“Possibilities of harmonization of direct taxes in the EU”

AUTHORS	Adela Feranecová https://orcid.org/0000-0001-9204-4067 Eva Manová https://orcid.org/0000-0001-9856-8478 Marek Meheš Jana Simonidesová https://orcid.org/0000-0003-2637-1910 Slavomíra Stašková https://orcid.org/0000-0001-5995-4886 Pavel Blaščák

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Adela Feranecová, Ph.D., Department of Corporate Financial Management, Faculty of Business Economics with seat in Košice, University of Economics in Bratislava, Slovak Republic.

Eva Manová, Ph.D., Department of Corporate Financial Management, Faculty of Business Economics with seat in Košice, University of Economics in Bratislava, Slovak Republic.

Marek Meheš, Ph.D., Department of Economics, Faculty of Business Economics with seat in Košice, University of Economics in Bratislava, Slovak Republic.

Jana Simonidesová, Ph.D., Department of Corporate Financial Management, Faculty of Business Economics with seat in Košice, University of Economics in Bratislava, Slovak Republic.

Slavomíra Stašková, Department of Quantitative Methods, Faculty of Business Economics with seat in Košice, University of Economics in Bratislava, Slovak Republic.

Pavel Blaščák, Department of Quantitative Methods, Faculty of Business Economics with seat in Košice, University of Economics in Bratislava, Slovak Republic.

Adela Feranecová (Slovak Republic), **Eva Manová** (Slovak Republic), **Marek Meheš** (Slovak Republic), **Jana Simonidesová** (Slovak Republic), **Slavomíra Stašková** (Slovak Republic), **Pavel Blaščák** (Slovak Republic)

POSSIBILITIES OF HARMONIZATION OF DIRECT TAXES IN THE EU

Abstract

Currently, indirect taxes in the EU are highly harmonized, however, harmonization of direct taxes is still a very complex problem. Many EU member states refuse to give up their tax sovereignty, which would become considerably limited because of the harmonization of direct taxes. Today, attention is paid to the harmonization of the tax base of corporate income tax, while a number of ways are under consideration. The European Council has issued a draft of Directive for a common consolidated tax base of corporate income tax in 2011 and updated in 2012. This draft must be approved by all member states, but some of them, however, have expressed on the draft in negative way. Because of the severity of this problems, the authors decided to focus on this topic within this article, which deals with the calculation of the tax base by the laws of the Slovak Republic and by Common Consolidated Corporate Tax Base (CCCTB); and evaluate whether the tax harmonization of direct taxes would be advantageous for the particular business.

Keywords tax harmonization, Common Consolidated Corporate Tax Base, taxes, tax expenses, tax base

JEL Classification F13, F15, H21

INTRODUCTION

Taxes and the tax system are a delicate topic for many countries around the world. At present, the European Union has 28 member countries, which means that 28 member states are equal to 28 different taxation systems. Every tax system applies different rules for calculating tax liability and it causes high costs, especially in administration, which also discourages potential investors. Different tax systems are inconvenient, especially for multinational companies that operate in the domestic and in several foreign markets. Economic policy of each country is trying to support the economic growth in order to increase the living standards of individuals and households. In order to achieve this objective, it is necessary to collect taxes and implement particular fiscal policy in the country. Fiscal policy in the EU countries is directly related to tax harmonization. The EU's philosophy is that individual member states should adapt their tax systems in order not to compete with each other and so support the common market. This paper deals with the calculation of the tax base by the laws of the Slovak Republic and by Common Consolidated Corporate Tax Base (CCCTB); and evaluate whether the tax harmonization of direct taxes would be advantageous for the particular business.

1. TAX SYSTEM IN THE EUROPEAN UNION

There are areas, where harmonization in the EU has progressed very far, but, on the other hand, there are areas, where it is necessary to make more effort, and that are so delicate that the adoption of new EU legislation among member states takes a relatively long time. One of this delicate areas is tax system of the EU, which does not exist as a united one. There is a set of rules in the field of indirect taxation, administrative cooperation and partially in the area of direct taxes at the European Union level, but there is also still the exclusive competence of every member state in rates of various types of taxes. The greatest progress has been made in the harmonization of indirect taxation, where there are rules concerning the structure of taxes and the minimum tax rate. On the contrary, direct taxes in the EU are not harmonized, although it is very likely that soon the EU will increase efforts in harmonization of legislative rules in the field of corporate income tax. It's justified, because the taxes are a very delicate topic and raising or lowering of tax rates isn't only an economic, but also a political question. Tax policy has become a symbol of national sovereignty, which has gained importance since the introduction of the single European currency.

