

CLIENT ALERT

Tax Rulings and State Aid: More Cases to Come

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On Tuesday 21 November 2017, at a conference in Paris, European Competition Commissioner Margrethe Vestager shed some light on the European Commission's determination to pursue its fight against tax avoidance and made clear that the opening of more state aid cases against tax rulings must be expected.

Speaking before France's economy and finance minister Bruno Le Maire and Nobel prize winner Jean Tirole, Ms. Vestager unveiled a twofold plan.

First, she noted the EC is pushing, through the OECD (Organisation for Economic Cooperation and Development), for a reform on taxation of the digital economy; Ms. Vestager said that "digital businesses pay less than half the effective tax rate of their offline equivalents." In no unclear terms she stressed that "if there's no international answer to this issue by spring next year, we'll produce our own proposal for new EU rules to make sure digital companies are taxed fairly."

Second, Ms. Vestager emphasized that state aid cases brought against special tax treatment of companies like Apple or Amazon "are only a part in a much bigger investigation that goes well beyond technology. We've looked at more than 1,000 rulings as part of that work. We've found a whole series of multinationals got illegal state aid from Luxembourg, the Netherlands and Belgium."

The EC can therefore be expected to open more state aid cases regarding tax rulings in the near future, including cases involving traditional, non-digital companies.

It should also be noted that, as anticipated in our client alert of August 2016, the EC has considerably widened the scope of its investigations: initially targeting taxation schemes based on transfer pricing (Starbucks), it is now aiming at any

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situation in which a member state failed to apply correctly its own tax laws, thus granting a tax break to attract investment (McDonald's).

Therefore, any taxpayer that benefitted from a ruling from the tax authority of a Member State of the European Union (in particular Luxembourg, the Netherlands and Belgium – but also Ireland) in the past ten years is potentially a target of this investigation and should prepare for it.

Ms. Vestager's 21 November 2017 speech in Paris can be found [here](#).

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