividends)

Effective average tax burden

Simulation of development of a corporation over 10-year period

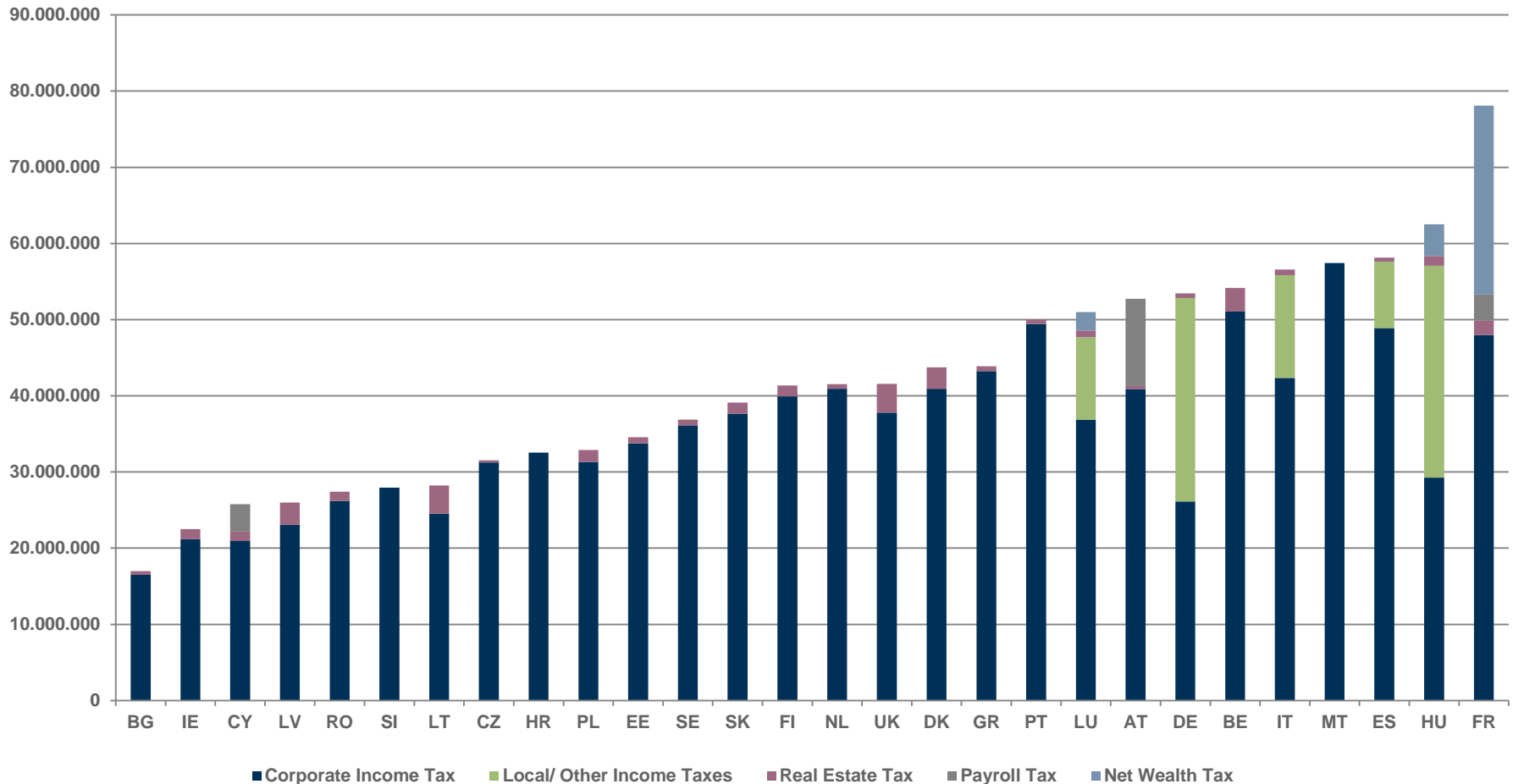


$$\begin{array}{l} \text{Final value before taxes} \\ - \text{Final value after taxes} \\ \hline = \text{Tax-induced reduction of final value} \end{array}$$

