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Group taxation in Europe

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Abstract

Within several countries of the European Union companies that are part of a group can acquire a profit tax regime that takes into account that they are part of a group. Although groups increasingly consist of companies that are situated in more than one country, there is no unified group tax regime. At present group tax regimes can be found that use the technique of consolidation like the Dutch fiscale eenheid (fiscal unity), the technique of transferring losses to group companies that are profitable like the group relief in Great Britain, the technique of adding up all results that are made by group members like the Organschaft in Germany and the technique of transferring profits to group companies that suffer losses.

Apart from these different techniques of group taxation, the conditions under which group taxation is possible varies from country to country. A relevant point in this respect is that most countries limit access to their group tax regime to domestic group companies only, even in the case that some group companies are situated in other Member States of the EU. The reason for this is probably that countries fear that including group

companies that are situated abroad would mean that they would also be required to accept the import of losses.

Cross border Group taxation has always been of interest to the European Commission. Illustrative in this respect are the failed attempt to introduce a Directive in the field of the cross border transfer of losses and the discussion that is still going on about the introduction of an (optional) Corporate Common Consolidated Tax Base (CCCTB) within the EU.

The aim of this paper is:

- to describe the various group tax regimes that are applied within the EU, especially those in the Netherlands, Germany, Sweden, Belgium and Great Britain;
- to analyze and compare the aforementioned group tax regimes;
- to describe and analyze the attempts to come to a European led form of group taxation (especially the failed Directive on the cross border transfer of losses and the CCCTB);
- to develop a proposal with respect to the introduction of EU-wide group taxation.

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