

# EU court advisor deals blow to Apple in Ireland tax case

November 9 2023

---



The EU claimed Apple parked untaxed revenue earned in Europe, Africa, the Middle East and India in Ireland.

The European Court of Justice's top legal advisor recommended Thursday scrapping a previous Apple victory against Brussels in a

13-billion-euro (\$14-billion) tax case, a blow to the iPhone-maker in a long-running legal saga.

One of the landmark battles between the European Commission and [big tech](#), it dates back to 2016 when the EU's executive arm accused Ireland of allowing Apple to escape billions of euros in taxes.

The EU's executive arm claimed that between 2003 and 2014, Apple parked untaxed revenue earned in Europe, Africa, the Middle East and India in Ireland, which is the European hub for big tech.

Brussels alleged that this amounted to illegal "state aid" from Ireland to firms it was trying to attract.

Apple has pushed back against claims the company has sought to avoid paying taxes that it owes, while Ireland has always rejected claims of giving Apple a hidden subsidy.

The bloc's highest court heard the commission's appeal this year against a 2020 decision by the EU's lower General Court to annul its order that Apple repay the money.

Advocate General Giovanni Pitruzzella said on Thursday that the 2020 decision was peppered with legal errors and recommended that it was "set aside" for a new ruling.

The opinion is not binding on the court, but it will be influential and taken as a sign of the direction the case is taking.

"In the Advocate General's opinion, it is therefore necessary for the General Court to carry out a new assessment," the ECJ said in a statement.

A final decision by the ECJ is expected within a few months but the judges are not bound by Thursday's opinion.

The 13 billion euros are currently held in an escrow account and will only be released after the final ruling.

## **'Correct tax paid'**

Apple dismissed Pitruzzella's opinion, pointing to the lower court's decision.

"The General Court's ruling was very clear that Apple received no selective advantage and no state aid, and we believe that should be upheld," Apple said in a statement.

Irish Finance Minister Michael McGrath insisted Dublin had done nothing wrong.

"It has always been, and remains, Ireland's position that the correct amount of Irish tax was paid and that Ireland provided no state aid to Apple. We now await the judgment of the Court of Justice of the European Union on this matter," he said.

The commission said it would not comment on the legal opinion.

The issue over potential legal errors was raised during the hearing in May.

The commission's lawyer, Paul-John Loewenthal, told the ECJ there had been a "breach of procedure" and "numerous other legal errors" when the lower court heard the case.

Apple's lawyer Daniel Beard pushed back against Loewenthal's claims at

the time. "Apple has paid the taxes that were due under the Irish tax code," Beard said.

Apple has been present in Ireland since the 1980s.

The EU has faced difficulty justifying its tax decisions in recent years with previous [court](#) losses against Amazon and Starbucks.

© 2023 AFP

Citation: EU court advisor deals blow to Apple in Ireland tax case (2023, November 9) retrieved 11 May 2024 from <https://techxplore.com/news/2023-11-eu-court-advisor-apple-ireland.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--