Input & data

- Information on each country's tax regime
→ all relevant profit/non-profit taxes, tax rates, tax bases (e.g. depreciation, inventory valuation, loss relief, interest deduction limitation rules)
- Empirical data mainly taken from AMADEUS database to determine EU-28 average companies (here: large corporation)

2. Quantitative Assessment: International Comparison (Effective Tax Burdens, National Tax Law, 2011)



Legal status as of 2013

2. Covered Regulations of the C(C)CTB Directive (2011)

Self-created IP and R&D costs

- Immediate expensing

Depreciation

- Buildings: 40 years (SL); acquired IP: 15 years (SL); machinery & equipment (useful life > 15 years): 15 years (SL); machinery & equipment (useful life < 15 years): 25% (pool)

Stocks & work-in-progress

- Direct cost approach (R&D costs immediately expensed)
- Simplifying valuation: weighted average

Dividends (tax-exempt income)

- 95% exemption

Provisions

- (Probable) legal obligation, settlement is expected to result in a deductible expense
- Discount rate: EURIBOR for obligations with maturity of 12 months (0.6%)

Pension payments

- Direct and indirect pension plans
- Accounting for costs and liabilities according to IAS 19

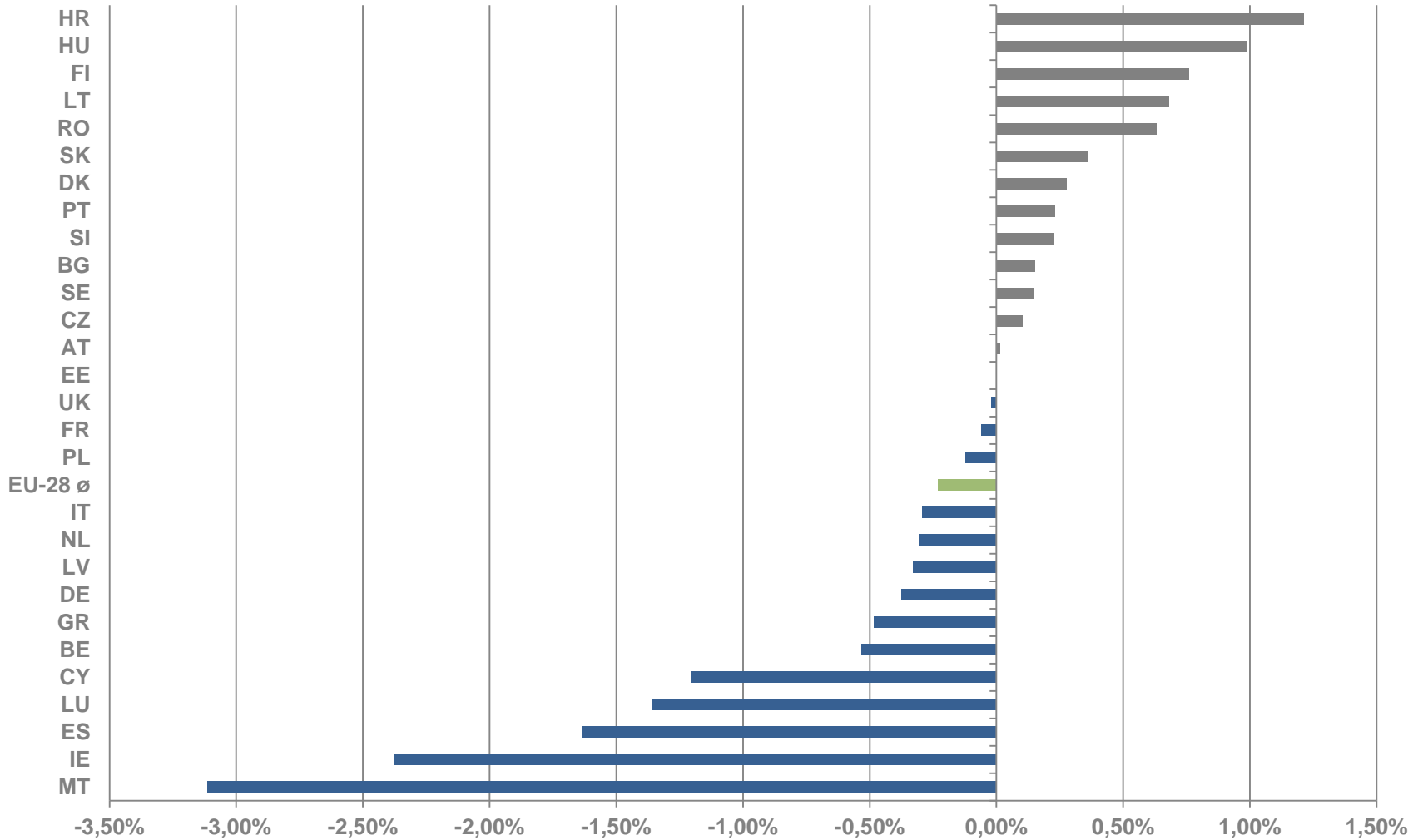
Non-deductible expenses

- Taxes: according to current national regulations
- Thin capitalization rules: according to national regulations

