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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Global Rate Changes

- **Barbados:**[i] On March 18, 2024, the Barbados Prime Minister announced the 2024-2025 budget. The budget proposes to extend the application of the reduced VAT rate on electricity of 10 percent for the first 250 kilowatt-hours for residential customers until September 30, 2024. It also proposes a two-year extension on the exemption of import duty and VAT, on purchases and installations of generators and transfer switches at residential homes, regardless of fuel type and to exempt from VAT sales and installations of water tanks, septic tanks, and electrical pumps for all residential properties for two years.
- **Croatia:**[ii] Effective April 1, 2024, Croatia extended the period of application of the 5 percent reduced VAT rate on natural gas, district heating, firewood, pellets, briquettes, and wood chips, through March 31, 2025.
- **Denmark:**[iii] On March 3, 2024, Denmark proposed to introduce a VAT zero-rate on domestic flights. If enacted, the regime will apply from January 1, 2025. The measure is intended to provide equal tax treatment for domestic fares as with certain international fares, which are already subject to a VAT zero-rate regime.
- **European Union:**[iv] On March 4, 2024, the European Commission extended through December 31, 2024, an authorization allowing Latvia, Lithuania, Poland, Romania, and Slovakia to apply import duties and VAT exemptions on goods intended for refugees from the Russia-Ukraine conflict. For the exemptions to apply, these goods must be distributed free of

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charge by approved government, charitable, or philanthropic organizations or made available for free while remaining the property of these organizations. The Member States must report details about the goods, the authorized organizations, and measures taken to ensure the goods are used for the intended purpose. They must also implement risk management and customs control measures to prevent irregularities and ensure compliance.

- **Hungary:**[v] On March 20, 2024, the Hungarian tax authority published guidance clarifying the application of the 18 percent reduced VAT rate to cheese products. It clarified that the reduced rate applies specifically to "cheese products of a dessert nature," which are products covered by tariff numbers 1806 and 2106. Tariff 1806 applies to quark or cheese-based products containing chocolate or cocoa, while 2106 covers transformed quark or cheese products. For the reduced rate to apply, the product's name is irrelevant; the classification depends on its sensory characteristics, composition, and production process. The reduced VAT rate applies only if the tax point is on or after January 1, 2024.
- **Isle of Man:**[vi] On March 5, 2024, the Isle of Man Treasury announced that reusable period underwear falls within the definition of "women's sanitary products" and is therefore subject to the VAT zero-rate effective from January 1, 2024.
- **Ireland:**[vii] On March 4, 2024, the Irish Revenue issued Tax and Duty Manual – Fixtures and Fittings has confirming that fixtures and fittings are subject to the standard VAT rate whereas the installation of fixture and fittings attracts the 13.5 percent reduced VAT rate. The application of the reduced VAT rate to the sale and installation of a fixture is subject to the two-thirds rule.
- **Israel:**[viii] On March 11, 2024, the Israeli parliament approved a proposal to increase the country's standard VAT rate from 17 percent to 18 percent, effective from 2025.
- **Jamaica:**[ix] On March 12, 2024, the Jamaican Minister of Finance presented the 2024/25 budget to parliament. The budget includes measures to extend the General Consumption Tax (GCT) exemption, which currently applies to domestically produced raw foodstuffs, to also include imported raw foodstuffs. Additionally, it proposes to eliminate the GCT on the import of armored vehicles valued above $33,000, as well as on the additional cost of armoring vehicles.
- **Laos:**[x] Laos reinstated its standard VAT rate from 7 percent to 10 percent, effective from April 2024. The rate was initially cut to 7 percent, with effect from January 1, 2022, to boost the economy in response to the COVID-19 pandemic and to encourage more businesses to register for VAT.
- **Malaysia:** On March 11, 2024, Malaysia published guidance on the service tax exemptions for certain logistics services. The guidance states that certain logistics services are exempt from service tax, including those for directly exported goods, transshipment and transit activities, door-to-door services, and food and beverage delivery via e-commerce. It also expands the business-to-business (B2B) exemption for logistics services to include services related to the main service. For instance, freight forwarders are not only exempt from service tax on freight services for B2B purposes, but also on other acquired services like warehousing, port, shipping, and cold chain facilities that are part of the same item as the freight service. To read a report prepared by the KPMG International member firm in Malaysia, click here.
- **Malta:**[xi] On March 5, 2024, the Maltese tax authority published guidance on the application of the VAT zero-rate on devices and aids, including related goods, which are essential to compensate or overcome disability in humans. The guidance clarifies that the VAT

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zero-rate applies to devices purchased or imported by recognized non-profit organizations, effective from January 1, 2024; and does not apply to sales made by those organizations. If a non-profit organization provides goods, which are subject to the zero-rate regime, to a person in return for a donation or any other payment, that payment will be considered the consideration received for the goods. The standard VAT rate will apply to this consideration, which is limited to the open market value of the goods.

