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29 May 2013

The Honorable Carl Levin, Chairman
The Honorable John McCain, Ranking Member
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington DC 20510

Dear Senators Levin and McCain,

I am writing to you in relation to the hearing of the Permanent Subcommittee on Investigations entitled '*Offshore Profit Shifting and the US Tax Code - Part 2 (Apple Inc.)*' on 21 May 2013 and certain references to Ireland that were based on the related *Memorandum* to the Permanent Subcommittee.

I fully recognise that the purpose of the hearing was to examine the options for reform of the US tax code, in which Ireland has no role. It is important, nevertheless, to address two points particularly that arose at the hearing and that relate specifically to the Irish tax system.

First, Ireland's tax system is set out in statute - so there is no possibility of individual special tax rates being negotiated for companies. All tax resident companies in Ireland are liable to corporation tax on their chargeable income at the rate of 12.5% on trading income and at 25% on non-trading income. The tax rates attributed to Ireland in the Memorandum appear to be calculated by reference to the companies' entire profits, as if those companies are tax-resident in Ireland. This is despite the fact that the Memorandum clearly states that the companies concerned are *not* tax-resident in Ireland. The tax rates attributed to Ireland are wrong and misleading.

Second, building on this analysis, the Memorandum refers to Ireland as a 'tax haven'. As you will be aware, the OECD has identified four key indicators of a tax haven. None of these criteria applies to Ireland.

Ireland is committed to working closely with the United States through the operation of our Double Taxation Agreement and, most recently, in becoming one of the first countries in the world to sign an *Agreement with the United States to Improve International Tax Compliance and to Implement FATCA* (Foreign Account Tax Compliance Act).

We are, furthermore, fully supportive of international efforts to address aggressive tax planning and we are an active participant, together with the United States, in the OECD project addressing Base Erosion and Profit Shifting (BEPS). We are also committed to playing a leading role within the European Union during our Presidency in securing progress on a number of key files in the area of tax evasion and tax fraud.

I hope this information will be of assistance to you in your ongoing work. I am copying this letter to the other members of the Permanent Subcommittee on Investigations for their information.

Yours sincerely,

Michael Collins
Ambassador of Ireland