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1. US criticise European Commission over state aid investigations

On 17 August 2016, the United States` Treasury issued a white paper expressing its concerns over the European Commission`s change of policy in the state aid treatment of tax rulings, warning against the major impact that the recovery of the aid would have on US companies and, where the payments give rise to creditable foreign taxes, on the US budget and ultimately citizens. The paper argues that the Commission`s policy change was unforeseeable by the relevant companies and EU member states, and that reclaiming tax for past periods could create an unfortunate precedent for tax policymakers around the world. Moreover, it explains that the Commission`s approach goes against US tax treaties and international transfer pricing guidelines broadly accepted, and undermines the work done as part of the BEPS project, to which the Treasury expresses its commitment.

The Commission reacted instantly, rejecting any allegation of bias. A European Commission decision on the Irish tax rulings granted to Apple is expected very soon.

- US Treasury website article, 24 August 2016: [EN](#)
- US Treasury letter to Commission President Juncker, 11 February 2016: [EN](#)
- White paper, 24 August 2016: [EN](#)

2. Advocate-General: Spanish rules on amortisation of goodwill for acquisition of foreign companies are illegal state aid

Already on 28 July 2016, EU Court of Justice`s Advocate-General Wathelet has issued his opinion on the joined cases C-20 and 21/15, World Duty Free Group and Santusa, concluding that the Spanish provisions allowing tax resident companies to amortise the goodwill from the acquisition of certain shareholdings in foreign companies are illegal state aid. The European Commission had come to the same conclusion but lost the appeal case before the EU General Court, and had in turn appealed to the CJEU. According to the Advocate-General, the fact that the regime is open to large number of companies does not change the assessment that it is a selective measure, as it derogates from the normal tax rules, benefiting certain companies over others in a comparable situation.

- Advocate-General opinion: [EN](#)

The selection of the remitted material has been prepared by Piergiorgio Valente / Filipa Correia / Rudolf Reibel

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