



7 December 2015

### 1. Commission investigates into Luxembourg tax rulings concerning McDonald's

On 3 December 2015, the European Commission opened formal in depth-investigations into two rulings concerning the tax treatment of McDonald's in Luxembourg. The Commission's preliminary view is that McDonald's has been granted a selective advantage not available to other companies in a comparable factual and legal situation, in breach of EU state aid rules. In particular, the Commission will assess whether Luxembourg authorities derogated from the provisions of their national tax law and the Luxembourg-US Double Taxation Treaty.

The rulings concern royalties from franchisees in Europe to the Luxembourg company *McDonald's Europe Franchising* which were then transferred to a US branch of that company. The Luxembourg authorities had confirmed that *McDonald's Europe Franchising* was not due to pay corporate tax in Luxembourg as they considered the US branch a permanent establishment (PE) and the profits to be subject to taxation in the US. This however was not the case, as the US branch was not a PE under US law. Luxembourg tax authorities decided not to require *McDonald's Europe Franchising* to prove that taxes were paid in the US.

The opening of an in-depth investigation gives interested third parties and the member states concerned an opportunity to comment. It does not prejudice the outcome of the investigation.

- Press release: [EN](#) (FR available)
- Commission decision: Search case number SA.38945 in the Commission's [state aid register](#) (not yet released)

### 2. "Taxation Trends 2015" published

On 2 December 2015, the European Commission published its report "Taxation Trends 2015" containing historical and recent data on tax and social security rates and revenues, specific features of the main taxes (PIT, CIT, VAT, SSC and wealth and transaction taxes), and an overview of the latest tax reforms in all EU member states, plus Iceland and Norway.

- Full edition: [EN](#)
- Country chapters: [EN](#)
- Press release: [EN](#) (DE FR available)

### 3. EP TAXE Committee gets new mandate

On 2 December 2015, the European Parliament set up another Special Committee on tax rulings and other measures similar in nature or effect, dubbed "TAXE 2" to continue the work of the TAXE Special Committee whose term has expired. The new Special Committee whose composition is identical to TAXE will have six months to look into on harmful corporate tax regimes and practices, the work of the Commission in the areas of state aid and taxation, and aggressive tax planning.

- Press release: [EN](#)
- EP decision, 2.12.2015: [EN](#) (all EU languages)
- TAXE report adopted on 25.11.2015: [EN](#) (all EU languages)

#### 4. EP ECON adopts report on more corporate tax transparency

On 1 December 2015, the European Parliament's ECON (Economic and Monetary Affairs) Committee adopted a (non-binding) report containing corporate tax policy recommendations to the European Commission. Among others, the ECON members recommend that the Commission should

- table a proposal for country-by-country reporting (CBCR) by June 2016, on the basis of the OECD (BEPS Action 13) proposals; the reports uses diplomatic language, asking for the EP's –favourable- opinion on publication of CBCR to be considered, without explicitly demanding that the proposal should contain a provision on CBCR information to be public.
- table a proposal for introducing a "Fair Tax Payer" label,
- introduce a Common Tax Base (CCTB) as a first step, which later on should be consolidated as well (CCCTB),
- table a proposal for a common European Tax Identification Number,
- table a proposal for legal protection of whistle-blowers,
- improve cross-border taxation dispute resolution mechanisms,
- table a proposal for a new mechanism whereby member states should inform each other before introducing a new allowance, relief, exception, incentive, etc. that may affect the tax base of others,
- strengthen the mandate and improve transparency of the Council Code of Conduct Working Group on Business Taxation,
- provide guidelines regarding "patent boxes",
- come up with common definitions for "permanent establishment" and "economic substance",
- come up with an EU definition of "tax haven" and counter-measures for those who use them; and
- consider mandatory reporting of certain tax schemes by tax advisers and possible sharing of this information among tax authorities.

The EP plenary vote on the report is currently scheduled for 16 December 2015.

- Press release: [EN](#)
- Report: [EN](#)

\*\*\*\*\*

*The selection of the remitted material has been prepared by Piergiorgio Valente / Filipa Correia / Rudolf Reibel*

Follow us on [Linked in](#) 