KPMG

Inside Indirect Tax

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About this Newsletter

Welcome to *Inside Indirect Tax*—a publication from the KPMG U.S. Indirect Tax practice focusing on global indirect tax changes and trends from a U.S. perspective. *Inside Indirect Tax* is produced monthly as developments occur. We look forward to hearing your feedback to help us provide you with the most relevant information to your business.

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KPMG Publications

Developments Summary of the Taxation of the Digitalized Economy

KPMG has prepared a development summary to help multinational companies stay abreast of digital services tax developments around the world. It covers both direct and indirect taxes and includes a timeline of key upcoming Organization for Economic Cooperation and Development (OECD), European Union (EU), and G20 meetings at which discussion of the taxation of the digitalized economy is anticipated.

Global E-invoicing & Digital Reporting Tracker

KPMG has released an Electronic Invoicing (e-invoicing) and Digital Reporting Global Tracker, providing a summary of tax administration developments relating to e-invoicing and digital reporting around the world. Tax authorities across the globe are constantly striving for visibility into a taxpayer's end-to-end sales process using technology tools that automate the tax reporting process, such as e-invoicing, digital reporting, and e-accounting. These technologies when used by tax authorities can be disruptive and require radical changes in the way taxpayers interact internally as well as with their customers, related parties, and the tax authorities.

Overview of Indirect Tax Developments from KPMG International Member Firms

- **KPMG in Bahrain** published a report noting that the Bahraini National Bureau for Revenue (NBR) has reenabled the field for standard-rated sales at 5 percent and made corresponding adjustments in the VAT return form. Taxpayers intending to report sales at 5 percent or make corresponding adjustments in their VAT returns for January and February 2023 tax periods were required to log into the NBR portal and self-amend their returns. This is also applicable to taxpayers reporting such transactions under other fields of the VAT return. Any administrative penalties imposed because of the self-amendment will be rectified without submitting a review request to the NBR Reviews and Appeals Section.
- **KPMG in Bahrain** published a report noting that newly established businesses should evaluate whether they are required to apply for VAT registration and that they should not charge VAT on sales without a valid VAT registration in place. The report notes that the NBR has penalized businesses for charging VAT before obtaining a VAT registration.
- **KPMG in Brazil** published a report discussing recent tax developments in Brazil including a recent decision of the Superior Court of Justice that a taxpayer was not required to collect municipal services tax on unconditional discounts and bank fees. It also discusses a decision of the Federal Supreme Court suspending earlier decisions allowing the application of reduced rates of the federal social contributions (PIS and COFINS) on financial income earned by legal entities subject to the non-cumulative regime, pending examination of the merits of the issue.
- **KPMG in the Czech Republic** published a report discussing a recent tax authority opinion on the difference between an accommodation service and the lease of immovable property. The tax authority considers that the difference must be determined based on what is objectively offered as part of the performance, regardless of how the parties involved qualify the arrangement. The authority further considers services mediated through

internet platforms to commonly meet the characteristics of accommodation services. A person providing accommodation through internet platforms may be regarded as a taxpayer providing services subject to VAT provided the person is engaged in economic activity. An economic activity is any activity performed for generating a regular income. It is irrelevant whether the result is profit or loss or whether the person operating the accommodation service owns the necessary trade license. As to sourcing and VAT compliance obligations relating to the services provided by a nonresident platform, the tax authority stated that the obligation to declare tax may arise both to the accommodation provider (intermediation fee) and indirectly to the guest staying (fee for using the internet platform). It is therefore necessary to examine who is effectively the recipient of such service, as well as the nature of the service. If the service recipient is a VAT taxpayer, the obligation to declare tax is on the recipient if the service provider is a nonresident. If the recipient is a business not registered for VAT purposes, such a person becomes a taxpayer and should register for and self-assess VAT on the date of receipt of the service. If the recipient is a final consumer, the nonresident platform should be liable for VAT.

- **KPMG in the Czech Republic** published a report discussing the VAT treatment of compensation paid to vendors to deliver electricity and gas at fixed prices following a decree issued by the government earlier this year. The Czech Ministry of Finance has clarified that if the customer of electricity or gas is the end consumer, meaning that the original sale was carried out in the standard VAT regime, the energy provider is obliged to pay output VAT on the total amount of the compensation received. However, they do not have issue corrective tax documents stating the increased tax base to individual customers. Compensation for the sale of electricity and gas at capped prices constitutes a consideration received from a third party on which the electricity or gas providers must pay VAT. If the original energy sale was subject to the self-assessment regime, the energy provider must quantify the specific part of the compensation attributable to a specific customer and issue a corrective tax document to that customer. However, if the energy provider pays the output VAT on the full amount of the compensation received as if the original sale was under the standard VAT regime and does not issue a corrective tax document, the tax authority will not challenge such an approach.
- **KPMG in Colombia** published a report discussing updated e-invoicing regulations issued on March 9, 2023. The regulation (1) reminds electronic commerce platforms to provide services that will allow users to issue e-invoices to final consumers; (2) expands the scope of e-invoicing system to all electronic tax-related documents; (3) introduces a new definition of an electronic equivalent document; and (4) modifies the electronic supporting documents required in transactions with taxpayers not required to issue invoices.
- **KPMG in Denmark** published a report (in Danish) discussing draft legislation that would require taxpayers to annually state whether they perform VAT-exempt activities and, if so, to identify the amount of the taxpayers' partial right to deduct. In addition, the bill would transpose into Danish law, the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. The bill would further introduce a VAT self-assessment requirement on purchases of telecommunications services. Finally, the bill clarifies the application of increased ordinance fines, adapts the VAT exemption to certain EU institutions in connection with the COVID-19 pandemic, clarifies the possibility of registration as a consignee of goods, and simplifies the loss of value calculations of certain leased vehicles.

