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CFE General Assembly Elects New Executive Board for 2025 - 2026

CFE Tax Advisers Europe, the European umbrella association of tax institutes and chambers that represent tax advisers, elected a new Executive Board for the period 2025 - 2026 at the General Assembly in Ljubljana on 20 September 2024 chaired by Acting President Stella Raventós-Calvo. The new Executive Board will take up its duties on 1 January 2025.

The General Assembly, the governing body of CFE Tax Advisers Europe, unanimously elected Piergiorgio Valente as President (Managing Partner, Valente Associati GEB Partners and Crowe Valente, Italy and Professor, Link Campus University, Rome, Italy).

Martin Phelan (Partner, Simmons & Simmons, Ireland) was re-elected Secretary General and Branislav Kováč (Partner, VGD Slovakia and Vice-President, Slovak Chamber of Tax Advisers, Slovakia) was re-elected Treasurer.

The General Assembly appointed three new Vice-Presidents: Petra Pospíšilová (Partner, BDO and President, Czech Chamber of Tax Advisers, Czech Republic), Bruno Gouthière (Partner, CMS Francis Lefebvre, France) and MSc Ivan Simič (Partner, Simič & partnerji d.o.o., President, Tax Advisory Chamber of Slovenia and President, Association of Tax Advisors of Serbia).

The General Assembly appointed two Executive Board Members: Anna Misiak (Partner, Head of Personal Tax Practice and Advisory Services for Employers, MDDP, Poland) and Trudy Perié (Counsel - Tax Adviser, Loyens & Loeff, The Netherlands).

The General Assembly appointed Jeremy Woolf (Barrister, Pump Court Tax Chambers, United Kingdom) as Chair of the Fiscal Committee, Eduardo Gracia Espínar (Practice Group Head, Tax, Ashurst LLP, Spain) as Chair of the Professional

Affairs Committee, and Markus Ehgartner (Managing Partner, Dr. Ehgartner Steuerberatungs KG, Austria) as Chair of the Tax Technology Committee.

Commenting, newly-elected CFE President Piergiorgio Valente said: *“As the newly elected President, I recognise the immense value that young professionals bring to our CFE’s future. We will prioritise inclusivity, ensuring that every voice is heard, and foster a culture of active listening and cooperation. Together, we will build a CFE where collaboration empowers all to thrive”.*

State Aid: Court of Justice of the EU Endorses 2016 Commission Tax Assessment of 13 Billion Euro in Apple Case

On 10 September 2024, the Grand Chamber of the Court of Justice of the European Union (CJEU) delivered a [final judgment](#) on one of the most prominent tax State aid cases, concluding a decade-long dispute between the European Commission (EC), Apple, and Ireland (Joined Cases C-465/20 P, *Commission v Ireland and Others*).

The case centered on the misattribution of profits of Irish PEs in administrative tax rulings issued by Ireland in 1991 and 2007 to Apple Operations Europe (AOE) and Apple Sales International (ASI), two subsidiaries of Apple Inc. The EC argued that these rulings allowed Apple to misattribute profits, worth around €100 billion, away from the branches in Ireland, resulting in an economic advantage of €13 billion over the period from 2003 to 2014. In its primary line of reasoning in the [Commission Decision of 2016](#), the EC contended that this constituted illegal state aid under EU law, as Apple's Irish entities were only taxed on income generated by their branches, despite the intellectual property (IP) driving most of their profits being held abroad on basis of a Cost Sharing Agreement (CSA).

The EC's primary line of reasoning in the 2016 Decision, endorsed by CJEU, argued that Apple's subsidiaries artificially allocated income to "head offices" without sufficient economic justification, and that the Irish branches should have been attributed a larger portion of the profits due to their role in Apple’s wider business model. The General Court (GC) had previously dismissed these arguments, finding that the Commission had failed to demonstrate in its 2016 Decision that the Irish tax rulings provided Apple with a selective advantage under Article 107(1) of the TFEU (Treaty on the Functioning of the European Union). However, the CJEU has now annulled this GC judgment, ruling that the European Commission had not made errors in its economic analysis of Apple's profit allocation and that the GC had incorrectly interpreted the original decision of the European Commission.

The CJEU reviewed the merits of the Commission decision without referring the case back to the lower court. It upheld the EC's original conclusion that Apple had received a selective advantage, and that Ireland's tax rulings constituted illegal State aid by lowering Apple's tax liability in a way that provided Apple with an advantage over other companies in a similar factual and legal situation. The CJEU also rejected Apple's and Ireland's claims regarding procedural breaches, legal certainty, and Ireland's fiscal autonomy, thereby endorsing the EC's original decision of 2016 in full.

