EU’s Tax Ruling Sends a Chill

Starbucks, Fiat hit in decision creating ripples across Europe; appeals are expected

BY TOM FAIRLESS

BRUSSELS—The European Union said it will require Starbucks Corp. and Fiat Chrysler Automobiles NV to pay tens of millions of euros in back taxes after ruling that the companies benefited from illegal tax deals, in an unprecedented decision that risks overturning thousands of corporate tax structures across Europe.

The European Commission, the EU’s executive arm, said Wednesday that tax deals granted to Starbucks in the Netherlands and Fiat in Luxembourg amounted to illegal state subsidies that must be repaid.

The investigations are technically aimed at the governments, which have been ordered to recover the unpaid taxes.

The sums to be reclaimed are modest—amounting to between €20 million and €30 million, or $22.7 million and $34 million, for each company. Wednesday’s decisions are widely expected to be appealed at the EU’s courts in Luxembourg, a process that can take years.

But experts said the probes have already created a chill in boardrooms across the continent.

The EU’s move could also have repercussions for investment and deals in Europe, as investors fret about higher future taxes and uncertain past liabilities, experts said.

“I definitely think it will dampen investment in Europe [because] uncertainty is the biggest enemy of deals,” said Robert Willens, a corporate tax adviser in New York and former managing director at Lehman Brothers.

EU antitrust chief Margrethe Vestager said she may open more probes if she suspects that EU rules are being violated.

In Starbucks’s case, the EU said the company’s Dutch coffee-roasting unit paid a “highly inflated price” to a Swiss unit for green coffee beans, as well as a “very substantial royalty” to another Starbucks entity in the U.K., Alki, that didn’t reflect the value of know-how. Alki, which has since been dissolved by Starbucks, wasn’t liable to pay corporate tax in the U.K. or the Netherlands, Ms. Vestager said.

Starbucks said it plans to launch an appeal “since we followed the Dutch and OECD rules available to anyone,” a reference to the Organization for Economic Cooperation and Development, a Paris-based international group that produces corporate tax guidelines.

The Dutch Finance Ministry said it was “surprised” by the commission’s decision and would analyze it carefully before deciding on further steps. The ministry said it was “convinced that actual international standards are applied.”

In Fiat’s case, the EU said a tax deal for the company’s Luxembourg-based financing company had used “an extremely complex and artificial methodology to calculate taxable profits, which cannot be justified by economic reality.” Its taxable profits in Luxembourg “would have been 20 times higher if the calculations had been done at market conditions,” Ms. Vestager said.

In a statement published Tuesday, Fiat said it hadn’t received any state aid, and that any back-tax payments would be “immaterial” to the company’s reported results.

Luxembourg’s government said it disagreed with the EU’s decision “and reserves all its rights.”