- **KPMG in India** published a report discussing a recent decision of the Delhi High Court in *Uber India System Private Limited* in which the High Court held that excluding passenger transportation services provided through an e-commerce platform from the scope of GST exemption for certain transportation services effective January 1, 2022 is constitutional. According to the High Court, the mode of booking justifies the differences in GST treatment (i.e., taxable if booked online while exempt if hailed in the street) and does not violate constitutional provisions relating to equality before the law, the right to practice any profession or carry on any business, or the protection of life and personal liberty.
- **KPMG in Indonesia** published a report discussing tax incentives for transactions conducted in the new capital city of Nusantara and its supporting areas effective March 6, 2023. These include VAT and customs duties exemptions and zero-rating for specified imports, new buildings, vehicles, rental, and construction services.
- **KPMG in Italy** published a report discussing draft tax reform legislation which was approved by the Italian Council of Ministers on March 16, 2023. Among other measures, the draft law proposes to amend the VAT law to bring it closer in line with EU law, revise the VAT exemption rules, reduce the number of VAT rates, revise the rules for VAT recovery, rationalize the VAT grouping rules and rules for third-sector entities. It further proposes to simplify the registration procedures for the registration tax, inheritance tax, gift tax, and stamp duty. In addition, the draft law proposes to modernize the customs rule to align with EU law as it relates to the customs one-stop shop and the efforts to simplify interaction between customs bodies and businesses, complete the digitalization of the import process, and streamline the procedures for assessment, calculation, and collection of duties. Finally, the draft law includes changes to the tax enforcement procedures and greater use of digital technology during tax assessments.
- **KPMG in Jamaica** published a report discussing tax measures in the 2023-2024 budget presented on March 7, 2023. The budget includes a proposal to amend the General Consumption Tax (GCT) regime applicable to the second sale of motor vehicles by registered car dealers. Registered car dealers making a second sale of motor vehicles (i.e., not the sale of imported new or used motor vehicles) will now charge a GCT rate of 15 percent of the dealer dollar margin (and not of the sale price). However, that GCT amount would be no less than the flat fee of JMD 12,000 or JMD 18,000 that is paid by individual owners who are not car dealers (in lieu of GCT) when selling their motor vehicles.
- **KPMG in Kazakhstan** published a report discussing amendments to the rules for VAT refunds effective April 7, 2023. The amendments include exceptions to the procedure for verifying taxpayers using the analytical "Pyramid" report. Specifically, tax violations identified as a result of the Pyramid report will not affect the confirmation of the accuracy of the refund VAT amount, if (1) the understatement of the VAT amount identified by comparing the taxpayer's VAT declaration and e-invoices does not exceed 10 times the monthly index factors (MIF) on the date of the Pyramid report; (2) discrepancies between the taxpayer's VAT declarations and information reflected in the customer's VAT invoice register do not exceed 10 times the MIF on the date of the Pyramid report; (3) the VAT payment deadline deferred or changed due to installment VAT payments; (4) the identified violations are of low-risk for which the tax authorities send notifications; (5) the identified violations are not confirmed upon request to the forwarder or commission agent to take measures to eliminate violations; (6) the taxpayer eliminated violations in the supply chain of goods, works, and services. Finally, the amendments reduce the VAT refund deadline for taxpayers with zero-rated sales not exceeding 70 percent of their total taxable sales from 155 calendar days to 75 business days.

- **KPMG in Malaysia** published a report discussing recent tax developments, including the imposition of excise duty on gel or liquid products containing nicotine used for e-cigarettes and vaping, a temporary relief on travel restrictions for those with debts owed to the Royal Malaysia Customs Department under certain conditions, and a new voluntary disclosure program running from February 1, 2023, through September 30, 2023 for GST, sales tax, service tax, and tourism and departure tax. The voluntary disclosure program covers taxable periods ending on or before December 31, 2022.
- **KPMG in Malta** published a report discussing tax measures in the 2023 budget implementation Act. Among other things, the Act increases penalties for failure to submit recapitulative statements from EUR 10 to EUR 50 monthly. The maximum penalty for each recapitulative statement will increase from EUR 120 to EUR 600. The Act further proposes to empower the Minister to prescribe requirements for any person to retain and furnish the tax authority with such information as may be required to achieve the objective of combating VAT fraud.
- **KPMG in Mexico** published a report noting that the deadline for the mandatory issuance of electronic payroll receipts using version 4.0 of electronic invoices (CFDI 4.0) has been postponed to July 1, 2023.
- **KPMG in Mexico** published a report discussing an increase of the lodging tax rate for certain tourist accommodation services in the state of Guerrero, Mexico. The increase applies to taxpayers providing temporary tourist accommodation services in houses, apartments, residences, villas, condominiums, and all types of non-hotel facilities, either directly or through intermediaries, promoters, facilitators, or digital platforms. The increase does not apply to taxpayers that provide lodging services in hotels, motels, timeshares, campgrounds, inns, mobile home locations, guest houses, suites, and bungalows. Additional guidance for taxpayers offering lodging services through digital platforms will be issued within 180 days of the effective date of the decree.
- **KPMG in Nigeria** published a report discussing updated features on the TaxPro-Max (TPM) online platform for VAT filing and payment. The updates introduce a new VAT credit mechanism requiring vendors to remit VAT collected from customers to the tax authority using a new sales schedule format for the customers to be able to claim the allowable on such purchases. The updates further modify the sales adjustment process by allowing taxpayers to modify their sales figures reported in the prior month's returns when there are changes to the information filed earlier.
- **KPMG in Poland** published a report discussing a draft decree on a new binding rate information (BRI) template, which would be introduced effective from July 1, 2023.
- **KPMG in Spain** published a report noting that the Spanish lower house of parliament passed a bill that implements, among other measures, the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. This information will then be centralized in a European database, the Central Electronic System of Payment information (CESOP), where it will be stored, aggregated, and cross-checked with other European databases. All information in CESOP will then be made available to anti-fraud experts of Member States via a network called Eurofisc.
- **KPMG in Switzerland** published a report noting that non-Swiss businesses without a Swiss VAT registration have until June 30, 2023 to file their refund claim for Swiss VAT incurred in 2022, provided the company incurred at least CHF 500 Swiss VAT in 2022. In addition, foreign companies are required to appoint a Switzerland-based fiscal representative to be able to file this refund request.

- **KPMG in Thailand** published a report discussing a recent tax authority notification on the e-tax invoice requirements. Effective January 6, 2023, upon a request from a customer to replace an abbreviated e-tax invoice, the taxpayer must issue a new e-tax invoice containing the following message: "This is a cancellation of the abbreviated e-Tax invoice no. […], dated (date of issue of the abbreviated e-Tax invoice) […], and a new e-Tax invoice is issued instead thereof." If an e-tax invoice is issued electronically with an electronic signature and a hard-copy format invoice is printed and provided to a customer or a service recipient, such e-tax invoice must contain the following message: "This document has been issued electronically and the data has been delivered electronically to the Revenue Department."
- **KPMG in Thailand** published a report discussing guidance on the VAT exemption granted to promote data center businesses. Data center businesses include the provision of server space and related devices for use in data storage and data processing, electronic data connections via the Internet, as well as support services such as data backup services, network connection services for internet or cloud service providers, system management, and information technology security services. To qualify for the exemption, the data center operator must be a VAT-registered company established under Thai law and granted a promotion in data center business under the investment promotion law or the law governing the enhancement of national competitiveness for targeted industries, or other laws as prescribed by the Director-General of the Revenue Department. In addition, the operator must not have claimed VAT deductions related to the datacenter business service during the past three years before the tax month that the VAT exemption request is submitted. However, if a VAT deduction was claimed, the operators may still qualify for the exemption if they submit an additional/amended filing to exclude the datacenter related VAT deduction, as well as paying applicable penalties, surcharges, and fines for the previous three years, before submitting the VAT exemption request.
- **KPMG in Uganda** published a report discussing the application process for income tax withholding and VAT exemption for fiscal year 2023/2024. The application process is available from April 20, 2023 through June 20, 2023. The notice provides that the Ugandan Revenue Authority (URA) will accept only online exemption applications. Withholding tax exemptions will be valid for a period of 12 months running from July 1, 2023 to June 30, 2024 but are subject to automatic revocation before the end of the 12 months if it is determined that a taxpayer or its associate(s) fail to regularly comply with its tax obligations during 2023/2024.