Loss relief

- Indefinite carry forward
- No carry back of losses to previous years

2. Quantitative Assessment: Changes in Effective Tax Burdens upon C(C)CTB 2011 Introduction (in %)

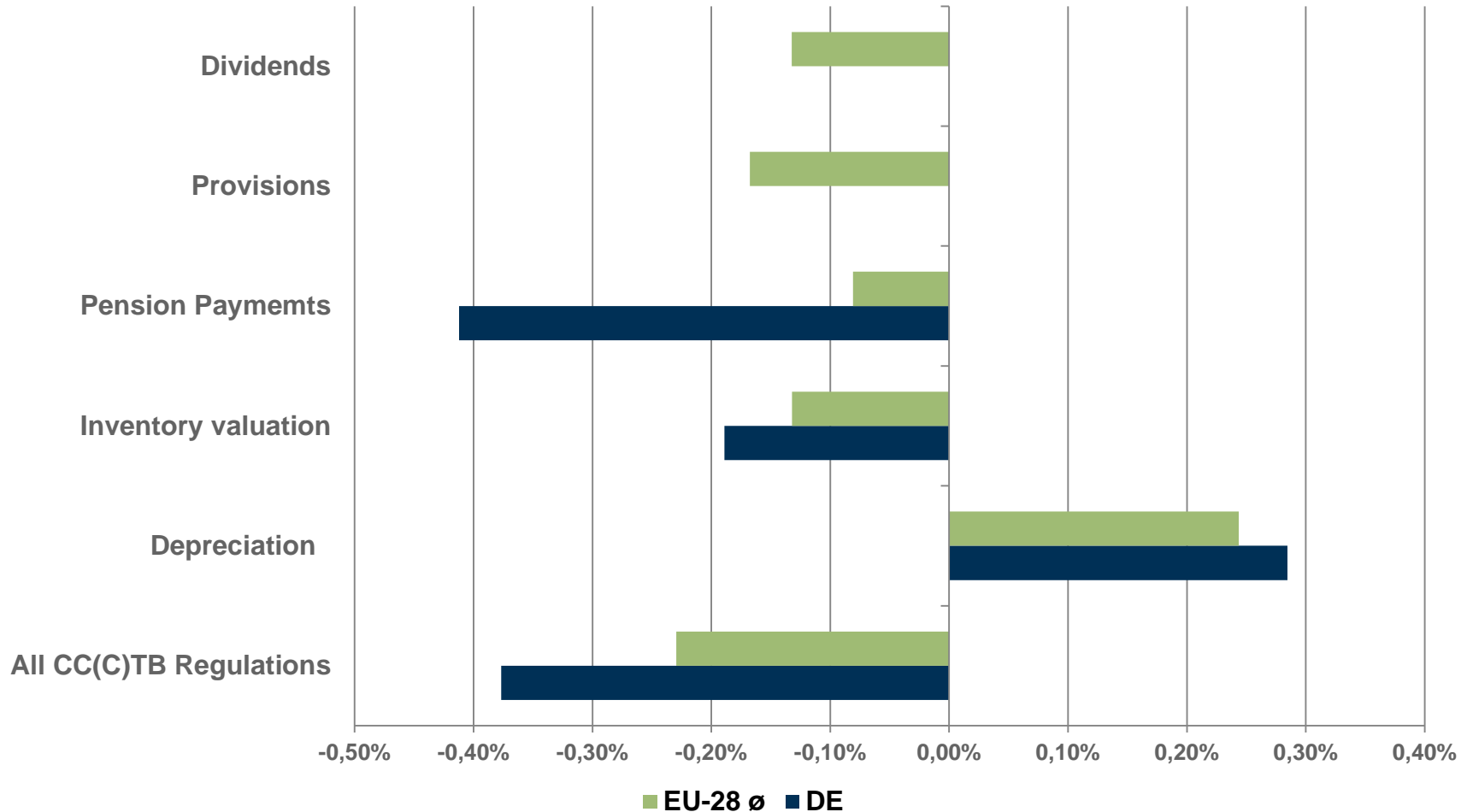


CCTB, IFA Austria

8 October 2018

Legal status as of 2013 9

2. Quantitative Assessment: Change in Effective Tax Burden due to Specific Regulations (2011 Proposal, in %)



3. New Items as of C(C)CTB Re-Launch (October 2016) I

Allowance for Growth and Investment (AGI)

- Idea: Deduction of notional interest on corporate equity to eliminate debt bias
- AGI based on increase of the equity base compared to the equity base upon the introduction of the CCTB; rolling AGI base after 10 years
- AGI rate based on euro area 10-year government benchmark bond and a risk premium of 2 percentage points (i.e. 2.88 % for 2018)

Advantages

- AGI is a systematic way to remove the debt bias
- Coordinated introduction mitigates tax competition effects within the EU

Disadvantages

- Narrower tax base → increase tax rates
- Paradigm shift from income to consumption taxation
- Repercussions on personal income taxation (partnerships, sole traders, private capital income)
- Subsidiarity: leave removal/reduction of debt bias to Member States
- Important to prevent avoidance schemes with third countries

➔ Additional tensions for political consensus on CCTB

3. New Items as of C(C)CTB Re-Launch (October 2016) II

Super-deduction for R&D expenses

- Idea: Deduct 150 to 200% of R&D expenses from taxable income

Advantages

- Tax incentives for R&D

Disadvantages

- Tax base not the best instrument to encourage investments in R&D
- More suitable: R&D tax credits
- Narrower tax base → increase tax rates
- Repercussions on Member States' R&D policy
- Subsidiarity: Why should R&D tax incentives be harmonized?

➔ **Additional tensions for political consensus on CCTB**