- **Malta:**[xii] On March 12, 2024, the Maltese tax authority published a guidance clarifying the application of the 12 percent reduced VAT rate for securities portfolio management services, effective from January 1, 2024. It clarified that the reduced rate applies to services involving the management of a client's securities investment portfolio, either on a discretionary or advisory basis. The reduced rate does not apply to services related to the provision of advice to persons on matters such as capital structure, corporate strategy, and similar topics, or advice and other services related to mergers and the purchase of undertakings. The guidance also clarifies how the reduced rate interacts with the financial services exemptions in the VAT Act. It stipulates that services consisting of the reception, execution, and transmission of orders to buy and sell securities are regarded as exempt if consideration is charged strictly for such services on a transaction-by-transaction basis, even if any management services are provided, and this is reflected in the respective contractual and billing arrangements. However, if these services are part of a package charged as a combined percentage fee on assets under management, they are considered a single economic transaction and are subject to the reduced 12 percent VAT rate.
- **Poland:**[xiii] On March 1, 2024, the Polish Minister of Finance published a draft regulation to apply an 8 percent reduced VAT rate to beauty treatments, pedicure, and manicure services (including those rendered at home) and other beauty treatment services. To read a report prepared by the KPMG International member firm in Poland, click here.
- **Romania:**[xiv] On March 13, 2024, the Romanian Ministry of Finance launched a public consultation on a draft bill to amend the VAT zero-rating regime that applies to goods and services provided to public hospitals, introducing additional conditions for eligibility. Currently, VAT at zero percent applies to construction, modernization, and rehabilitation services provided to recognized non-governmental organizations (NGOs) for hospitals, and for the delivery of medical equipment and related goods. The proposed amendments introduce additional conditions for eligibility, including the requirement for NGOs making the acquisitions to provide them free of charge to public hospitals. The regime is also extended to acquisitions made by companies wholly owned by NGOs, under certain conditions. However, in this situation the transaction would be VAT exempt, as opposed to a zero-rated, as companies wholly owned by NGOs cannot deduct the VAT for such acquisitions.
- **Sri Lanka:** On March 20, 2024, Sri Lanka enacted amendments to its VAT law, including measures to increase its standard VAT rate from 15 percent to 18 percent, effective from January 1, 2024. To read a report prepared by the KPMG International member firm in Sri Lanka, click here.
- **Sweden:**[xv] Following Sweden's admission into the North Atlantic Treaty Organization (NATO) on March 7, 2024, the Swedish Ministry of Finance initiated a consultation on March 27, 2024, on a proposal to grant a VAT relief to visiting NATO troops, effective from August 1, 2024. If approved, this proposal would allow NATO troops to apply for a VAT refund on the purchase of goods and services in Sweden that are used for collective defense efforts.

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The proposed provisions would apply to goods and services utilized by visiting NATO forces and the civilian personnel accompanying them. Additionally, the proposal would extend a VAT exemption to the import and intra-EU acquisition of goods intended for use by the military in joint defense initiatives.

- **Sweden:**[xvi] Effective January 1, 2025, Sweden amended its VAT law to provide that sales of artwork will be subject to a 12 percent reduced VAT rate, whether sold by the artist or their estate. However, the reduced VAT rate when the transaction is subject to the margin regime.
- **Singapore:**[xvii] The Inland Revenue Authority of Singapore has updated its guidance on the Transitional Rules for GST Rate Change. Singapore increased its GST rate from 7 percent to 8 percent from January 1, 2023, with a further increase to 9 percent from January 1, 2024. The updates include an updated version of the IRAS e-Tax Guide 2024 GST Rate Change: A Guide for GST-registered Businesses (Third Edition), as well as new Frequently Asked Questions for Businesses – GST rate change 2024.
- **Switzerland:**[xviii] The Swiss government recently announced that it is considering measures to fund increased pensions approved by the Swiss public, including raising the VAT rate by 0.4 percent.

Digitalized Economy Indirect Tax Updates

Angola: VAT on E-Commerce Transactions

On December 28, 2023, Angola published Law No. 14/23, which, among other things, introduces new VAT rules aimed at e-commerce transaction. The law states that sales of goods are taxable in Angola if the buyer has its headquarters, residence, or permanent establishment in Angola, or if a locally established financial institution facilitates the payment within the national territory. This applies regardless of whether the goods are shipped from within Angola or from abroad. Therefore, if a nonresident entity sells goods to a buyer in Angola, or if the payment occurs within the national territory, the law considers the sale as located in Angola, and the Angolan VAT rules apply.

The current wording of the law suggests that it applies to both business-to-consumer (B2C) and business-to-business (B2B) sales. However, the law does not impose any specific compliance obligation on digital platforms facilitating the sale of goods, nor does it clarify the interplay of the VAT rules with the import rules, as customs typically assess VAT during the clearance process.

Given the broad nature of these rules, it is anticipated that the Angolan tax authorities will issue additional implementing rules, especially concerning the establishment of a simplified registration mechanism for nonresident companies conducting e-commerce sales in Angola. For more information, click here.

Chile: Proposal to Introduce VAT Liability for Sales of Low Value Goods

On January 29, 2024, the Chilean government submitted a tax reform bill to parliament, which, among other things, proposes the introduction of a new VAT liability for sales of goods valued below $500, imported from outside the country and sold to consumers in Chile. If approved, the Chilean tax authority is expected to issue further guidance to clarify the proposed regime.

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The bill would establish a presumption that foreign goods valued up to $500, purchased by a Chilean consumer, are intended for use within Chile and therefore subject to VAT at the point of sale. As a result, the importation of such goods would be exempt from VAT. The proposal would not extend to domestic sales of goods, which would continue to adhere to the standard VAT rules. For sales made to business customers (B2B sales), the customers would be required to self-assess and remit the applicable VAT.

The bill further proposes to expressly introduce marketplace rules that deem the marketplace/platform as the actual seller of the underlying goods (or services) it facilitates. Currently, digital platforms are liable for VAT on sales of services they facilitate from overseas sellers based on guidance published by the tax authority. The bill would formally implement this requirement into the law and expand it to platforms facilitating sales of goods.

The bill would expand the current simplified compliance mechanism applicable to overseas sales of B2C services to sales of LVG. As a result, there would be no registration threshold and registration under the simplified VAT regime by itself does not create a permanent establishment for income tax purposes. For more information, click here.