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Global Rate Changes

- **Botswana:**[i] On March 29, 2023, the Botswana Minister of Finance presented a VAT amendment bill to parliament that proposes to zero-rate vegetables, cooking oil, liquid petroleum gas, salt, infant formula, baby diapers, sanitary pads, tampons, agricultural implements, and condoms. The bill would further exempt private medical supplies from VAT. Under current law, only medical supplies made by public medical facilities were exempt from VAT.
- **Botswana:**[ii] On April 5, 2023, the Botswana tax authority published guidance to govern the transition from the expiration of the 12 percent reduced VAT rate and reversion to 14 percent effective April 1, 2023. The guidance clarifies the applicable VAT rate for payments received or invoices issued before April 1, 2023, and when an agreement was

concluded before April 1, 2023 but payment was made on or after April 1. The guidance also clarifies the applicable VA rate for sales of immovable property.

- **Congo (Democratic Republic):**[iii] On April 15, 2023, Congo extended the application of the VAT exemption for essential goods and certain construction materials through December 31, 2023.
- **Estonia:**[iv] On April 8, 2023, the Estonian government approved a series of tax measures that include an increase in the standard VAT rate from 20 percent to 22 percent effective January 1, 2024, and removal of the 9 percent reduced VAT rate for accommodation services, effective January 1, 2025.
- **Finland:**[v] On April 20, 2023, Finland proposed to exempt from VAT, sales of goods and services made to defense forces of other NATO (North Atlantic Treaty Organization) member countries and importations into Finland by NATO forces.
- **Georgia:**[vi] On April 6, 2023, Georgia introduced a VAT exemption for the sale and import of specified domestically manufactured and registered pharmaceutical and radiopharmaceutical products.
- **Indonesia:**[vii] Effective April 1, 2023, Indonesia has introduced a 1 percent reduced VAT rate for the delivery of four-wheel battery-powered electric motor vehicles and buses with at least 40 percent locally manufactured components and a 6 percent reduced VAT rate for such vehicles with 20 percent to 40 percent locally manufactured components. These measures will apply for the tax periods between April 2023 and December 2023.
- **Ireland:**[viii] Effective May 1, 2023, Ireland introduced a VAT zero rate on the sale and installation of solar panels on or adjacent to private dwellings.
- **Morocco:**[ix] On April 13, 2023, Morocco approved draft legislation to exempt imported cattle and specified agricultural inputs from VAT.
- **Netherlands:**[x] On April 11, 2023, the Dutch government sent a report to the Lower House of Parliament questioning the effectiveness of the reduced 9 percent reduced VAT rate (compared to a 21 percent standard rate) in achieving desired policy goals, after a report commissioned by the government concluded that the measure disproportionately benefits wealthier taxpayers. The report concludes that the stated goals of applying a reduced VAT rate (i.e., to encourage the purchase of certain goods and services, reduce the tax burden on the less affluent, combat the black market, and support certain sectors) often do not lead to the desired outcome. The report found that the wealthiest 50 percent of households benefitted twice as much from the reduction as the remainder of the population. Based on the report, the government must assess the continued application of the reduced rate. Note the reduced rate applied to foodstuffs, certain pharmaceuticals, water, books and newspapers, certain clothing, and admissions to a variety of entertainment and cultural events among other things.
- **Portugal:**[xi] On April 14, 2023, Portugal's parliament approved a temporary VAT exemption for basic food items, including bread, potatoes, and vegetables. The exemption applies from April 18, 2023 through October 31, 2023.
- **Romania:**[xii] On April 12, 2023, Romania introduced a VAT zero-rate for (1) construction, modernization and rehabilitation services provided to public hospitals, as well as to not-for-profit organizations (NGOs) registered in the tax authority's registry, if the services are utilized by hospitals owned and used by the NGOs or are public hospitals; (2) delivery of medical equipment, appliances, devices, items, accessories and protective equipment, sanitary materials and consumables normally intended for use in healthcare or for use by persons with disabilities, goods essential for compensating and overcoming disabilities

(except prostheses and orthopedic products), as well as the adjustment, repair, rental and leasing of such goods, performed to public hospitals, as well as rendered to NGOs registered in the tax authority's registry, if utilized by hospitals owned and used by the NGOs or are public hospitals; and (3) delivery of orthopedic products and prostheses and their accessories, other than dentures. This measure will take effect 60 days from April 12, 2023.

- **Rwanda:**[xiii] On April 19, 2023, Rwanda's Ministry of Trade and Industry announced a VAT exemption for maize flour and rice.
- **Ukraine:**[xiv] On March 31, 2023, Ukraine proposed draft legislation to reduce the VAT rate on the sales and import of milk and dairy products from 20 percent to 10 percent.
- **United Kingdom:**[xv] Following the Windsor agreement between the European Union and the United Kingdom, the VAT zero-rate for energy-saving materials (ESMs), which applies to the rest of the UK from April 1, 2022, will also apply in Northern Ireland, effective May 1, 2023. Prior to this extension, application of the measure in Northern Ireland needed to meet certain social policy conditions, and the cost of the energy saving material could not exceed 60 percent of the total value of the sale. The order removes these two restrictions and returns wind and water turbines to the list of ESMs. Unless the government introduces further legislation to extend the period of the zero rate, the installation of ESMs will revert to the 5 percent reduced rate on April 1, 2027.
- **Uruguay:**[xvi] On March 22, 2023, Uruguay introduced a VAT, excise tax, and import duties exemption for the importation of waste from free trade zones, customs warehouses, free ports, or free airports. The goods that benefit from the tax exemptions include plastic containers and packaging waste, plastic waste other than containers and packaging, battery waste, electric and electronic waste, out-of-use vehicles and tires, edible, and non-edible oils if: (a) the importer of the goods is an authorized waste manager, and (b) the imported goods are used for recycling or generating renewable energy. The exemption will not apply if the imported waste is sold in the domestic market in the same condition in which it was imported. To benefit from the exemption, the waste manager must submit to the Ministry of Environment an annual affidavit indicating the process and transformations applied to the waste (or part of it); a report on the recycling actions on the waste and energy recovered; and the place of final disposal of the remaining waste.
- **Vietnam:**[xcii] On April 11, 2023, the Vietnamese Ministry of Finance proposed to reduce the standard VAT rate from 10 percent to 8 percent. The government is considering either reducing the VAT rate on several goods and services or reducing the VAT rate on all goods and services except those for which the rate was already reduced as part of the government policy to boost economic recovery after COVID-19.

