

**Euro Tax Flash**

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## **Euro Tax Flash from KPMG's EU Tax Centre**



### **EU Commission publishes details of state aid investigation into Ireland and Luxembourg tax rulings**

[State aid – tax rulings – Ireland – Luxembourg](#)

On September 30, 2014, the European Commission published two decisions relating to state aid investigations into tax rulings granted by Ireland and Luxembourg. The decisions were originally announced on June 11, 2014, and set out the factual and legal basis for the Commission's preliminary view that the rulings in question constitute state aid. The decisions indicate that the Commission will continue its investigation, taking into account comments submitted in the course of the procedure, pending a final decision on whether the rulings are compatible with EU law on state aid.

#### **Background**

On June 11, the Commission announced three investigations into alleged state aid granted by Ireland, Luxembourg and the Netherlands. The alleged state aid was granted to companies within, respectively, the Apple, Fiat, and Starbucks groups by way of transfer pricing rulings. The decisions published on September 30, 2014 concern only Ireland and Luxembourg.

The Commission is required by EU law to review state aid granted

by EU Member States and, if it finds that the aid is not compatible with EU law, require the Member States concerned to abolish or alter such aid within a prescribed time. Broadly speaking, aid is incompatible with EU law if it distorts competition by, for example, favoring certain undertakings thus affecting trade between Member States. However, certain aid is specifically stated as being compatible with EU law, such as certain regional aid granted to promote economic development.

### **The Decisions**

The Commission's decisions conclude that the rulings in question reduce charges that would normally be borne by the entities concerned. Its preliminary view is that these therefore constitute state aid. However, the Commission expresses doubts as to whether this aid is compatible with EU law. Accordingly, the Commission decided to initiate the formal investigation procedure described above.

### **EU Tax Centre Comment**

It should be stressed that these decisions form the start of the formal procedure to investigate the alleged state aid granted by Ireland and Luxembourg. The procedure is now open for interested parties, including Member States to provide comments to the Commission. The duration of the investigation is difficult to predict, but in principle, the Commission could publish the final decisions within the next 18 months.

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax advisor.

#### **Robert van der Jagt**

Chairman, KPMG's EU Tax Centre and  
Partner, KPMG Meijburg & Co  
[vanderjagt.robort@kpmg.nl](mailto:vanderjagt.robort@kpmg.nl)

#### **Barry Larking**

Director EU Tax Services, KPMG's EU Tax Centre  
[larking.barry@kpmg.nl](mailto:larking.barry@kpmg.nl)

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KPMG's EU Tax Centre, Laan van Langerhuize 9, 1186 DS Amstelveen, Netherlands

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