

Don't just make Ireland collect Apple's tax, charge the...

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The European Commission has taken Ireland to court for failing to collect the €13 billion tax demand on Apple imposed last year. [The press release says:](#)

The European Commission has decided to refer Ireland to the European Court of Justice for failing to recover from Apple illegal State aid worth up to €13 billion, as required by a Commission decision.

The Commission decision of 30 August 2016 concluded that Ireland's tax benefits to Apple were illegal under EU State aid rules, because it allowed Apple to pay substantially less tax than other businesses. As a matter of principle, EU State aid rules require that illegal State aid is recovered in order to remove the distortion of competition created by the aid.

Commissioner Margrethe Vestager, in charge of competition policy, said "Ireland has to recover up to 13 billion euros in illegal State aid from Apple. However, more than one year after the Commission adopted this decision, Ireland has still not recovered the money, also not in part. We of course understand that recovery in certain cases may be more complex than in others, and we are always ready to assist. But Member States need to make sufficient progress to restore competition. That is why we have today decided to refer Ireland to the EU Court for failing to implement our decision."

The deadline for Ireland to implement the Commission's decision on Apple's tax treatment was 3 January 2017 in line with standard procedures, i.e. four months from the official notification of the Commission decision. Until the illegal aid is recovered, the company in question continues to benefit from an illegal advantage, which is why recovery must happen as quickly as possible.

Today, more than one year after the Commission's decision, Ireland has still not recovered any of the illegal aid. Furthermore, although Ireland has made progress on the calculation of the exact amount of the illegal aid granted to Apple, it is only planning to conclude this work by March 2018 at the earliest.

The Commission has therefore decided to refer Ireland to the Court of Justice for failure to implement the Commission decision, in accordance with Article 108(2) of the Treaty on the Functioning of the European Union (TFEU).

I have already been asked to comment by the press. I said this:

International tax is dependent upon all countries respecting the rule of the laws with which they have agreed to comply. Ireland is acting in contempt of the law of the EU. It deserves to have an action brought against it. I would rather like to see a tax geared penalty charged as well.

To put the last comment in context: if a tax payer is guilty of a tax offence it is normal for a penalty to be charged and it is frequently a proportion of the tax due. In the UK minimum penalties are usually 10% off tax due, even in the case of simple mistake. Ireland is in contempt. I would suggest that in that case an evasion level of penalty should be applied. Something from 50% onwards would seem appropriate to me. That should sober their government up and indicate the contempt in which their actions are held.