

CC(c)TB: General Characteristics

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General principles mentioned in this CCCTB

- Profits and losses shall be recognised only when realised (6-1)
- Transactions and taxable events shall be measured individually (6-2)
- The tax base shall be determined for each tax year (12 months) unless otherwise provided (6-3)
- Revenues, expenses and all other deductible items shall be recognised in the tax year in which they accrue or are incurred, unless otherwise provided (for in this Directive) (15, 16 and 17)
- Realisation vs Accrual?
- Definitions (4), Scope and Whereas
- Continuïty, caution, simplicity are not included

What could be seen as characteristics?

- Profit and loss account approach (7)
- Combined corporate income tax and profit tax
- Independent concept of profit
- Delegated Acts (whereas 19) vs the Directive
- No fall back system

P&L approach

- Not a fundamental choice: this approach can also lead to a CCCTB balance sheet.
- It seems to be based on a jurisdiction with a (formal) link between commercial and tax accounts
- This latest version contains more examples than in 2011 (16 f.i.)
- Waiving a debt?

Independent concept of profit

- As a definition not based on a link (commercial-tax) jurisdiction
- Little general concept (general principles), (accrual) many concrete rules
- Different forms of obtaining content for a concept of profit:
  - Standards of some sort
  - Case Law
  - Extensive legislation
- Case Law may be difficult in practice with courts in all Member States
- Although many rules seem to have a basis in IFRS, there is no reference to any standard (justly or unjustly so)

Delegated Acts

- The delegated acts could play a very important role: question is how political and/or instrumental they will be and how fast they can be created of amended
- The delegated acts may also be a way of creating content for the concept of profit (but then the scope of the committe would have to be much broader)
- Again more guidance in the new version of the directive, no principle difference

No fall back system

- The fact that there is no fall ball back system makes it difficult for judges to come to and motivate their decisions
- Possible problem/issues:
  - Roll over relief (35)
  - Hedge accounting (26)
  - Distinguish between stock and material fixed assets (art 4 (definitions)
  - Provisions (23)
  - Economic ownership (4, 32) Delegated Acts to be expected

    More detailed guidelines in this version limit the problem somewhat

Suggestions

- A general caution principle in stead of various specific articles would be preferable
- There must be a fall back system to function in practice. IFRS could function (where it does not clash with the wording or intent of the directive and/or with an endorsment procedure)
- As a system IFRS would in itself not be sufficient because of the pure tax articles that have no financial equivalent (such as ror)
- Another option for fall back is the development of standards. This could also be done by the committee with delegated acts.