

CFE's Tax Top 5

KEY TAX NEWS OF THE WEEK

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Apple's State Aid Appeal Heard by EU General Court

Apple's €14 billion Euro appeal against the EU Commission's 2016 decision that Ireland's tax authorities granted Apple a "selective advantage" by failing to employ appropriate profit allocation methods to calculate the Irish source income of the Irish Apple branches, in contravention of EU State aid law, was heard last week by the EU General Court.

Apple's lawyers argued that the fact that Apple's products and services were developed in the United States exposed flaws in the primary line of the Commission's arguments which defied logic, saying the two branches simply could not be responsible for generating all of Apple's profits outside the US. Lawyers for the Commission argued that Ireland had not carried out any assessment of the subsidiaries' activities, risks or assets, arguing that accepting the arbitrary method of calculating profits suggested by Apple without carrying out any assessment in itself gave rise to a presumption of advantageous treatment.

The General Court's decision is expected in the coming months, no doubt to be followed by an onward appeal by the losing party to the Court of Justice for final determination.



OECD Publishes Energy Taxation Report Summary

Ahead of the UN Summit, the OECD has published a [preview](#) of its Taxing Energy Use 2019 [report](#) concerning the taxes levied on environmentally polluting sources of energy. Unsurprisingly, the report summary sets out that across the 44 countries contributing to over 80% of the worldwide levels of energy emissions, taxes on sources of energy which are polluting the environment are too low to counteract the impact on climate change and air pollution. For example, the report finds that tax on coal, which contributes to over 50% of carbon emissions from energy sources, is zero or close to zero. Fuel taxes for international flights and shipping is also taxed at zero or close to zero across the countries the subject of the report, whilst cleaner energy sources, such as gas, are often more highly taxed.

Speaking about the report, OECD Secretary-General Angel Gurría said *"We know we need to burn less fossil fuel, but when taxes on the most polluting fuels are zero or close to zero, there is little incentive to change. Energy taxes are not the sole solution, but we can't curb climate change without them. They should be applied fairly and used to improve well-being and ease the energy transition for vulnerable groups."* The report advocates for change in taxes and state subsidies and investment to encourage shifts to low-carbon energy and transport.



Commission Publishes Report on Administrative Cooperation Directive

The European Commission has published an [evaluation document](#) concerning Council Directive 2011/16/EU on Administrative Cooperation, and the five subsequent amendments made to the directive which expanded the scope of the cooperation and exchange of information. The evaluation examines the effectiveness, efficiency, relevance, coherence and EU added-value of the directive.

The evaluation concludes that it is difficult to ascertain whether the directive has been effective or efficient in its aims, given that data is extremely limited concerning monetary benefits derived from having introduced the directive in terms of demonstrated reduced tax evasion. However, the evaluation concludes that the administration cooperation is useful, and that furthermore there is scope to enhance the use of the information exchanged, and means of tracking the value the cooperation produces.



OECD Tax Administration 2019 Report Published

The OECD has published its [Tax Administration 2019](#) report, the 8th edition in the OECD Tax Administration Series, comparing data concerning the tax administration systems of 58 economies.

This edition focuses in particular on the use of technology, both by tax administrations in aiming to increase e-administration/digital compliance, and in uptake of users in filing tax returns electronically. The report demonstrates that there has been an increase in online filing of tax returns, with more than 70% of users filing their individual tax return electronically, and over 85% of businesses filing returns electronically. The report also sets out that over 40 of the tax administrations surveyed for the report either are using or intend to use artificial intelligence as part of their e-compliance programmes.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration said of the report *"The data and examples contained in Tax Administration 2019 show how the availability of new technologies, new data sources, and increasing international cooperation are providing new opportunities for tax administrations to better manage compliance, protect their tax base and reduce administrative burdens."*



Final Reminder: Global Tax Advisers Platform Conference - Torino, 3 October 2019

The Global Tax Advisers Platform (GTAP) [inaugural conference](#) will take place on 3 October 2019 in Torino on the topic *"Tax & The Future"*. GTAP was formed in 2014 by CFE, AOTCA and WAUTI as a global response of tax advisers to international tax initiatives, with the aim of forging closer links among tax advisers throughout the world. The platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and openness.

The GTAP conference will examine issues that are of interest to all tax advisers in a borderless, increasingly globalizing and automated society, driven by new technologies. To that end, four panels of expert speakers will consider the evolution and future of the topics

of global tax policy, corporate income tax and VAT, the global tax profession and business models and tax sustainability. More details of the event and programme are available [here](#).

[Register now](#) before it's too late!



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