European Union: ECJ Referral on Platform VAT Liability

On February 7, 2024, the Court of Justice of the European Union (ECJ) published a referral from the German Federal Tax Court (Bundesfinanzhof—BFH), Case *Finanzamt Hamburg-Altona* C-101/24. The case pertains to the VAT obligations of digital platforms prior to the introduction of the VAT rules for digital services and digital platforms from January 1, 2015. The German-based taxpayer, a developer and seller of game apps for mobile devices, uses an app store operated by an Irish-based company, X, for distribution. The dispute arose over the VAT treatment of in-app purchases made from 2012 to 2014, before the digital services rules and digital intermediation rules were introduced.

The taxpayer initially considered themselves as the service provider to the end customers and declared German VAT for sales made to these end customers that are resident in the EU. However, they later changed their view, believing that they provided their services to X, and X provided the services to the end consumers. The German tax authorities, however, view X only as a disclosed agent providing a service to the German developer. The tax authorities issued VAT notices for the tax periods 2012 to 2014, in which the changes declared by the plaintiff were not considered. The BFH has asked the ECJ to clarify whether under the pre-2015 rules the app-store can be considered as an undisclosed agent and if yes whether the deemed sale to the app-store is sourced where the customer is located or where the underlying transaction takes place. For more information, click here.

Japan: Digital Platforms Liable for Consumption Tax Effective April 1, 2025

On March 28, 2024, the Japanese parliament approved the 2024 tax reform bills, with the related law, cabinet orders, and ministerial ordinances promulgated on March 30, 2024. Among other things, from April 1, 2025, nonresident "specified platform operators" will be responsible for collecting and remitting Japanese consumption tax (JCT) on sales of digital services to final consumers (B2C) they facilitate for nonresidents. A nonresident qualifies as a "specified platform operator" if the total amount for B2C digital services provided by foreign vendors via the platform exceeds JPY 5 billion during the taxable period. The "taxable period" usually corresponds to a fiscal year. However, the JCT system permits taxpayers to choose a reduced taxable period, such as 3 months or 1 month. In such instances, the reduced period is considered the taxable period for JCT purposes. However, for the JCT platform taxation rules, the JPY 5 billion threshold is calculated on a yearly basis.

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Such platform operators must notify the National Tax Agency (NTA) by the due date of a final consumption tax return for the taxable period. The official recognition as a specified platform operator becomes effective six months after this due date. Once designated, the operator must inform nonresident vendors using the platform of its status. If designated by the NTA by December 31, 2024, the operator will be treated as a specified platform operator from April 1, 2025. The law includes transitional rules to determine the specified platform operator status in the initial year. While penalties for non-compliance with this notification obligation are currently undefined, the NTA retains the authority to designate a non-compliant platform operator as a specified platform operator.

Laos: VAT on Cross-Border Provision of Digital Services

On February 14, 2024, the Lao Tax Department (LTD) issued Instruction No. 0558, which imposes VAT of 10 percent on the provision by a nonresident of digital services to customers in Laos effective August 1, 2024. Digital services include a broad range of services provided over the Internet, including online games, mobile application services, and online advertising, but excludes services requiring human involvement such as live teaching and consulting. The regime applies to covered services made to both businesses (B2B sales) and final consumers (B2C sales) located in Laos. In the case of services provided via a digital platform, the operator of the platform will be considered the provider and will bear the responsibility of charging and collecting VAT for sales made by third-party resident and nonresident vendors.

The Instruction does not include a registration threshold. Once the activity falls within the scope, the nonresident must register and secure a tax identification number (TIN) from the LTD. VAT filings are to be submitted via the LTD portal. VAT returns and corresponding payments are required three times per year. The regime requires taxpayers to issue VAT invoices to B2B customers but not B2C customers. In addition to the standard penalty provisions in the tax code, the LTD has the authority to propose a temporary suspension or termination of the digital trade and digital service channels for those who violate the Instruction. For more information, click here.

Philippines: Proposed Legislation Regarding VAT on Cross-Border Provision of Digital Services

On February 6, 2024, the Philippines Senate accepted Senate Bill (SB) No. 2528 for consideration, which would require nonresident digital services providers to register for and collect VAT. Digital services refer to any service provided over the internet or other electronic networks using information technology and when the transaction is essentially automated. However, certain services would be exempt from the regime, including educational services, services of banks, and non-bank financial intermediaries.

Nonresident digital services providers would be required to charge and collect VAT for their services made to final consumers (B2C sales). For services made to businesses (B2B sales), the business customers would be required to self-assess and remit the applicable VAT. If a VAT-registered nonresident digital services provider is classified as an online marketplace or e-marketplace, it would be liable to remit the VAT on the transactions of nonresident sellers that go through its platform if it controls key aspects of the transaction. A nonresident digital services provider would be required to register for VAT if its gross sales exceed PHP 3 million in a 12-month period. For more information, click here.

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Zambia: VAT on Cross-Border Provision of Digital Services

On February 23, 2024, the Zambian tax authority published the Value Added Tax (Cross Border Electronic Services) Regulations, 2024. These regulations require non-resident digital services providers to register for, collect, and remit VAT using a simplified registration system. Historically, Zambia required non-resident digital services providers to appoint a local tax agent to comply with their VAT obligations. However, due to a lack of clarity of this VAT obligation, Zambia amended the VAT obligations for non-resident digital services providers under the Finance 2024.

The regulations define digital services as services provided or delivered on or through the internet, an electronic, or a digital network. Non-resident digital services providers are required to account for VAT for both business-to-business (B2B) and business-to-consumer (B2C) sales. Non-resident digital services providers are required to register if they exceed a threshold of ZMW 800,000 per annum or ZMW 200,000 per quarter for sales arising from Zambia. The registration can be done through the dedicated online portal. For more information, click here.

