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1. Ireland outlines key grounds of appeal against EC's Apple State aid ruling

In a speech given to the Irish Upper House on 4 October 2016, the Irish Minister for Finance announced the primary arguments it will rely upon in its appeal against the EC's Apple State aid decision.

The grounds to be relied upon are as follows:

- The absence of a favourable tax treatment granted to Apple by Ireland;
- The damage that being called into question may cause to Ireland's credibility in the international tax debate;
- The concern that the Commission is undermining the international tax principle of taxing value where it is created;
- The fact that the concerned companies were not Irish tax residents;
- The concern expressed by the US Treasury regarding Apple's US tax liability reduction;
- The contradiction of allowing other jurisdictions to tax the sums that Ireland is required to recover;
- The encroachment of Member States' sovereignty in tax matters and the uncertainty it creates for businesses; and
- The absence of any right by Ireland to the EUR 13 billion of unpaid taxes claimed by the EC's Apple State aid decision.

2. The Platform for Collaboration on Tax launched in conjunction with the UN, IMF, OECD & World Bank Group

In a bid to strengthen international cooperation in tax matters the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD), the United Nations (UN) and the World Bank Group (WBG) created the Platform for Collaboration on Tax, a joint initiative aimed at increasing their cooperation on tax issues, with the aim of strengthening their capacity-building support, delivering jointly developed guidance and sharing information on operational and knowledge activities for the benefit of developing countries.

An event will be held at the UN Headquarters in New York on 21 October 2016 at which the four participating organisations will outline the objectives of the Platform to the UN delegates and set out the guiding principles for co-operation within the Platform and the primary activities which the Platform aims to implement. The presentation will also include a briefing on the joint report issued to the G20 entitled "Enhancing the Effectiveness of External Support in Building Tax Capacity in Developing Countries" - a publication which includes a series of recommendations and enabling actions to help ensure effective implementation and running of technical assistance programs.

- Press release: [EN](#)

3. CJEU: EU law prevents aggregation of separate partnerships

On 12 October 2016, the EU Court of Justice (CJEU) delivered its judgment in the Austrian preliminary ruling case *Nigl and Others* (C-340/15), holding that EU law prevents aggregation of separate partnerships.

The case involved an attempt by the Austrian tax authority to view a number of family partnerships as a single taxable person and hence to deny them access to the Austrian "flat rate farmers" scheme. In its decision, the CJEU concluded that EU law does not permit the amalgamation of the separate partnerships and treatment of them as a single taxable person, however, it concluded that EU law would allow use of the flat rate farmers scheme to be withdrawn from multiple partnerships such as those in the case, and that the withdrawal could have retrospective effect, subject to the national time limits for correcting VAT declarations. As is ordinarily the case, it will be up to the national court to apply the CJEU's conclusions on the European law points in the case, and the relevant national law.

- Judgment: [EN](#) (All EU languages)
- Advocate-General opinion: [EN](#) (All EU languages)

4. Advocate General: aspects of Luxembourg's cost sharing exemption rules infringe EU law

On 6 October 2016, CJEU Advocate-General Kokott released her opinion in the European Commission's infringement proceedings against Luxembourg regarding the cost-sharing exemption (C-274/45). According to the Commission, various aspects of Luxembourg's domestic implementation of the EU VAT cost-sharing exemption infringed EU law.

The cost sharing exemption applies when two or more organisations with exempt and/or non-business activities join together on a cooperative basis to form a cost sharing group (CSG). EU law allows Member States to exempt supplies from the CSG to its members where certain criteria are met.

The Advocate-General broadly agreed with the Commission. In particular, she concluded that Luxembourg's legislation does not restrict the CSG exemption to services 'directly necessary' for activities undertaken by its members. Further, if the CSG buys in services and charges these on to individual members, the member cannot deduct the VAT which should become irrecoverable at the level of the CSG just because the individual member has VAT recovery.

Luxembourg currently has an administrative concession which ignores purchases made in the member's own name on behalf of the group. However, the AG considers that if the CSG member itself purchases services on behalf of the CSG, it does so as agent and therefore the VAT treatment of the onward charge should be the same as the services received by the member, meaning that the cost sharing exemption should not apply.

- Advocate-General opinion: [FR](#) (available in most EU languages, not EN)

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