4. Conclusion

- The 2016 CCTB draft Council Directive is largely in line with the tax base provisions of the 2011 proposal.
- The quantitative assessment on the impact of the 2011 C(C)CTB draft Council Directive on effective corporate tax burdens reveals an EU-wide average decrease by 0.23% only. Overall, differences between the regulations for the determination of taxable income under the proposed C(C)CTB draft Council Directive (2011) and current international tax practice are rather small. Presumably, this also holds for the 2016 CCTB draft Council Directive.
- In addition to the negligible impact on Member States' tax revenues, given increased transparency and reduced compliance & administrative costs, a CCTB is clearly a way forward.
- Nevertheless, it includes several new elements such as the AGI and R&D super-deduction. Adjustment requirements with regard to current national tax law are highest for the new elements, i.e. AGI, R&D super-deduction and cross-border loss relief. Furthermore, the CCTB rules for asset categorization and the use of the pool depreciation method differ substantially from Member States' current tax practice.
- There are, however, in addition to predictable negative effects on Member States' tax revenues considerable concerns about the AGI, the R&D super deduction and cross-border loss relief. Hence, Member States should decide on a unilateral basis whether to reduce the debt bias, incentivize R&D investments (e.g. by a R&D tax credit) and allow for cross-border loss relief.
- A CCTB is no countermeasure against BEPS. It might be complemented by the EU Anti-Tax Avoidance Directive, but I do not recommend this.

Thank you very much for your attention!



Contact

Prof. Dr. Christoph Spengel
University of Mannheim

Phone: + 49 621 181 1704

Mail: spengel@uni-mannheim.de

www: <https://www.bwl.uni-mannheim.de/spengel/>