Other Developments

- **European Union:**[xix] On March 5, 2024, the European Union published the Opinion of the European Economic and Social Committee (EESC) on the Proposal to amend VAT rules for taxpayers facilitating remote sales of imported goods. The Proposal, presented on May 17, 2023, by the European Commission, is part of a comprehensive reform of the EU Customs Union to address the rise in trade volume, particularly in e-commerce, and the increasing number of EU standards to be checked at the border. The EESC supports the Proposal, highlighting the need to adapt the VAT system to the growth of e-commerce to reduce compliance burdens. It endorses the removal of the EUR 150 Import One-Stop Shop (IOSS) threshold and believes the new rules will facilitate wider access to the IOSS, encouraging small operators to engage in cross-border activities. The EESC also emphasizes the importance of clear definitions to identify when platforms are acting solely in their own interest and capacity. It recommends eliminating the customs duty exemption threshold of EUR 150 to reduce fraudulent practices. The EESC urges the adoption of the Proposal, highlighting its significant benefits in addressing VAT complexities in e-commerce. The Proposal will now be sent to the European Parliament and the Council of the European Union for consultation and approval.
- **Ireland:**[xx] On March 14, 2024, the Irish Revenue released eBrief No. 079/24, outlining the registration and filing under the EU Directive that requires EU payment service providers (PSPs) to report on cross-border payments and their recipients, effective January 1, 2024. Under this directive, payment service providers in EU Member States must report certain information about the cross-border payments they facilitate. This information typically includes details about the payer, the payee, the payment amount, and the transaction date. This information is then shared by EU Member States through the Central Electronic System of Payment information (CESOP). The registration facility for CESOP filers opened on February 1, 2024, in the Revenue Online Services (ROS). Non-resident PSPs must complete a two-step verification process when registering for CESOP in Ireland, advised to start at least a month before the first filing deadline of April 30, 2024. PSPs can use the ROS process to certify agents or service providers to file CESOP reports on their behalf.

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- **New Zealand:** On March 28, 2024, New Zealand published the Taxation (Annual Rates for 2023-24, Multinational Tax, and Remedial Matters) Act 2024, which, among other things, introduces a new 12 percent duty on the offshore gambling profits of online gambling operators that promote such services to New Zealand consumers. The offshore gambling duty will apply from July 1, 2024, to online gambling operators that are subject to and are required to be register in New Zealand under the goods and services tax (GST) remote services rule. Offshore gambling profits are calculated by subtracting any amounts of "offshore betting amounts" on which the offshore operator is required to pay "consumption charges" to the Department of Internal Affairs. Consumption charges are 10 percent on betting on sports and racing by New Zealand residents conducted through offshore operators. In addition, the Act introduces a transitional rule to remove the need for digital platform operators to deduct GST on sales of accommodation through the platform, if the contract for the accommodation services was entered into before April 1, 2024, and the service is provided after that date. To read a report prepared by the KPMG International member firm in New Zealand, click here.
- **OECD:**[xxi] On March 12, 2024, the Organization for Economic Cooperation and Development (OECD) updated and published the list of signatories for the Multilateral Competent Authority Agreement on Automatic Exchange of Information on Income Earned Through Digital Platforms (DPI-MCAA). The agreement will allow jurisdictions to automatically exchange information collected by operators of digital platforms with respect to transactions and income realized by platform sellers in the sharing and gig economy and from the sale of goods through such platforms.
- **Romania:**[xxii] On March 5, 2024, Romania published Law No. 33/2024, which implements the EU Directive that requires payment service providers to report on cross-border payments and their recipients, effective January 1, 2024. Under this directive, payment service providers in EU Member States must report certain information about the cross-border payments they facilitate. This information typically includes details about the payer, the payee, the payment amount, and the transaction date. This information is then shared by EU Member States through the CESOP. In addition, the Law aligns the One Stop Shop VAT return filing deadline with European Commission recommendations, setting it as the last calendar day of the month, regardless of whether it is a non-working day. Previously, if the deadline fell on a non-working day, it moved to the next working day.
- **United Kingdom:** On March 6, 2024, the UK tax authority (HRMC) launched a consultation on the implementation of the OECD's Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard. The consultation aims to gather views on the UK's approach to these international tax standards and invites input on optional elements and practical implementation. The proposed changes include the introduction of a new framework for automatic exchange of tax-relevant information on crypto-asset transactions, amendments to the Common Reporting Standard, and consideration of extending these international standards to require UK reporting entities to include information on UK residents.

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- **United States:**[xxiii] On March 12, 2024, the Office of the United States Trade Representative issued an updated joint statement between the United States and Türkiye. Given the revised timeline for the adoption and signature of the OECD's Pillar One Multilateral Convention, both countries have decided to extend the political agreement, initially set forth in the joint statement on November 22, 2021, until June 30, 2024. Under this agreement, Türkiye will provide tax credits to U.S. companies subjected to its Digital Services Tax (DST) against any future income tax liabilities under the OECD Pillar One's amount A rules once implemented. In exchange, the United States, which views DSTs as discriminatory against U.S. companies, agreed to withdraw proposed retaliatory tariffs on some U.S. imports of goods from Türkiye. The U.S. government also promised not to take further trade action against Türkiye because of its DST until the interim period ends.

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 where discussion of the taxation of the digitalized economy is anticipated.

E-Invoicing Updates

Germany: Phased-In Introduction of Mandatory E-Invoicing

On March 27, 2024, Germany published the Growth Opportunities Act, which, among other provisions, introduces a mandatory e-invoicing for domestic transactions. The mandate will be phased-in as follows:

- Beginning January 1, 2025, businesses must be able to receive invoices in an electronic format. However, until December 31, 2026, businesses can still issue invoices in non-electronic formats if the invoice recipient agrees.
- From January 1, 2027, businesses with annual revenues over EUR 800,000 must issue structured e-invoices; and
- From January 1, 2028, all businesses in Germany must issue structured e-invoices.