Table 1 shows the percentage overview of rates of corporate income taxes and individual income taxes of all the EU countries, as well as the social security by the employer and employee, and also the rate of VAT in the EU member states.

Table 1. Overview of taxes' rates in the EU members states

Source: own processing by http://www.worldwide-tax.com/

Country	Income tax		Social security		VAT
	Legal entities	Natural persons	Employer	Employee	
Belgium	33.99%	25-50%	40.58%	13.07%	21%
Bulgaria	10%	10%	18.50%	12.90%	20%
Cyprus	12.5%	0-35%	8.50%	6.80%	19%
Czech Republic	19%	22%	34%	11%	21%
Denmark	23.50%	38-65%	0	DKK 900	25%
Estonia	20%	20%	33%	1.60%	20%
Finland	20%	6.5-31.75%	19.47%	9.14%	24%
France	33.33%	5.5-41%	50%	20%	20%
Greece	26%	0-42%	28%	16.50%	23%
Netherlands	20-25%	5.85-52%	–	–	21%
Croatia	20%	12-40%	15.20%	20%	25%
Ireland	12.50%	20-41%	10.75%	4%	23%
Lithuania	15%	15-20%	32.60%	9%	21%
Latvia	15%	23%	23.59%	10.50%	21%
Luxemburg	21%	0-40%	14.69%	13.45%	17%
Hungary	10-19%	16%	28.50%	18.50%	27%
Malta	35%	15-35%	10%	10%	18%
Germany	30-33%	14-45%	19.70%	20.60%	19%
Poland	19%	18-32%	22.14%	13.70%	23%
Portugal	21%	14.5-48%	23.75%	11%	23%
Austria	25%	21-50%	21.83%	18.20%	20%
Romania	16%	16%	28.45%	16.50%	24%
Slovakia	22%	19-25%	34.80%	13.40%	20%
Slovenia	17%	16-50%	16.10%	22.10%	22%
United Kingdom	20%	0-45%	13.80%	12%	20%
Spain	28%	24.75-52%	29.90%	6.35%	21%
Sweden	22%	0-57%	–	–	25%
Italy	27.50%	23-43%	30%	10%	22%

As can be seen in Table 1, the highest corporate income tax is in Malta (35%) and the lowest in Bulgaria (10%). Comparing the individual income tax in the EU member states, we can see that the highest tax is in Denmark, where a progressive taxation is applied, and can be up to 65% and the lowest individual income tax is in countries like Cyprus, Greece, Luxemburg, United Kingdom and Sweden, where individual income tax starts at 0% depending on the amount of annual income. In the individual member states of the European Union, tax policy has an important role in influencing the business environment and in increasing the competitiveness of whole economy in general. Also, in this area, it will come to harmonization, but as already mentioned above, the progress of harmonization and closer coordination of national tax policies will be complicated and slow.

2. TAX HARMONIZATION VERSUS TAX COMPETITION

A major economic and political question is the harmonization of taxation and coordination of tax policies of the EU member states. This question should be seriously considered by all governments in order to maintain economic progress and economic stability. This process is relatively complicated, difficult and quite controversial. Member states are, on the one hand, bound to comply with the legal acts that are valid in the EU and respect policies of EU. On the other hand, in the field of taxation, they try to keep their current position. In particular, the area of tax harmonization of direct taxes is a complicated and contradictory topic. For advocates of unification of tax systems, harmonization is a necessary condition for the proper functioning of the single market. On the contrary, the opponents believe that in the direct taxation, sovereignty of individual countries should be preserved.

As well as other forms of competition, tax competition also generates positive results such as protection against abuse of power by the government and protection against corruption. Governments that impose high taxes enforce through international organizations such as the European Union various programs of tax harmonization. These programs should prevent of efflux of labor and capital from high taxes jurisdictions to low taxes jurisdictions. These proposals are fundamentally inconsistent with good tax policy. For the Slovak Republic, this issue is very crucial. Free market strategy helped the Slovak Republic to lure foreign investments, as well as increase the living standards and create jobs.