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The Americas

United States: Mississippi Confirms Taxability of Remotely Housed Software and Other Services

Mississippi recently enacted Senate Bill 2449, which clarifies the Mississippi sales tax treatment of computer software and certain other services provided over the Internet. Although computer software was historically subject to sales and use tax in Mississippi, newly added language provides that computer software maintained on a server located outside Mississippi and accessible for use only via the Internet is not a taxable retail sale. "Computer software services," which are taxable only if performed in Mississippi are newly defined to mean the technical design and programming of computer software and include installing, configuring, debugging, modifying, testing, or troubleshooting computer hardware, networks, programs, or computer software. A nonexclusive list of services are excluded from the definition of "computer software services," including platform as a service or infrastructure as a service; information and data processing services (as newly defined under the bill), and services that use a computer, computer equipment, or computer software as a tool to perform or complete that service; Internet access services or charges; payment processing or banking services; real estate listing or pricing services; electronic advertising and marketing services; and social media services. The bill also makes clear that sales of computer software, computer software services, electronically stored or maintained data, and specified digital products are not taxable telecommunications services. Electronically stored or maintained data is also specifically excluded from the definition of tangible personal property under the bill.

In addition, the legislation has extensive provisions addressing when a purchaser buys both taxable and non-taxable software and services. If a single license fee or other payment encompasses taxable computer software and/or computer software services, along with other nontaxable items, the seller, service provider, user, or consumer may allocate such fee or payment between the taxable and nontaxable items based on a reasonable allocation of the payment to each separately identifiable item or service encompassed by the fee or payment, if properly supported by the books and records of the seller. The bill specifically mandates that there is no presumption that the entire amount is taxable simply because it includes taxable and nontaxable elements. If the Commissioner challenges or contests the allocation method used, the Commissioner must establish by a preponderance of the evidence that the method used was not reasonable and the Commissioner's proposed method is the most reasonable. The bill further sets forth enumerated reasonable methods for a purchaser to use to allocate the costs of the software or related services if they are purchased for use in Mississippi and other states. The Commissioner is required to adopt rules and regulations providing for the issuance of a permit to purchasers and users of computer software or computer software services to purchase such items and services without paying tax to the vendor. Instead of doing so, such persons will report and pay the tax directly to the Commissioner, and the vendor will be relieved of collecting and remitting the taxes. Finally, computer software or computer software services provided by one legal entity to another affiliated entity will be treated for sales and use tax purposes as nontaxable transfers between different segments of one legal entity. For more information, please click here.

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European Union: Roundup of Recent ECJ Decisions

On April 20, 2023, the Court of Justice of the European Union (ECJ) published its decision in *Dyrektor Krajowej Informacji Skarbowej*, Case C-282/22, in which it held that a single complex transaction encompassing (1) access to recharging devices for electric vehicles (including integration of the charger with the vehicle operating system); (2) the provision of electricity, within duly adjusted parameters, to the batteries of that vehicle; (3) the necessary technical support for the users concerned; and (4) the provision of IT applications enabling the user concerned to reserve a connector, view his or her transaction history, and purchase credits which are then accumulated in an e-wallet and used to pay for recharging sessions constitute a sale of goods within the meaning of the EU VAT directive.

On April 27, 2023, the ECJ published its decision in *Fluvius Antwerpen*, Case C-677/21, in which it held that the sale of electricity by a distribution network operator, even if involuntary and the result of unlawful conduct on the part of a third party, constitutes a sale of goods for consideration entailing the transfer of the right to dispose of tangible property. Such a transaction further constitutes an economic activity of that operator because it is akin to the activity of an electricity distribution network operator. If that economic activity is carried out by a body governed by public law acting as a public authority, such activity can be regarded as being carried out on such a small scale as to be negligible only if it is of such minimal scale in space or time and, consequently, of such a slight economic impact that the distortions of competition likely to result are liable to be either nil or at least insignificant.

Source: European Union; Poland – ECJ Decides on Classification of Recharging Points for Electric Vehicles as Supply of Goods or Supply of Services: *Dyrektor Krajowej Informacji Skarbowej* (Case C-282/22) (VAT), (April 20, 2023), News IBFD; European Union; Belgium - ECJ Decides on Whether Unlawful Usage of Energy Constitutes a Supply of Goods for Consideration Subject to VAT: *Fluvius Antwerpen* (Case C-677/21) (VAT), April 27, 2023, News IBFD.

United Kingdom: Overview of Recent Indirect Tax Developments

On March 30, 2023, the UK Treasury and the Department for Energy Security and Net Zero published a consultation document aimed at helping the government understand the effect on businesses of carbon leakage risk and the measures that might promote investments decarbonization. The consultation focuses on carbon leakage policy measures; a carbon border adjustment mechanism (CBAM) as an appropriate mitigation measure; mandatory product standards (MPS) for embodied emissions of industrial products as an appropriate carbon leakage risk mitigation and decarbonization measure; the cross-cutting policy issues for a CBAM and MPS; the opportunities for the government to support a growing market for low carbon products through public procurement policies, product labeling, and voluntary standards or benchmarks; embodied emissions reporting; an emissions reporting framework and mechanism; and the potential features of a system to collect and process embodied emissions data for industrial products manufactured in and imported to the United Kingdom. The consultation is open to comments through June 22, 2023.

In January 2023, the UK Treasury set forth Order SI 2023, which provides that VAT is payable on the relevant sale of motor vehicles that were not excluded goods and which have been removed to Northern Ireland or exported to an EU Member State. On April 3, 2023, Treasury issued Order SI 2023/385 which applies interest and penalty provisions on the late payment of VAT relating to the above sales as put forth in new harmonized interest provisions introduced by the UK's Finance Act 2019.