Other Developments

- **Bolivia:** On March 8, 2024, the tax authority of Bolivia issued guidance RND N°102400000009 incorporating the definition of "control of invoices and observed fiscal notes" in RND No. 10-0032-16. This corresponds to the specific control of differences identified in the registry of purchases and sales (RCV) that may be corrected through the "observed invoices correction and payment module" available in the SIAT Online option. In addition, the tax authority approved electronic payment slip 1024, which is available in the "correction and payment of observed invoices module" of the SIAT option, for the purposes of making voluntary payment based on the correction of invoices in the RCV. To read a report (in Spanish) prepared by the KPMG International member firm in Bolivia, click here.
- **El Salvador:**[xxiv] On February 29, 2024, the Congress of El Salvador enacted Decree 960/2024. This decree mandates that any e-invoice or printed invoice issued by authorized companies for amounts of USD 25,000 or more must include the buyer's name and tax ID. This requirement applies to transactions involving deductible costs or expenses,

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a significant increase from the previous threshold of USD 200. If the buyer does not have a Tax ID, they must provide their personal ID number or passport number. Additionally, any documentation supporting tax credits for amounts over USD 25,000 must include the name, signature, and Tax ID of both the issuer and the recipient. This threshold applies to individual transactions or multiple operations conducted with the same parties within a 10-day period, provided the cumulative amount equals or exceeds USD 25,000. The Decree became effective on March 8, 2024.

- **Kenya:** The Kenya Revenue Authority (KRA) recently launched "eTIMS Lite," a new platform designed to assist non-VAT registered taxpayers with generating and sending e-invoices to the KRA via a user-friendly interface. This development was in response to challenges encountered by small-scale taxpayers. The Tax Invoice Management System (TIMS) was introduced in 2022, and the electronic version (eTIMS) was launched in 2023. As of September 1, 2023, all taxpayers were required to issue invoices through eTIMS. From January 1, 2024, expenses not supported by TIMS or eTIMS invoices do not qualify for income tax deduction, with some exceptions. The initial compliance deadline was extended from January 1, 2024, to March 31, 2024. Despite the introduction of eTIMS Lite, the compliance deadline remains the same, and taxpayers are expected to record all manually issued invoices and receipts on eTIMS from January 1, 2024, up to the date of onboarding. To read a report prepared by the KPMG International member firm in Kenya, click here.
- **Malawi:**[xxv] On February 23, 2024, the Ministry of Finance of Malawi submitted the 2024/2025 Budget Policy Statement to the National Assembly. The statement includes a proposal to introduce a new Electronic Billing System to improve compliance and revenue collection. This system is designed to replace the current Electronic Fiscal Devices (EFD) and aims to simplify the application of VAT within the country. The government has not revealed the specific dates when the mandate would become effective.
- **Namibia:**[xxvi] On February 28, 2024, the Namibian Ministry of Finance and Public Enterprises released their 2024-2025 budget, which, among, other things, includes plans to implement an e-invoicing system. The government has not revealed the specific dates when the mandate would become effective.
- **Poland:** On March 21, 2024, the Ministry of Finance of Poland provided a summary of the answers to its consultation on the National e-Invoicing System (KSeF). According to the summary, the new KSeF implementation date will be announced in late April or early May. Key issues discussed include the launch of a KSeF mobile application in the second half of 2024, training sessions at tax offices throughout Poland, and meetings with KSeF tool developers. A KSeF hotline and technical support call center will be operational from July 2024. The Ministry will present legislation proposals and interface specifications. After finalizing KSeF documentation, English-language versions will be developed. There will be a delay in penalties and the obligation to provide the KSeF number when making payments. During a transitional period, the possibility to issue "offline" invoices outside KSeF with a QR code will be introduced. The Ministry also confirmed the integration of KSeF and the Electronic Invoicing Platform (PEF), and modifications to customs declarations to allow attaching invoices issued in "offline" mode. To read a report prepared by the KPMG International member firm in Poland, click here.
- **Vietnam:**[xxvii] On March 8, 2024, Vietnam's tax authority published Resolution No. 837/FCT`-DNL, requiring fuel and petroleum product retailers to issue e-invoices effective April 1, 2024.

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E-invoicing developments timeline

The world of taxation and compliance is constantly becoming more digitalized and governments are continuously issuing new regulations and requirements for taxpayers. To help businesses stay up to date with tax administration developments in e-invoicing, digital reporting, and real-time reporting, we have created this e-invoicing developments timeline which will be regularly updated

Other Indirect Tax Developments and News from Around the World

The Americas

Overview of Indirect Tax Developments in The Americas from KPMG International Member Firms

- **KPMG in Bolivia** published a report discussing recent tax authority guidance on the modification of the procedure for applying the financial transactions tax exemption for certain diplomatic organizations. The guidance modifies sections of an existing rule, stating that the certificate establishing tax treatment reciprocity in the country of origin of the diplomatic organization will now be issued by the Ministry of Foreign Affairs. A legalized photocopy of the diplomatic, consular card, or credential must be presented. The tax authority also published instructions for completing the form to submit a request for exemption, detailing the information that must be included in the header, exemption data, and account details.
- **KPMG in Canada** published a report discussing tax measures in the 2024 budget of the province of Saskatchewan. The budget includes certain administrative measures intended to address consumption tax compliance issues. These measures include introducing legislative changes to enhance collection tools, increase penalties, prevent tax avoidance, clarify compliance obligations, and enhance associated monitoring.