From the European Union still grow stronger voices to the application of Common Consolidated Corporate Tax Base (CCCTB). The draft of the Commission's proposal is that the tax base of legal persons in the EU should be calculated by a single formula applicable throughout the whole EU rather than 28 different methods used today. According to the latest proposal, which was approved by the European Parliament in 2012, the use of the CCCTB is obligatory for companies throughout the EU. The European Union strategy in area of direct taxes is focused not only on the creation of conditions for CCCTB, but also on establishment of common procedures for the taxation of profits of related companies.

3. RESEARCH

This paper deals with the calculation of the tax base by the laws of the Slovak Republic and by Common Consolidated Corporate Tax Base (CCCTB); and evaluates whether the tax harmonization of direct taxes would be advantageous for the business.

3.1. Taxation of legal entity income in the Slovak Republic

Trading income before taxes in the accounting system is not automatically a tax base for calculating the corporate income tax. Profit or loss must be transformed to the tax base through the gradual process of adjustment of items increasing and decreasing the profit or loss and also through the reduction of tax loss. On the basis of the internal data of the particular company (in order to ensure anonymity, we entitled this company as ABC Ltd.) and according to the Act no. 595/2003 Coll. on income tax, we have calculated the tax base of the company and payable tax for five years (from 2011 to 2015).

Table 2. Non-tax expenses of company ABC Ltd. (auxiliary calculations in EUR)

Source: own processing by data of company ABC Ltd.

Items that aren't tax expenses (auxiliary calculations)	2011	2012	2013	2014	2015
Fuel consumption accounted as costs exceeding the amount determined on the basis of fuel consumption [§19 section 2 font l) of the Act]	1085,78	1056,4	1213,43	975,71	1113,64
Donations including the residual value of the permanent scrapped assets by donating [§21 section 2 font e) of the Act]	–	–	–	20,00	–
Expenses (costs), which are exempt from taxation or not included in the tax base	–	–	–	305,64	–
Other expenses (costs) disallowed as tax expenses	–	–	150,06	–	231,32
Total	1085,78	1056,4	1363,49	1301,35	1344,9

Table 2 presents auxiliary calculations namely the items that aren't tax expenses and, therefore, increase tax base, namely fuel consumption, donations, expenses, which are exempt from taxation and other expenses.

Table 3 shows corporate income tax base of company ABC Ltd., which was calculated as income before taxes plus items increasing profit or loss (in detail in Table 2), minus items reducing profit or loss (that weren't identified in the selected company). Then, we have multiplied adjusted profit by the tax rate, which was almost every year different and so we have reached tax liability of the taxpayer (company ABC Ltd.).

3.2. The calculation of the tax base according to CCCTB

The set of rules under which companies established in the EU can calculate their taxable profits is called Common Consolidated Corporate Tax Base (CCCTB). Companies should the when calculating their taxable profits observe only one system of the EU, rather than different rules in each member state. In addition, for companies operating in more than one EU member state, in the system of CCCTB, it would be required to submit only one tax return for all of their activities in the EU.

Table 3. Tax base of company ABC Ltd. in years 2011–2015 in EUR

Source: own processing by data of company ABC Ltd.

Tax base	2011	2012	2013	2014	2015
Trading income before taxes	8668,7	2058,9	2733,18	7988,41	19456,0
Items increasing trading income: Expenses (costs), which aren't tax expenses according to § 21 or § 21 of law, or costs, which were expended in a conflict of § 19 of law;	1085,78	1056,4	1363,49	1301,35	1344,96
Sums according to §17 section 19 of law, which weren't payed until the end of taxation period	–	–	–	–	2230,32
Items reducing trading income:	–	–	–	–	–
Adjusted tax base or tax loss	9754,48	3115,3	4096,67	9289,7	23031,2
Tax rate	19%	19%	23%	22%	22%
Payable tax	1853,35	591,91	942,23	2043,75	5066,88

Table 4. Consolidated corporate tax base in EUR

Source: own processing by data of company ABC Ltd. and company KLM Ltd.

Company ABC Ltd.	2011	2012	2013	2014	2015
Income:	409 196,45	437 761,95	468 038,55	465 216,57	486 136,99
income exempt from taxation deductible expenses	400 527,75	435 702,99	465 305,37	457 228,16	466 680,99
Tax base	8 668,70	2 058,96	2 733,18	7 988,41	19 456,00
Company KLM Ltd.	2011	2012	2013	2014	2015
Income:	389 710,90	377 380,99	386 808,72	390 938,29	373 951,53
income exempt from taxation deductible expenses	377 856,37	375 606,03	381 397,84	381 023,47	345 689,62
Tax base	11 854,54	1 774,97	5 410,87	9 914,83	28 261,91
Consolidated corporate tax base	20 523,24	3 833,93	8 144,05	17 903,24	47 717,91

According to the European Commission (2011), general principles for the calculation of the tax base are as follows:

1. In computing the tax base, profits and losses shall be recognized only when realized.

2. Transactions and taxable events shall be measured individually.

3. The calculation of the tax base shall be carried out in a consistent manner, unless exceptional circumstances justify a change.