On March 31, 2023, HMRC updated VAT Notice 703, regarding the evidence required to support the zero-rating of exported goods. The types of evidence required include official evidence or commercial evidence, and supplementary evidence. The updated guidance confirms HMRC's requirement that if it determines that commercial evidence is insufficient then official evidence must be provided, and if this evidence is unsatisfactory, the seller will become liable for the VAT due. Official evidence is the confirmation that the export entry has been declared and cleared in the appropriate HMRC system. This can either be a goods departure message issued from the appropriate HMRC system when the goods leave the UK or a full entry printout. Commercial evidence provides evidence of the physical movement of the goods and may include documents such as: authenticated sea waybills, authenticated air waybills, certificates of shipment containing the full details of the consignment and how it left the UK or EU, international Consignment Note/ Lettre de Voiture International (CMR) fully completed by the consignor, the hauler, and the receiving consignee, or Freight Transport Association own account shipping documents fully completed and signed by the receiving customer. Supplementary evidence includes the information and documents typically held within an accounting system and typically includes the following: customer's order, sales contract, inter-company correspondence, copy of export sales invoice, advice note, consignment note, packing list, insurance and freight charges documentation, evidence of payment or evidence of the receipt of the goods abroad. In addition, evidence obtained as proof of export, whether official or commercial, or supporting must identify the vendor, the consignor (where different from the vendor), the customer, an accurate and full description of the goods including quantities, an accurate and consistent value of the goods, the export destination, and the mode of transport and route of the export movement.

On April 21, 2023, HMRC published an updated valuation table for determining VAT on road fuels based on vehicle carbon dioxide emissions between May 1, 2023 and April 30, 2024. The valuation rate tables set out the new scale charges (a VAT-inclusive amount) and show the VAT to be charged depending on whether the taxpayer accounts for VAT on annual, quarterly, or monthly basis.

Source: United Kingdom - United Kingdom Consults on Carbon Border Adjustment Mechanism, (April 3, 2023), News IBFD; United Kingdom - United Kingdom Enacts VAT Interest and Penalty Provisions on Certain Supplies of Motor Vehicles, (April 6, 2023), News IBFD; United Kingdom Tax Agency Updates Valuation Table for Determining VAT on Road Fuel, Bloomberg Law News, April 26, 2023.

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Singapore: High Court Clarifies GST Base Computation

The General Division of the Singapore High Court recently published its decision in *Herbalife International Singapore Pte Ltd*, [2023] SGHC 54, on the goods and services tax (GST) tax base for goods sold via a direct selling model where the goods are sold only to members who are registered with the business and who purchase at a discounted price. In this case, a GST-registered direct selling company sells products to its members at four different tiers of discount (25 percent, 35 percent, 42 percent, and 50 percent) off the base value of the products, depending on the sale volume of these members and those of new members referred to Herbalife by such members. The members will in turn sell the products to consumers.

The Inland Revenue Authority of Singapore (IRAS) was of the view that the value of the consideration for the sale of the products to the members comprised both monetary consideration (the discounted price) and non-monetary consideration (services provided by members to Herbalife). Therefore, IRAS took the position that the value of the sale should be the open market value (OMV) of the products, and not merely the monetary consideration received. It accepted that the OMV of the products was the retail price of the products with a 25% discount.

The Singapore Goods and Services Tax Board of Review (GSTBR) ruled in favor of IRAS and set out two conditions under which the undertaking of obligations could constitute non-monetary consideration under the GST Act: (1) the undertaking or obligation must be independent of and not ancillary to the sale of goods; and (2) the undertaking or obligation must provide a benefit which goes beyond the monetary transaction. The GSTBR found that both conditions were satisfied in this case.

While the High Court broadly endorsed the two conditions proposed by the GSTBR in ascertaining whether an undertaking or obligation constitutes non-monetary consideration, it disagreed with the GSTBR's decision on their application to the case at hand. According to the High Court, regular terms of trade would not ordinarily be independent of (and not ancillary to) a sale of goods unless the provision of something non-monetary in exchange for such sale is contractually demanded. However, in the case at issue, the terms imposed by the taxpayer on its members do not require such members to provide marketing services to the taxpayer; instead, the terms were imposed for members to qualify to receive the sale, regulate the use of the products once obtained or regulate their conduct as members. Without more, these terms do not constitute non-monetary consideration. Moreover, the High Court held that for "benefits" to a seller to be non-monetary consideration, it must be provided by the recipient in exchange for the sale. Benefits arising from regular terms of trade do not ordinarily constitute non-monetary consideration. For something to be considered non-monetary consideration provided by the recipient of the sale of goods for the purposes of the GST Act, it must be sufficiently valuable and clear that it was provided by the recipient in exchange for the sale of goods. One indicator of such a "benefit" provided by the recipient would be a parity of value between the non-monetary "benefit" and the goods sold – i.e., the non-monetary "benefit" should bridge the discrepancy between monies paid and the regular price of the product in question. In this case, what was received by the taxpayer was the compliance of its members with the contractual terms of trade.

Such obligations were merely "by-products" or "results" of the membership agreement, and it was not sufficiently valuable and clear that such obligations were undertaken in exchange for the sale of goods. As there was no discernible non-monetary consideration provided for the sale of the products, GST should be chargeable based only on the value of monetary consideration.

Source: Singapore – Singapore High Court Provides Guidance on Application of Test for Identifying Non-Monetary Consideration under GST Act, (April 4, 2023), News IBFD.

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Trade & Customs (T&C)

European Union: Carbon Border Adjustment Mechanism Adopted by EU Parliament

On April 18, 2023, the European Parliament approved a reform of the Emissions Trading System (ETS) and the rules for the new EU Carbon Border Adjustment Mechanism (CBAM), as part of the agreements reached among EU countries in late 2022 on several key pieces of legislation that are part of the European Union's plan to reduce greenhouse gas emissions by at least 55 percent by 2030 compared to 1990 levels.

The EU ETS, which currently applies to limited energy-intensive, high-emitting industries, is a European market for emission rights based on a cap-and-trade system that sets an annual cap on the amount of greenhouse gases that companies in covered sectors may emit. This amount is covered by tradeable allowances. Within the cap, companies either receive emission allowances for free or buy them, and unused allowances can be sold or used the following year. The cap is gradually reduced over time to ensure emissions reductions, which also means that the market price for allowances may continue to rise, creating an incentive for companies to reduce their emissions. The approved ETS revision entails extending the scope to include maritime transport, phasing out free allowances, reducing the number of allowances in circulation, and creating a new, separate ETS ("ETS II") for the transport and real estate sectors to apply to road transport and the heating of buildings.