United States: Louisiana Report Addresses Feasibility of Centralized Return and Daily Local Tax Distributions

Recently, the Louisiana Department of Revenue (DOR), the Louisiana Uniform Local Sales Tax Board, and the Commission for Remote Sellers (RSC) submitted an informational report to the Legislature addressing the potential creation of a centralized processor of state and local sales and use tax, a combined state and local sales and use tax return, and the feasibility of collecting and distributing local sales and use tax revenues daily. The report was required under Act 685 of 2022, which expanded the authority of the RSC to collect non-remote sales and use tax on behalf of state and local sales tax collectors that contract with the RSC to do so. Currently, the RSC collects state and local tax for sellers without a physical presence in Louisiana only. Representatives from the DOR, Board, and RSC collaboratively examined the current sales tax collection practices of the four other states (Colorado, Alabama, Alaska, and Arizona) where local jurisdictions independently administer sales and use taxes and where there has been movement toward centralized collection. The first part of the report summarizes the current sales tax collection mechanisms in place in Louisiana, including the

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remote sellers filing portal that currently facilitates secure electronic filing of a single return in Louisiana for state and local sales and use tax exclusively for remote sellers, as well as the Parish E-file system operated by the DOR that allows the filing of state and local sales and use and hotel/motel returns. It also included a set of criteria for an effective centralized collection and remittance system.

The report then moves to the efforts undertaken in Colorado, Alabama, Alaska, and Arizona to centralize collection of local taxes. As required, the report also addresses the feasibility of sales and use tax revenues being distributed daily to local collectors. The report notes that the "general sentiment" regarding daily distributions is that currently there would be no way to distribute funds to local collectors while completing the necessary reconciliations to ensure accurate collection. The frequency of distribution to state and local collectors from centralized processors in other states varies from once or twice a week to once a month. Apparently, Alabama tried to distribute funds more than once or twice a week and local governments were overwhelmed. The report further notes that it has not been established that the funding needs of the locals require daily distributions.

In its conclusion, the report states that the creation of a centralized state and local sales and use tax processor and combined state and local sales and use tax return is feasible and that Louisiana currently employs sales and use tax collection tools with many of the desired functions of a centralized processor, and the look and feel of a combined return. What must be decided is the combination of these functions best suits the needs of Louisiana taxpayers. The report notes that based on the discussions with other states, the greatest benefits to taxpayers and governmental entities appear to come when the hard work of unifying various aspects of tax administration is undertaken; it makes particular note of the unified state and local tax base in each of these states. For more information, click here.

Miscellaneous Developments in the Americas

- **Antigua and Barbuda:**[xxviii] On March 3, 2024, the Senate of Antigua and Barbuda passed the Money Services Business (Transfer) Levy Act 2024. This Act imposes a 5 percent levy on money transfers into and out of the jurisdiction starting from April 1, 2024. The levy applies to every person licensed to conduct money services business, including services like cheque cashing, currency exchange, and the issuance, sale, or redemption of money orders or traveler's cheques. However, the levy does not apply to the Central Bank of Antigua and Barbuda, certain licensed organizations under the Banking Act and the Securities Act, and operators of a clearing house or funds transfer system.
- **Argentina:**[xxix] On March 7, 2024, the Argentine government proposed a tax package to parliament, which includes a tax amnesty regime, designed to encourage the voluntary payment of tax, customs, and social security debts due as of February 28, 2024. The benefits of this regime include a partial write-off of interest and fines. The proposal also introduces measures that require the disclosure of VAT on invoices and tickets, to illustrate the impact of tax on final prices. Additionally, it proposes an increase in the tax on games of chance.
- **Argentina:**[xxx] On March 18, 2024, the Argentine government published General Resolution 2937. This resolution suspends the advance collection of VAT on the import of certain essential goods for a period of 120 days. Under the advance collection regime, the tax authority is required to collect VAT in advance at a rate of 20 percent for products subject to the general VAT rate of 21 percent, and 10 percent for products subject to the reduced rate of 10.5 percent. Importers are required to pay VAT in advance to the Customs Administration upon the import of goods. The amounts paid can be computed by importers in their VAT affidavits as advance payments.

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- **Chile:**[xxxi] On March 11, 2024, the Chilean tax authority published Circular SII 11-2024. This circular expands the interpretation of the term "non-alcoholic beverages" for the purposes of the additional VAT regime to include isotonic, hypotonic, and nectar beverages, which were previously excluded. As a result, starting from June 2024, the sale or import of these beverages will be subject to an additional VAT of either 10 percent or 18 percent, depending on the sugar concentration. This additional VAT is applied on top of the standard 19 percent VAT rate. It applies to the sale or import of natural or artificial soft drinks, energizing or hypertonic drinks, syrups, and any other product used to prepare similar drinks, as well as to sparkling waters to which coloring, flavor, or sweeteners have been added. The tax rate is 10 percent, or 18 percent if the sugar concentration exceeds 15 grams per 240 milliliters of the drink.
- **Jamaica:**[xxxii] On March 12, 2024, the Jamaican Minister of Finance presented the 2024/25 budget to parliament. The budget includes measures to increase the low value goods exemption threshold for imported goods from $50 to $100. Additionally, it proposes an increase in the passenger duty-free threshold for personal/household effects not imported for sale or commercial exchange from $500 to $1,000.

