

## Apple's tax: a court now has to decide whether Ireland ...

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The [Apple tax appeal begins today](#): Ireland is saying it does not want the €13 billion the EU says the company should owe and did not pay because of Ireland's abuse of competition law.

Let's cut to the quick here: Ireland says its case is that the tax is not due in Ireland. Michael Noonan, its finance minister, [said this summer](#):

*Look at the small print on an iPhone. It says designed in California, manufactured in China. That means any profits that accrued didn't accrue in Ireland, so I can't see why the tax liability is in Ireland.*

Noonan is engaged with the MEGO principle. This principle, defined by Senator Carl Levin in the USA, requires that when surveying a tax deal a person let 'my eyes glaze over'. They see only the legal detail of the particular issue they are presented with and say that in that context they can find no issue of concern. And of course, the scheme is designed to make sure that is the case: in isolation each part may make sense: the aim is to ensure that the likes of Michael Noonan can, with closed mind and a resulting lack of consideration as to the consequences of their acceptance of the legal construct with which they are presented, say with apparently easy conscience that no tax is due.

The difficulty for Noonan, Ireland and Apple is that there is now an EU Competition Commissioner who, with eyes wide open, looks at the deal Apple did and says that Ireland knowingly and wittingly assisted that outcome by allowing the existence of companies not taxable anywhere for which only they could be responsible in the scheme as a whole. The result is that the EU says it is inevitable that tax should be due in Ireland. Ireland's claim, they say, is not true because it let its eyes glaze over, knowing the consequences.

This is the conflict to be played out in the European courts: may a country turn a blind eye to tax abuse or not? For the sake of tax justice there is only decision the court can make.