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Apple Likely to Benefit in U.S. from Irish Tax Bill

By [KIMBERLY S. JOHNSON AND TATYANA SHUMSKY](#)
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 1 COMMENTS



Tim Cook, chief executive officer of Apple Inc., gestures after speaking during the Apple World Wide Developers Conference (WWDC) in San Francisco, California, U.S., on Monday, June 13, 2016. Published Credit: David Paul Morris/Bloomberg News
PHOTO: BLOOMBERG NEWS

The \$14.5 billion Apple Inc. is being asked to [pay to Ireland in back taxes](#) could potentially help offset its tab with the Internal Revenue Service.

When an American company pays taxes on profits in foreign countries, they only owe Uncle Sam [the difference between the taxes paid](#) and the U.S. tax rate.

So in the case of Apple, recording a large foreign tax charge could “set the stage for a foreign tax credit,” said tax consultant Robert Willens.

“The tax detriment would be balanced out by a tax benefit,” he said. “It’s not damaging from a P&L point of view.”

Apple would have to accrue a tax bill in the U.S. in order to reflect such an assessment, most likely through a repatriation of foreign earnings. Many multinationals – Apple included – state that their foreign profits are indefinitely reinvested abroad.

Apple's foreign subsidiaries held \$186.9 billion of cash and marketable securities when its fiscal year ended last Sept. 26. Of that sum, Apple had set aside \$91.5 billion as indefinitely reinvested, as previously reported.

The U.S. Treasury Department has criticized the EU's tax investigations, and on Tuesday a spokeswoman said the EU's decision was disappointing, reiterating that "retroactive tax assessments by the commission are unfair."

But based on how multinationals book revenue and taxes, such a move puts the [U.S. government at a disadvantage](#). "The taxes they pay in Ireland will reduce the taxes they pay in the U.S.," Mr. Willens said. "Many see Apple as having a finite amount of taxes to pay. The more they pay to others, the less they get."

Still, the U.S. could challenge whether Apple's \$14.5 billion payment is correctly classified as back taxes or whether it is, in fact a fine. The latter wouldn't generate a foreign tax credit, said Stephen Brecher, senior advisor at accounting firm WeiserMazars LLP.

Ireland already arguing that it properly applied its tax law presents another wrinkle. It is unclear whether U.S. authorities will recognize the payment as an income tax payment even if Ireland changes its position and collects the payment, Mr. Brecher said.

"The U.S. might say that Apple has paid the correct amount of tax and that Ireland is wrong to collect this," Mr. Brecher said. "Apple could get caught in the middle here," he added.

For now, the U.S. tech giant has vowed to appeal the European Commission's decision, a process that some say will take several years to play out.

"There's little question that this story is closer to its beginning than its end," said Manal Corwin, national leader KPMG LLP's International Tax practice and former Deputy Assistant Secretary for International Tax Affairs in the Office of Tax Policy at the U.S. Department of the Treasury.

"International tax will always be complicated, and trying to build a level playing field in an uneven world is a monumental challenge. The real danger is creating an uncertain environment for multinational companies looking to follow the spirit and the letter of the law," Mr. Corwin said.

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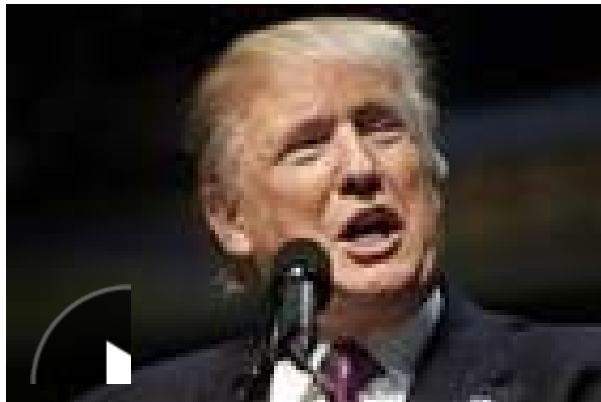
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