Europe, Middle East, Africa (EMEA)

Overview of Indirect Tax Developments in EMEA from KPMG International Member Firms

- **KPMG in Bahrain** published a report discussing recent tax developments in the Gulf Cooperation Council (GCC) region. These developments include Bahrain's extension of the record retention period for VAT-related records and accounting books by an additional five years, and a recent decision by the United Arab Emirates (UAE)'s tax authority regarding the procedures for VAT refunds for tourists.
- **KPMG in Cyprus** published a report discussing the end of the temporary VAT zero-rate regime for specified meat and vegetable food products and the end of the reduced excise tax regime for certain fuels.
- **KPMG in Cyprus** published a report discussing, among other things, a compliance audit campaign to ensure the correct application of the Stamps Law (Law 19/1963), particularly in relation to contracts for building or technical works by contractors. The tax authority urges those who have not complied with the law to immediately pay the Stamp Duty to avoid inconvenience and additional charges.
- **KPMG in Cyprus** published a report discussing the launch of public consultations on draft legislation that would impose a carbon tax on energy products and a daily accommodation fee of EUR 2.50. The carbon tax would apply to stocks of energy products such as gasoline, certain types of oil, and liquified petroleum gas, whether stored in petroleum stations or held by petroleum resellers and companies. It would also apply to carbon emissions from polluting industries, even if the energy products are exempt from excise duties. VAT would be charged on the value of the products subject to the carbon tax. The daily accommodation fee would be levied on every resident using a room or accommodation space in hotel units, tourist accommodations, and self-catering units in Cyprus. However, this accommodation fee would not be subject to VAT.

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- **KPMG in the Czech Republic** published a report discussing proposed amendments to the Czech VAT. Key changes include requiring employers to pay VAT based on the open market value of supplies provided to employees at a symbolic price or significant discount, leading to potentially higher VAT payments. The proposal would also shorten the deadline for claiming a VAT deduction from 3 to 2 years, and to just 12 months based on a debit note, while extending the time limit for corrections of the tax base to 7 years from the original transactions. In addition, debtors would be required to adjust the VAT deduction if receivables are not paid within 6 months after their due date. Other proposed changes include the introduction of the EU's small business regime, changes to compulsory registration, the abolition of the internally produced asset concept, changes to corrections of the tax base relating to irrecoverable receivables, and certain changes to the provision of immovable property.
- **KPMG in the Czech Republic** published a report discussing a recent decision by the Supreme Administrative Court (SAC), where the SAC ruled that for the VAT zero-rate for intra-EU sales of goods to apply in the country of dispatch, the seller bears the burden of proving that the goods have been sold to a taxpayer in another EU Member State. The mere payment for goods does not prove that all conditions for the VAT zero-rate to apply, especially if the payment is made from a bank account belonging to an entity other than the declared customer. The SAC noted that it is in the interest of the taxpayer to obtain documents which can prove in a relevant manner that the goods were delivered to another Member State. As in this case the taxpayer did not themselves transport the goods to another member state, they should have made sure that they had credible evidence that the goods were delivered in the manner agreed.
- **KPMG in France** published a report discussing VAT recovery procedures for taxpayers during the Olympic games in Paris. There are three methods for reclaiming VAT based on the company's location and activities: (1) a refund procedure for European established companies, (2) a refund procedure for non-EU established companies, and (3) a refund procedure for companies registered for VAT in France. Refunds are conditional and depend on the type of expenditure, including hotel and accommodation, meals and entertainment, fuel, passenger transport, leasing of private cars, jets, gifts, samples, and VAT margin program.
- **KPMG in Namibia** published a report discussing tax measures in Namibia's 2024-2025 budget, which, among other things, include measures to increase the VAT registration threshold from NAD 500,000 to NAD 1,000,000, the introduction of a super tax transfer duty and stamp duty bracket for luxury residential properties costing over NAD 12 million, and the exploration of a VAT e-invoicing regime.
- **KPMG in the Netherlands** published a report discussing the launch of a consultation on a draft bill for adjusting VAT on services related to immovable property, such as renovations and major maintenance. Currently, VAT recovery for such services is final at the end of the financial year when the services were first used. The new proposal suggests a VAT adjustment period of five years, during which changes in use may lead to repaying or recovering additional VAT. The proposed measure applies to services costing at least EUR 30,000 and is expected to come into effect on January 1, 2026, for services put into use after that date. The measure aims to prevent undesired VAT savings and create a level playing field among entrepreneurs who rent immovable property.

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- **KPMG in the Netherlands** published a report discussing the closure of the old taxpayer portal, which was still available for a specific group of taxpayers, effective from July 1, 2024. Currently, only taxpayers who do not have access to the new portal ('Mijn Belastingdienst Zakelijk') can still use the old taxpayer portal because they could not use eRecognition (eHerkenning; a two-step verification system) or another EU-approved login key. Filing VAT returns, EC Sales Lists, or OSS returns via the old portal will no longer be possible from July 1, 2024, for all taxpayers. Taxpayers can continue filing these returns by applying for eRecognition to file returns via the new portal, using enterprise resource planning (ERP) software with a connection to the tax authorities, or using an intermediary that has its own software for filing tax returns directly to the tax authorities on behalf of taxpayers.
- **KPMG in Poland** published a report discussing recent indirect tax developments in the country. The Ministry of Finance stated that the temporary zero percent VAT rate for basic food items will cease after March 31, 2024, due to recent inflation and anticipated price changes for these products. The report also highlights three judgments issued by the Supreme Administrative Court on March 12, 2024, regarding retail sales tax. The court found the Act on Retail Sales Tax to be unclear, ruling that any ambiguities should favor the taxpayer. The court also clarified that retail sales tax regulations aim to tax the sale of goods, and only include related services if they are separate performances that support the sale of goods without forming a separate entity.
- **KPMG in Serbia** published a report discussing VAT refunds for nonresident taxpayers. The Serbian VAT law allows nonresident taxpayers to recover VAT paid on their purchases in Serbia provided they hold an invoice that shows that VAT has been paid on the purchases. The minimum amount for a VAT refund in Serbia is EUR 200. In addition, VAT may be refunded if the taxpayer has not sold any goods and services in Serbia, apart from the zero-rated delivery of goods, transport of passengers by bus, for which the customs authority charge VAT, as well as goods and services for which the recipient is required to self-assess VAT. Further, a VAT refund is available only to legal entities established in countries with which Serbia has reciprocity. A request for a VAT refund for 2023 must be submitted by June 30, 2024, at the latest. To submit a VAT refund request, a non-resident taxpayer must have a Serbian tax identification number.
- **KPMG in the United Kingdom** published a report discussing tax measures in the 2024 Spring budget. These measures include an increase in the VAT registration threshold from EUR 85,000 to EUR 90,000, and the deregistration threshold from EUR 83,000 to EUR 88,000. These threshold changes are effective from April 1, 2024, following the publication of The Value Added Tax (Increase of Registration Limits) Order SI 2024/307 on March 5, 2024. Moreover, the budget also includes changes to the VAT penalties regime, reform of the VAT Terminal Markets Order (TMO), and the VAT refund program for Do-It-Yourself (DIY) housebuilders.