4. The tax base shall be determined for each tax year, unless otherwise provided.

A tax year shall be a twelve-month period, unless otherwise provided.

The tax base shall be calculated as income minus exempt income, deductible expenses and other deductible items.

Directive of European Commission (2011) about Common Consolidated Corporate Tax Base determines a term "qualifying subsidiaries". Qualifying subsidiaries shall be all immediate and lower-tier subsidiaries in which the parent company holds some rights. Namely, the power to exercise more than half the voting rights and an ownership right amounting to more than 75% of the company's capital or more than 75% of the rights giving entitlement to profit.

Company ABC Ltd. has a subsidiary KLM Ltd., which is located in Prague. The company ABC Ltd. has, in subsidiary KLM Ltd., 60% of the voting rights and 80% of the rights giving entitlement to profit. Based on internal data, we have calculated, in Table 4, consolidated corporate tax base of companies' ABC and KLM Ltd. First, we calculated the tax base of individual companies, namely as: income minus income exempt from taxation and minus deductible expenses. Then, we have counted the tax bases and reached the consolidated corporate tax base. This result will be necessary to determine the division of the tax base between the group members in the following subsections.

3.3. Division of the tax base

The consolidated tax base shall be divided between the group members in each tax year based on the following formula for apportionment (CCTB, 2011):

$$\text{Share A}=\left(\frac{1}{3}\cdot\frac{\text{Sales}^{A}}{\text{Sales}^{Group}}+\frac{1}{3}\cdot\frac{\text{Assets}^{A}}{\text{Assets}^{Group}}+\frac{1}{3}\cdot\left(\frac{1}{2}\cdot\frac{\text{Payroll}^{A}}{\text{Payroll}^{Group}}+\frac{1}{2}\cdot\frac{\text{No of employees}^{A}}{\text{No of employees}^{Group}}\right)\right)\cdot\text{Con'd Tax Base.}$$

This formula includes such factors as sales, labor and equally-weighted assets. The consolidated tax base of a group shall be divided only when it is positive. The calculations for dividing

Table 5. Data of company ABC Ltd. in EUR

Source: own processing by data of company ABC Ltd.

ABC Ltd.	2011	2012	2013	2014	2015
Number of employees	17	18	18	18	17
Labor costs	58 799,00	90 692,00	77 269,00	69 226,00	72 262,00
Capital	181 154,00	153 185,00	200 854,00	174 948,00	125 030,00
Sales	409 196,45	437 761,95	468 038,55	465 216,57	486 136,99

the consolidated tax base shall be done at the end of the tax year.

The labor factor shall consist of half the total amount of the payroll of a group member and half the number of employees. The number of employees shall be measured at the end of the tax year. The asset factor shall consist of the average value of all fixed tangible assets owned, rented or leased. The sales factor shall consist of the total sales of a group member, which means proceeds of all sales of goods and supplies of services after discounts and returns, excluding value added tax, other taxes and duties. Exempt revenues, interest, dividends, royalties and proceeds from the disposal of fixed assets shall not be included in the sales factor.

While the labor and asset factors should have a weight of 45% each, the sales factor should have a weight of 10%.

According to CCCTB (2012), the formula for apportioning the consolidated tax base should comprise three equally-weighted factors (labor, assets and sales). The labor factor should be computed based on payroll and the number of employees (each item counting for half). The asset factor should consist of all fixed tangible assets. Intangibles and financial assets should be excluded from the formula due to their mobile nature and the risks of circumventing the system. Finally, sales should be considered to ensure fair participation. Those factors and weightings should ensure that profits are taxed where they are earned.

$$\text{Share A}=\left(\frac{1}{10}\cdot\frac{\text{Sales}^{A}}{\text{Sales}^{Group}}+\frac{9}{20}\cdot\frac{\text{Assets}^{A}}{\text{Assets}^{Group}}+\left(\frac{9}{20}\cdot\left(\frac{1}{2}\cdot\frac{\text{Payroll}^{A}}{\text{Payroll}^{Group}}+\frac{1}{2}\cdot\frac{\text{No of employees}^{A}}{\text{No of employees}^{Group}}\right)\right)\right)\cdot\text{Con'd Tax Base.}$$

In Tables 5 and 6, we show the data necessary to calculate the division of the consolidated tax base between the group members, i.e., between ABC Ltd. and KLM Ltd. Tables include data about the number of employees, labor costs and the amount of capital and sales. This calculation is performed at the end of the tax year.