The reduction in the overall EU-wide quantity of EU ETS allowances in circulation will take place over two years, commencing in 2024, and the phase-out of free allowances will commence in 2026. Free allowance allocations for the aviation sector will be phased out by 2026, and the maritime sector will be included in the EU ETS through a phased-in approach commencing in 2024. ETS II for the buildings and road transport sectors and fuels for certain industrial sectors (such as manufacturing) will be established by 2027. However, the implementation may be postponed to 2028 to protect citizens if energy prices are exceptionally high.

The CBAM, which mirrors and is a supplementary measure to the EU ETS, imposes a charge on the embedded carbon content of certain imported products. This is equal to the charge imposed on the production of domestic goods under the ETS (net of free permits), with adjustments being made to this charge to include any mandatory carbon prices in the exporting country. CBAM aims to incentivize non-EU countries to increase the effective cost of emissions in countries exporting to the EU so that EU climate efforts are not undermined by production being relocated countries with less stringent climate policies. The CBAM will be phased in at the same rate that the free allowances in the ETS are phased out and will cover specified goods within the iron and steel, cement, aluminum, fertilizer, electricity, and hydrogen sectors.

During a three-year phase-in (beginning October 1, 2023) affected importers will be required to meet certain reporting obligations, with the first quarterly report due by January 31, 2024. Effective January 1, 2026, the CBAM will be fully operational and financial obligations will take effect. To read a report prepared by the KPMG International member firm in the Netherlands, please click here. To read a report prepared by the KPMG International member firm in Belgium, please click here.

European Union: World Trade Organization Decision on Indian Tariff on Information and Communication Technology Products.

On April 17, 2023, the European Commission announced that the World Trade Organization (WTO) has ruled in favor of the EU in a case challenging India's tariff on certain Information and Communication Technology (ICT) products. Beginning in 2014, India has phased-in customs duties of up to 20 percent on products such as mobile phones, mobile phone components and accessories, line telephone handsets, base stations, static converters, and electric wires and cables. The EU considered that these duties were in direct breach of WTO rules since India is required under its WTO commitments to apply a zero-duty rate to such products. The EU initiated the WTO dispute settlement case in 2019. The WTO found that India's tariffs were not in line with its WTO commitments and were illegal. India's tariffs could not be justified under any of the reasons India brought forward, and no mistake was committed when determining India's tariff commitments, including when the tariff lines nomenclatures were updated. For more information, please click here.

India: Amnesty Program for Non-Compliance with Export Obligations

The Indian government recently introduced a one-time amnesty program, under the "Foreign Trade Policy, 2023" to address non-compliance of export obligations by advance authorization (AA) and export promotion capital goods (EPCG) authorization holders. The program covers AA and EPCG licenses issued under Foreign Trade Policy 2009-14 up to March 31, 2015, and AA and EPCG licenses issued under Foreign Trade Policy 2004-09 and before, if the export obligation period is valid beyond August 12, 2013. The program excludes cases under investigation or cases involving fraud, misdeclaration, or unauthorized diversion of material/capital goods, and cases when duty and applicable interest are already deposited in full. Participants under the program may obtain a waiver of interest on additional customs duty and special additional customs duty, and penalties. For more information, please click here.

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In Brief

- **Andorra:**[xviii] On March 29, 2023, Andorra approved a law that introduced a new VAT refund regime for exporters and pharmaceutical companies with excess VAT credits at the end of a taxable period to claim an immediate refund. Further, the law introduces a VAT waiver for sports equipment temporarily brought into Andorra for use by professional and high-level athletes in Andorra.
- **Argentina:**[xix] On March 29, 2023, the Argentinean tax authority (AFIF) published General Resolution 5339 suspending, until December 31, 2023, the application of the regime allowing importers to be excluded from the advance collection (*percepción*) of income tax and VAT. Under normal operation, the Customs Administration (*Administración Nacional de Aduanas*) must

collect in advance income tax and VAT on the import of goods. When the advance collection may result in an overpayment of taxes, taxpayers may request a certificate (*certificado de exclusión*) from the AFIP to be excluded from the advance collection of income tax or VAT. As a result of the suspension, the Customs Administration is required to collect in advance income tax (at a 6 percent rate) and VAT (at a 20 percent rate for items subject to the general VAT rate of 21 percent, and 10 percent for items subject to the reduced VAT rate of 10.5 percent) on any import of goods made until December 31, 2023. However, the suspension does not apply to imports carried out by micro and small businesses, imports made on behalf of the government, or imports exempt from federal taxes.

- **Aruba:**[xx] On April 4, 2023, the Aruba Minister of Finance announced his intent to offer legislation to levy indirect taxes at the border and introduce a right for businesses to deduct the indirect taxes assessed on the import of commercial products.
- **Australia:**[xxi] On March 31, 2023, the Australian Taxation Office published guidance on GST considerations for buy-now, pay later providers. The guidance highlights key GST considerations for such providers include the GST classification of sales; apportionment methodologies and the calculation of GST credits; requirements to self-assess GST on cross-border acquisitions; consequences of significant and unusual transactions (e.g., public offerings, capital raising activities and costs associated with funding the buy-now, pay-later product); and the importance of a well-designed tax control framework.
- **Belgium:**[xxii] On April 18, 2023, Belgium enacted a bill transposing into Belgian law, the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Brazil:**[xxiii] On April 11, 2023, the Brazilian Federal Revenue Service announced a proposal to end the $50 de minimis exemption for online purchases of goods from foreign vendors. If enacted, Brazil will impose tax on cross-border e-commerce transactions regardless of the value.
- **Cabo Verde:**[xxiv] On March 14, 2023, the tax authority of Cabo Verde (DNRE) clarified that the electronic tax documents (DFE) should be issued in all commercial transactions, including in the industrial, agricultural, fishing; services, and real estate sectors. The requirement was first imposed in 2021. The DNRE further reminded taxpayers that a public e-invoicing issuance system is available for taxpayers that have difficulties issuing DFEs via their own solutions or do not intend to acquire a third-party software for issuing and sharing DFEs with their business partners.
- **Cyprus:**[xxv] On April 19, 2023, the European Commission announced that it has closed the infringement procedure against Cyprus for failing to transpose the "Buy and Donate" directive, and the VAT e-commerce package into national law. The "Buy and Donate" directive introduces a temporary VAT exemption to enable the European Commission and EU agencies to buy goods and services and to distribute them free of charge to Member States in connection with the COVID-19 pandemic. The VAT e-commerce package seeks to simplify cross-border online transactions within the European Union and create a fair market for non-EU vendors by removing the VAT exemption for low-value imports.
- **Egypt:**[xxvi] The Egyptian Tax Authority announced that from July 2023 taxpayers will be able to claim VAT credits and refunds only if they are supported by e-invoices.
- **European Union:**[xxvii] The European Commission published comments received from stakeholders during the consultation period for its VAT in the digital age (ViDA) initiative. (For KPMG's previous discussion on the ViDA proposal, click here.) While the feedback to the proposals is mostly positive, several stakeholders called for stronger intra-EU harmonization and highlighted that the timetable for introducing the changes — some as early as 2024 — is unrealistic.

