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| |  |  | | --- | --- | |  |  |   **Fiscal Committee**    **29 September 2014**       1. **Commission to consider Irish tax rulings on Apple illegal state aid**     According to media reports, the European Commission is about to issue a decision that the rulings of the Irish tax administration on the tax treatment of two subsidiaries of Apple, Apple Sales International und Apple Operations Europe, were illegal state aid. The decisive element in distinguishing state aid from tax is the question whether the advantageous treatment of an undertaking or group of undertakings has been selective. State aid affecting trade between member states is in principle incompatible with the EU single market, subject to a limited number of exceptions and to notification to the European Commission which, in the case of Apple, has not taken place. If the aid is found to be illegal, Ireland will have to claim back billions of unpaid tax from Apple. There are two similar cases pending, concerning Starbucks in the Netherlands and Fiat Finance and Trade in Luxembourg.     * [European Commission press release of 11 July 2014 (opening of investigations)](http://europa.eu/rapid/press-release_IP-14-663_en.htm?locale=en)        1. **Germany referred to Court over VAT refund rules for non-EU operators**     On 25 September 2014, the European Commission decided to refer Germany to the EU Court of Justice regarding its rules on VAT refund which discriminate against non-EU operators. Under German legislation, operators established in another EU member state can authorise a third person to sign or submit their refund form to recover VAT, but taxable persons established outside the EU must personally sign the application form. The Commission considers that this requirement for third country operators goes against the EU law principles of effectiveness, proportionality and equivalence. There is no provision in EU law which requires VAT refund forms to be personally signed.     * [Press release of 25 September 2014](http://europa.eu/rapid/press-release_IP-14-1038_en.htm)        1. **Commission asks Italy to amend inheritance tax law**     On 25 September 2014, the European Commission has requested Italy to amend its inheritance tax legislation which discriminates against bequests to non-profit organisations in another EU or EEA country. Under Italian law, legacies to non-profit organisations pursuing public and social goals are exempt from tax. However, if these are established elsewhere in the EU/EEA, an exemption is only granted if there is reciprocity from that member state, otherwise, the legacy is taxed at 8% of its value. In addition, Italian legislation excludes Italian bonds and public securities from the inheritance estate, while bonds and public securities issued by other EU and EEA states are not allowed this exclusion. The requests take the form of two reasoned opinions, giving Italy two months to react.     * [September infringement package](http://europa.eu/rapid/press-release_MEMO-14-537_en.htm)        1. **CJEU rules on VAT on services supplied by a non-EU main company to its EU branch**     On 17 September 2014, the Court of Justice of the EU (CJEU) has rendered its judgment on the case Skandia (C-7/13) concerning the question whether services supplied by a main company with its seat in a third country to its branch belonging to a VAT group within an EU member state are taxable. The Court confirmed this where the branch belongs to a group of persons whom it is possible to regard as a single taxable person for VAT purposes.     * [Judgment](http://curia.europa.eu/juris/document/document.jsf?text=&docid=157806&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=53149)        1. **Commission refers the Netherlands to CJEU over VAT treatment of water sport activities**     On 25 September 2014, the European Commission has decided to refer the Netherlands to the EU Court of Justice for failing to fully comply with EU rules on VAT exemptions for water sports activities. According to the Commission, Dutch legislation is too strict to the extent that it exempts sport or physical education services by non-profit organisations from VAT only if these services are provided by volunteers, and too wide to the extent that they exempt the letting of berths and moorings for vessels provided by these water sport organisations even when it is not linked to sport activities.     * [Press release](http://europa.eu/rapid/press-release_IP-14-1040_en.htm)       \*\*\*\*\*    *The selection of the remitted material has been prepared by Piergiorgio Valente / Filipa Correia / Rudolf Reibel*    [*www.cfe-eutax.org*](http://www.cfe-eutax.org)    *Follow us on* [Linked in](http://www.linkedin.com/company/confederation-fiscal-europeene?trk=company_name) |
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