As a consequence, the finding of €13bn of assessed taxes, held in escrow during the litigation process and now due to the Irish revenue, was fully upheld. In its original State aid decision, the European Commission noted that there was a possibility that other countries, i.e. "third countries", may seek to tax some of the profits which the Commission allocated to the Irish branches of the Apple companies. In that event, the Commission noted that the amount of State aid would therefore be reduced from the headline figure they had proposed. In line with the Commission decision, other countries could claim a portion of these back taxes by way of further adjustments. According to the [Irish Department of Finance](#), such third country adjustments have taken place on two occasions since the establishment of the Escrow Fund, with a total of €455m paid out in third country adjustments since 2019. €209m was returned to Apple during 2019. A further third country adjustment took place in May 2021 for €246m.

CFE Tax Advisers Europe's ECJ TaskForce will soon issue an opinion statement with a detailed analysis and overview of the implications of this significant decision.

Members of US Congress Renew Objections to the OECD On Undertaxed Profits Rule

Members of the U.S. Congress have written an [open letter](#) to the Secretary-General of the OECD, Mr Mathias Cormann, to express that they remain opposed to the "unfair and unworkable" OECD global tax deal and that they support the lawsuit filed by the American Free Enterprise Chamber of Commerce in the Belgian Constitutional Court challenging the undertaxed profits rule ("UTPR").

The letter raises issues of tax sovereignty, the impact the UTPR would have on the U.S. economy and issues of competitiveness with China in their objections, defending their position on the basis that the U.S. put in place a proven means to

legislatively prevent "tax practices by multinational corporations", the global intangible low-taxed income ("GILTI") regime.

The letter concludes by stating that *"U.S. Congress remains opposed to the unfair and unworkable OECD global tax deal. Should foreign governments seek to target Americans through the UTPR or other mechanisms in the OECD global tax deal, we will be forced to pursue countermeasures. We encourage and support all efforts to preserve countries' tax sovereignty and to block implementation of unfair rules like the UTPR, including the most recent challenge filed in the Belgian Constitutional Court."*

CFE Opinion Statement on the Evaluation of the EU Anti-Tax Avoidance Directive

CFE Tax Advisers Europe has published an [Opinion Statement](#) responding to the European Commission public consultation on the evaluation of the EU's EU Anti-Tax Avoidance Directive ("ATAD"), Council Directive (EU) 2016/1164 of 12 July 2016 as amended by Council Directive (EU) 2017/952 of 29 May 2017.

CFE's comments do not relate to the Commission's focus on quantitative assessment of the effectiveness of the measures as a minimum standard for addressing aggressive tax planning, nor to aspects such as evaluation of budget revenue generated as a result of the measures or costs for the stakeholders concerned, in particular tax administrations and affected businesses, as we do not possess such evidence nor data. Furthermore, CFE notes the difficulty in assessing ATAD's effectiveness is partly due to delayed implementation in some Member states of the EU, the requirement for tax authorities to audit companies and apply ATAD provisions, and the lack of published decisions on ATAD application.

CFE would like to highlight the following key points from its Opinion Statement:

- ATAD poses a significant compliance burden and implementation has resulted in increased complexity, particularly when layered on top of existing national rules. CFE's primary remarks is the complexity of the EU's anti-avoidance framework is potentially hindering the EU's competitiveness and ease of doing business. CFE notes the urgent need to create a more coherent tax-avoidance structure and reduce complexity in EU tax rules.
- ATAD has been effective in establishing the EU's anti-avoidance system and changing mentality, however its implementation has led to increased

administrative burdens for businesses. The lack of comprehensive data makes it challenging to fully assess ATAD's effectiveness.

- There is an urgent need to align ATAD with newer initiatives such as EU's Directive on Minimum Tax (Pillar Two) and create a more coherent structure for EU tax rules. CFE notes the need for further simplification, to improve on the clarity of concepts and the need to implement definitions. CFE's emphasises the need to "declutter" the EU's anti-avoidance legislation (ATAD and partly DAC6), especially for companies in scope of Pillar Two, to reduce complexity and potential redundancies or duplication in reporting requirements.

We invite you to read our [Opinion Statement](#) and remain available for any queries you may have.

OECD Publishes Tax Policy Reforms 2024 Report

The OECD has published its [Tax Policy Reforms 2024 Report](#), the 9th edition of the annual publication, which compares information on tax reforms across jurisdictions, as well as policy developments.

The OECD states that *"the report covers the tax policy reforms introduced or announced in 2023 in 90 member jurisdictions of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, including all OECD countries. The publication provides an overview of the macroeconomic environment and tax revenue context in which these tax reforms were made, highlighting how governments used tax policy to respond to elevated inflation levels, as well as to address long-run structural challenges"*.

Further information and the full report can be accessed [here](#).

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