- **European Union:**[xxviii] On April 13, 2023, the European Commission adopted an implementing regulation regarding the DAC 7 rules, which requires platform operators located both inside and outside the EU to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. The regulation establishes rules to exempt platform operators outside the EU reporting requirements when performing commercial activities in the EU. Specifically, the regulation establishes the criteria for assessing and determining the extent to which the national law of a non-EU jurisdiction and an agreement between the competent authorities of a Member State and a non-EU jurisdiction ensures that the information automatically received by that Member State relates to the activities within the scope of the directive and is equivalent to the information required under the DAC7 reporting rules.
- **European Union:**[xxix] On April 17, 2023, the Committee on Budgets of the European Parliament (BUDG Committee) published a report "Own resources: a new start for EU finances, a new start for Europe" calling for a reform of the budget revenue policy in the European Union and the diversification of its financing sources. In the context of tax-based own resources, the report proposes a financial transaction tax, a European tax on crypto assets, a digital levy, or a similar measure if there is a clear lack of progress at the OECD level toward the multilateral convention by the end of 2023, and a "fair border tax" requiring companies importing goods into the EU to pay a levy for any workers in their global supply chain who are paid very low daily wages.
- **Finland:**[xxx] On April 13, 2023, the Finnish Tax Administration published an updated VAT guide covering the increase of the VAT registration threshold from EUR 10,000 to EUR 15,000 for financial years beginning on or after January 1, 2021. The guide covers the exclusion from the gross receipts calculation for certain sales made due to the coronavirus pandemic to EU agencies or the European Commission (EC), a clarification that goods for self-use are considered sales for VAT purposes, and a clarification of the calculation of the three-year period for calendar year taxpayers to report information related to the relief.
- **France:**[xxxi] On April 19, 2023, the French Ministry of Economy and Finances announced implementation of an e-invoicing and digital reporting pilot program that will run for the first six months of 2024. The pilot program is intended to test and confirm in real conditions, the proper functioning of the e-invoicing and digital reporting systems before they become mandatory for large businesses on July 1, 2024. The pilot program will involve all the participants and elements of the system, such as the Public Invoicing Portal (Portail Public de Facturation—PPF), the Private Partner Platforms (Plateforme de Dématérialisation Partenaire—PDP), business users, and authorized providers of invoicing solutions. Applications must be submitted through the French tax authority's website by June 26, 2023. For more information, click here.
- **Germany:**[xxxii] On April 17, 2023, the German Ministry of Finance issued for consultation a discussion document on a proposal to implement an e-invoicing mandate for business-to-business (B2B) transactions effective 2025. The proposal would be based on the framework of the VAT in the Digital Age (ViDA) proposal of the European Commission. E-invoices would not require validation by the government before being sent to the customer. The exchange of e-invoices would take place either via a government e-invoice platform or private e-invoice platforms with requirements that the invoice data is sent to the tax authorities simultaneously with that to the customer. For more information, click here.
- **Greece:**[xxxiii] On April 12, 2023, the Greek tax authority published a circular explaining that the VAT relating to rebate amounts of pharmaceutical companies, which had been deducted from the gross revenues in previous tax years, is to be refunded in subsequent tax years.

- **Guatemala:**[xxxiv] On March 31, 2023, the tax authority of Guatemala extended the deadline for small taxpayers to comply with the electronic invoice system regime (*Régimen de Factura Electrónica*, FEL) from March 31, 2023 to July 1, 2023. Any non-electronic invoice document issued after July 1, 2023 by companies or individuals registered under the small taxpayer regime will be considered invalid.
- **Hungary:**[xxxv] On April 20, 2023, the European Commission published a proposal for a Council Implementing Decision that would authorize Hungary to increase its VAT registration threshold from EUR 48,000 to EUR 71,500, through December 31, 2024.
- **Italy:**[xxxvi] On March 25, 2023, Italy published a law transposing the DAC7 requirements into national law. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information.
- **Italy:**[xxxvii] On April 6, 2023, the Italian tax authority published Circular No. 8/E clarifying the VAT treatment of goods and services provided to the armed forces as well as goods imported by the armed forces. The circular explains that qualifying sales of goods and services to North Atlantic Treaty Organization (NATO) forces and armed forces of EU Member States taking part in defense efforts under the common security and defense policy (CSDP) are zero-rated. Qualifying imports may also be exempted in certain cases. This VAT treatment applies from July 1, 2022.
- **Japan:**[xxxviii] On April 17, 2023, the Japanese tax authority published a notice on revision of the Japanese consumption tax (JCT) qualified invoice system, which is effective October 1, 2023. The notice allows tax-exempt businesses that become invoice issuing businesses to temporally consider that they are liable for JCT only on 20 percent for the period between October 1, 2023 and September 30, 2026. The notice further clarifies that small businesses are not required to have a qualified invoice for JCT deduction purposes for purchases below JPY 10,000 made between October 1, 2023, and September 30, 2029. In addition, sales below JPY 10,000 are exempt from the qualified invoice requirement between October 1, 2023, and September 30, 2029. Finally, the notice facilitates the registration of taxpayers as issuers of qualified invoices, especially when those taxpayers are registered as tax-exempt businesses.
- **Kyrgyzstan:**[xxxix] Kyrgyzstan enacted Law No. 78 of 3 April 2023, which, among other things, authorizes the Cabinet of Ministers to establish categories of taxpayers of national, state, or investment importance to which preferential income tax, VAT, and sales tax benefits may be granted. The Law further introduces a VAT exemption on imports of fixed assets by taxpayers carrying out activities in the field of oil refining and chemical and petrochemical production and on resident enterprises that sell vehicles manufactured in Kyrgyzstan. The Law further exempts residents of the High Technology Park from the obligation to self-assess VAT when foreign legal entities provide services that are considered to have been provided in Kyrgyzstan. Finally, the Law creates a special tax regime for activities in trade zones with enterprises in such zones released from the obligation to use cash registers and required to pay tax in equal monthly installments, with the tax amount determined based on annual gross receipts.
- **Lithuania:**[xl] Lithuania has amended its domestic DAC7 rules to fully capture the EU DAC7 Directive. The amendments include changes to the definitions and filing requirements. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information.