Company ABC Ltd. achieved a higher turnover, higher labor costs and more capital than company KLM Ltd. in the period 2011–2015.

According to the formula of the proposal of Directive of European Commission (2011) about Common Consolidated Corporate Tax Base we have calculated, in Table 8, the amount of the tax base (in EUR) for companies ABC Ltd. and KLM

Table 6. Data of company KLM Ltd. in EUR

Source: own processing by data of company KLM Ltd.

KLM Ltd.	2011	2012	2013	2014	2015
Number of employees	15	14	14	15	15
Labor costs	57 069,62	79 002,81	66 107,92	63 457,17	70 136,65
Capital	141 526,56	117 834,62	161 979,03	147 015,13	96 176,92
Sales	389 710,90	377 380,99	386 808,72	390 938,29	373 951,53

Table 7. Division of consolidated corporate tax base between companies ABC Ltd. and KLM Ltd. (CCCTB proposal, 2011)

Source: own processing by data of company ABC Ltd.

2011		2012		2013		2014		2015	
ABC	KLM	ABC	KLM	ABC	KLM	ABC	KLM	ABC	KLM
10897,53	9625,71	2109,59	2930,50	4484,10	3659,95	9605,30	8233,37	26241,53	21476,38

Table 8. Division of consolidated corporate tax base between companies' ABC Ltd. and KLM Ltd. (CCCTB proposal, 2012)

Source: own processing by data of company KLM Ltd.

2011		2012		2013		2014		2015	
ABC	KLM	ABC	KLM	ABC	KLM	ABC	KLM	ABC	KLM
11032,50	9490,74	2127,31	2874,22	4492,90	3651,16	9562,26	8253,80	25986,21	21731,69

Ltd. in the period 2011–2015. These calculations show the amount of the tax bases, of which companies should quantify the corporate income tax for each year, if they decided for the CCCTB.

In Table 8, we present the calculation of the consolidated tax base by the formula on the proposal of Directive of European Commission from the year 2012. This formula has adjusted the weights of individual factors, namely factors of labor and assets should have a weight of 45% and factor turnover weight of 10%, according to this proposal. If we compare the results from Tables 7 and 8, we can see that by adjusting the weights of individual factors, the company ABC Ltd. would create a higher tax base and would pay a higher corporate income tax.

European Parliament legislative resolution from April 19, 2012 justifies this change so that turnover in each member state is different and is given by the economic and living standards of the individual member state. Economically developed countries, i.e., countries with higher consumption, favor the turnover factor. Slovak economy is export-oriented, which means that the turnover factor is not likely to decrease tax incomes of the state budget.

Comparing the tax base in ABC Ltd. under the legislation of the Slovak Republic, proposal of Directive of European Commission (CCCTB) from 2011 and proposal of Directive (CCCTB) from 2012, we have found out that except for 2012, the tax base under the legislation of the Slovak Republic was lower, which means that for this company, it wouldn't be profitable to switch to a common consolidated corporate tax base (see Table 10). On the other hand, for the economy of the Slovak Republic, it would be advantageous, since it would increase income into the state budget.

3.4. Comparison of factors affecting the tax base in the Slovak Republic with proposal of CCCTB

When we compare factors that affect the tax base of corporate income tax in the Slovak Republic with proposal of the CCCTB, we can assume that the movement of goods, services and capital within the

Table 9. Comparison of tax base

Source: own processing by data of company ABC Ltd.

ABC Ltd.	2011	2012	2013	2014	2015
Tax base according to legislation of the Slovak Republic	9 754,48	3 115,30	4 096,67	9 289,76	23 031,28
Tax base according to proposal of Directive of European Commission (2011)	10 897,53	2 109,59	4 484,10	9 605,30	26 241,53
Tax base according to proposal of Directive of European Commission (2012)	11 032,50	2 127,31	4 492,90	9 562,26	2 5986,21

group of companies according to CCCTB is neutral from the view of tax and that within the group, according to CCCTB, it is possible to consolidate profits and losses. Legislation of the Slovak Republic has different methodological bases compared with proposal of CCCTB. The CCCTB proposal concerns the examination of the tax base only for legal entities, which carry on business actively, and legislation of the Slovak Republic includes determining of the tax base for all legal entities, including persons not established for business purposes.