- **Luxembourg:**[xli] On April 21, 2023, Luxembourg's Council of Ministers enacted a bill that transposes into Luxembourg law, the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Malaysia:**[xlii] The Malaysian government plans to phase in e-invoicing, starting with a pilot program in 2024. Malaysia intends to require e-invoices by all businesses in all industry sectors. This requirement will first apply to larger businesses, with gross receipts of at least MYR 100 million, starting from June 2024. The mandate will then be expanded each January as follows: (1) businesses with gross receipts of more than MYR 50 million from 2025, (2) businesses with gross receipts of more than MYR 25 million from 2026, and (3) to all businesses regardless of gross receipts from 2027. The government is expected to establish a uniform format for e-invoices, and businesses will be required to link their systems with the tax authority's platform to enable real-time reporting and oversight.
- **Maldives:**[xliii] On February 22, 2023, the Maldives tax authority published a regulation requiring GST-registered taxpayers to collect plastic bag fees effective April 18, 2023. The regulation further sets the procedure for computation and collection of the fee, filing returns and making payment, and penalties for failure to comply with the obligation.
- **Malta:**[xliv] On April 4, 2023, Malta published Law No. XII/2023 implementing the 2023 budget measures. Among other things, the law limits the registration tax exemption regime for qualifying electric and plug-in vehicles to those with an electric range of not less than 50 km, sets tax rates and calculation methods for vehicle registration tax, increases the monthly penalty of EUR 10 to EUR 50 for failure to timely submit required VAT statements (capped at EUR 600 per statement), and establishes a penalty for failure to timely file VAT declarations. The law generally takes effect upon publication.
- **Netherlands:**[xlv] On April 18, 2023, the Netherlands enacted a bill that transposes into Dutch law the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Netherlands:**[xlvi] On April 13, 2023, the Netherlands accepted for consideration Bill No. 36342, which would establish VAT deductions for qualifying sale of food and drinks by hotel and catering companies, and a reduced VAT rate on specific services if adopted.
- **New Zealand:**[xlvii] On April 4, 2023, the New Zealand tax authority published guidance on recent changes to the GST apportionment and adjustment rules under the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023. The new apportionment and adjustment rules are intended to reduce compliance costs and better align them with current taxpayer practices. The new rules include (1) introduction of a principal purpose method for goods and services acquired for NZD 10,000 or less (GST exclusive) that allows a registered person to claim a full GST deduction (instead of apportioning the deduction based on the percentage taxable use); (2) reducing the number of adjustment periods that GST-registered persons must monitor their percentage actual use of assets and make annual adjustments to ten years for land and two years for goods and services acquired for between NZD 10,000 to NZD 20,000 (GST exclusive); and (3) allowing GST-registered persons to elect to treat certain goods that have mainly private or exempt use, such as dwellings, as if they only had private or exempt use.
- **Poland:**[xlviii] Poland's lower house of parliament recently adopted the SLIM VAT 3 reform, which is intended to further simplify and accelerate VAT settlements, improve liquidity, and reduce formalities for companies in international trade. To read KPMG's previous discussion of the Slim VAT 3 package, please click here.

- **Poland:**[xlix] The Polish government recently released draft regulations for the introduction of a VAT self-assessment regime for domestic sales of gas, electricity, and emissions permits on an exchange between April 1, 2023 and February 28, 2025.
- **Romania:**[l] On March 30, 2023, Romania published Order No. 347/2023 amending the VAT registration and cancellation procedures and allowing the tax authority to cancel a VAT registration in ex-officio proceedings.
- **Saudi Arabia:**[li] On April 9, 2023, the Saudi Arabia Zakat, Tax and Customs Authority (ZATCA) published a public consultation document proposing an amendment to the VAT implementing regulation. The proposal amends paragraph 5 of Article 75 to allow ZATCA to issue binding, rather than only advisory rulings.
- **Singapore:**[lii] The IRAS published an updated e-Tax Guide, GST: Clarification on "Directly in Connection With" and "Directly Benefit" (Sixth Edition).GST: Clarification on "Directly in Connection With" and "Directly Benefit" (Sixth Edition). The guide clarifies the interpretation and application of the terms "directly in connection with" and "directly benefit" used in certain provisions on the zero-rating of services. "Directly in connection with" is used for services that have a direct effect on goods or land. "Directly benefit" is used in the context of persons that derive direct benefits from the services. Under the GST Act, a provision of services is zero-rated if the services are international services. A provision of services is regarded as international services if it falls under any of the services described in the GST Act. However, zero-rating will not apply to services where there is a direct connection between the provision of the services and goods, or land situated in Singapore or if there are local persons who derive direct benefits from the services.
- **Sint Maarten:**[liii] On March 31, 2023, Sint Maarten proposed to introduce a tourist tax in the form of a visitor entry tax, excluding residents and transfer/transit passengers, as well as an accommodation tax on accommodation platform operators.
- **South Africa:**[liv] On April 14, 2023, the South African tax authority published an updated VAT guidance for nonresident digital services providers. The updated guide introduces an exception when calculating the ZAR 1 million registration threshold if a nonresident digital services provider exceeds the ZAR 1 million threshold solely because of abnormal circumstances of a temporary nature.
- **Türkiye:**[lv] On April 1, 2023, Türkiye published General Communiqué No. 46 clarifying certain VAT rules. Among other things, the Communiqué clarifies that services purchased by the post office for the fulfillment of postal works are subject to VAT withholding. Moreover, VAT refunds arising from services subject to VAT withholding are refunded in cash or by credit with a full certification report to be issued by a sworn-in certified public accountant. The Communiqué further clarifies the VAT exemption for UEFA, football clubs, and other entities that do not have a permanent establishment, legal seat, or place of management located in Türkiye. Finally, the Communiqué introduces a minimum amount of TRY 2,000 for VAT refund claims.
- **Zambia:**[lvi] The Zambian government recently published the 2023 budget. Among other things, the budget extends until June 30, 2023 (from March 31) the current general tax amnesty program which provides a waiver of penalties and interest on tax debts owed as of September 30, 2022. As of March 31, the amnesty had yielded the equivalent of USD 131 million in revenues.

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About Inside Indirect Tax

Inside Indirect Tax is a monthly publication from the KPMG U.S. Indirect Tax practice. Each issue contains updates on indirect tax changes and trends that are relevant to tax professionals at U.S. companies with global locations.

Footnotes

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v. Finland – Government Proposes VAT Exemption for Certain NATO Supplies, (April 20, 2023), News IBFD

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viii. Ireland – Ireland Announces 0% VAT for Supply, Installation of Solar Panels from 1 May 2023, (April 11 2023), News IBFD

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