Legislation of the Slovak Republic uses, therefore, fiscal and legal institutes such as: tax income, tax expenses, which are defined in general for legal entities and also for natural persons. In Slovakia, similarly to the proposal of CCCTB, tax exemption is also used, which affects incomes from grants under international agreements and incomes in form of interests and license fees in case the source of income is in the Slovak Republic. To find out if in the Slovak Republic, there is established a broader base for income tax than under the CCCTB proposal, or vice versa, we will compare all deductible items reducing the tax base.

If we compare these items, we will find out that in the legislation of Slovak Republic, there is defined a narrower tax base due to the fact that more items can be deducted or not included in the tax base. Namely, such items as income received by inheritance, balancing share, the share of the liquidation balance or profit share, if they are paid to a legal entity, which is a member of the statutory body or silent participant. Tax expenses are those which are explicitly mentioned in the legislation of the Slovak Republic and their wide range considerably reduces the tax base. Legislation also explicitly specifies expenses that aren't tax expenses.

If we determine the tax base under the proposal of Directive of CCCTB, there may arise ambiguities as for which expenses can be considered tax expenses. It is because their definition is based on general characteristics as all costs of sales incurred by the taxpayer in connection with obtaining or securing income. Similarly, there aren't specified costs, which fully enter tax expenses, namely the costs of research and development. From the proposal of Directive of CCCTB results, tax expenses are basically all expenses, which aren't listed as not deductible. Definition of the expenses, which are not tax deductible expenses, is essentially identical to legislation in Slovakia.

Table 10. The comparison of ways of assets depreciation under the legislation of the Slovak Republic and the proposal of Directive of CCCTB

Source: Act no. 595/2003 Coll. on income tax, proposal of Directive of CCCTB, own processing.

Depreciation of assets under the legislation of the SR	Depreciation of assets under the proposal of Directive of CCCTB
depreciation of fixed asset in four depreciation groups with depreciation period of 4, 6, 8, 12, 20 and 40 years for building and engineering structures; fixed assets are depreciated with an entry price of more than 1700 €, for intangible assets of more than 2 400 €	depreciation of assets (4 years), fixed long-term assets (at least 15 years of usability) and buildings (40 years); if the cost of asset acquisition, construction or improvement is less than 1 000 €, asset is not depreciated; intangible long-term assets shall be depreciated during the time of legal protection or for which the right is granted, if that period cannot be determined, then, 15 years

Although the cost of research and development under the proposal of Directive CCCTB enters at 100% in tax expenses, from the comparison of the various acts of the tax base, we can conclude that the depreciation of tangible and intangible assets is more favorable under the laws of the Slovak Republic. More preferably, it is particularly in terms of the depreciation period and the determination of the entry price.

CONCLUSION

Harmonization of the corporate income tax will generate high costs associated with adapting to the new rules during the transition period. There would be the greatest impact on small and medium-sized enterprises operating in the market of a single member state. Competitiveness of the whole region would be undermined by fiscal centralization. By the centralized tax system, companies would be forced to use tax benefits outside the region, which would result in a decline of the competitiveness of the EU. For individual taxpayers or taxpayers in certain countries, harmonization of tax base of corporate income tax would represent benefits in some cases. These benefits would relate to the elimination of double taxation and reduction of administrative costs for small and medium-sized enterprises in long-term period,

but it wouldn't be a systemic reduction of the tax burden, but a side effect of tax harmonization affecting individual taxpayers. Based on the comparison of benefits and disadvantages of tax harmonization, analysis of tax burden of particular company and comparison of the tax base under the laws of the Slovak Republic and the proposal of Directive of CCCTB, in our opinion, it would be best to maintain the highest degree of tax competition between member states. Adoption of CCCTB should be reconsidered, because the CCCTB represents a fundamental threat for competitiveness of the EU's internal market. If the CCCTB were approved, then, the European Commission must ensure that its adoption would be voluntary. Advocates of tax harmonization (EU members with high tax liability) should take steps to harmonization by making their tax systems more competitive, which would stimulate their economic growth.

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