Roundup of Latest Court of Justice of the European Union Cases

- On February 29, 2024, the Court of Justice of the European Union (ECJ) published its decision in *B2 Energy* Case C-676/22, in which it held that a vendor established in one EU Member State, who has sold goods to a customer in another EU Member State, cannot obtain a VAT zero-rating treatment for intra-EU sales of goods if they cannot demonstrate that the goods were sold to a taxpayer in that other Member State. For more information, click here.
- On March 2, 2024, the ECJ published its decision in *Dyrektor Izby Administracji Skarbowej w Bydgoszcz* Case C-606/22, in which it held that an EU Member State that prohibits a VAT adjustment for overstated VAT, based on the issuance of cash register receipts instead

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of invoices, violates the principles of VAT neutrality, effectiveness, and equal treatment. Taxpayers in such situations can apply for a refund from the tax authorities. However, these authorities can claim unjust enrichment to deny the refund request only if, after an economic analysis considering all relevant circumstances, they can prove that the undue tax burden on the taxpayer has been completely neutralized. For more information, click here.

- On March 7, 2024, the ECJ published its judgment in *Feudi di San Gregorio Aziende Agricole*, Case C-341/22, in which it held that a person should not be denied the status of taxpayer for VAT purposes if they carry out transactions subject to VAT during a tax period even if the economic value of these transactions does not reach the threshold set by national legislation that is based on the return that can reasonably be expected from the assets held by that person. Further, national legislation that denies a taxpayer the right to deduct VAT expenses, due to the transactions subject to VAT carried out by the taxpayer being considered insufficient, violates the principles of VAT neutrality and proportionality.
- On March 7, 2024, the ECJ published the non-binding opinion of its Advocate General (AG) in *Valsts ieņēmumu dienests*, Case C-87/23, in which the AG opined that determining whether a non-profit organization, aimed at implementing EU state aid programs, qualifies as a taxpayer for VAT purposes, one should compare the specific activities of the non-profit with that of an average taxpayer in the relevant professional category. In this case, the category is a provider of training services. Furthermore, to qualify as a taxpayer, it is not necessary to provide the service in person. The taxpayer may also employ an independent third party as a subcontractor to perform the service in their name or under their supervision. Moreover, if a service provider receives only 30 percent of the payment from the service recipient and the rest is covered by a third-party subsidy, the taxable amount includes the total received from both the service recipient and the third party.
- On March 14, 2024, the ECJ published the non-binding opinion of its AG in *X, Fiscale Eenheid Achmea, Y, Pensioenfonds voor Fysiotherapeuten, BPL Pensioen, BPFL*, Cases C-639/22 to C-644/22, in which the AG opined that a fund would qualify for the VAT exemption for management services as a special investment fund if it fulfills the criteria of an undertakings for collective investment in transferable securities (UCITS). These criteria include being open to the public, bearing a redemption risk, and requiring investors to bear a comparable investment risk. However, if a fund does not meet these conditions, it may still qualify as a special investment fund if it is comparable to other non-UCITS funds that an EU Member State considers as special investment funds, in accordance with the principle of VAT neutrality. For more information, click here.
- On March 14, 2024, the ECJ published its decision in *Elite Games*, Case C-576/23, in which it held that the installation of amusement machines in a specific area within business premises or shopping centers does not qualify the premises as an 'amusement park' under the definition of the EU VAT Directive when the machines operate based on tokens acquired by their owner or, where appropriate, after payment of a fee to the owner for the right to use them. Therefore, the services providing access to these machines cannot benefit from the reduced VAT rate that EU Member States may apply to the right of admission to amusement parks.

Source: European Union; Italy - ECJ Decides on Limit to VAT Right to Deduct Where Minimum Threshold of Output Transactions Is Not Met: *Feudi di San Gregorio Aziende Agricole* (Case C-341/22) (VAT), (March 7, 2024), News IBFD; European Union; Latvia ECJ Advocate General Opines on VAT Treatment of Training Services in Execution of State Aid Schemes: *Latvijas Informācijas un komunikācijas tehnoloģijas asociācija* (Case C-87/23) (VAT), (March 7, 2024), News IBFD; European Union; Romania -ECJ Decides on Application of Reduced VAT Rates to Admission to Amusement Parks: *Elite Games* (Case C-576/23) (VAT), (March 28, 2024), News IBFD

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European Union: Regulation Reassigns Jurisdiction for Specified Indirect Tax Preliminary Rulings

On March 19, 2024, the Council of the European Union adopted the Regulation amending Protocol No. 3 on the Statute of the Court of Justice of the European Union (the Regulation). The Regulation is intended to improve the efficiency of the administration of justice by both the Court of Justice and the General Court. The Regulation transfers jurisdiction for preliminary rulings in areas such as VAT, excise duties, customs code, tariff classification of goods, passenger compensation, and the GHG emission allowance trading mechanism from the ECJ to the General Court. However, the ECJ will retain jurisdiction in cases involving questions of principle, such as interpretation of the treaties or the Charter of Fundamental Rights.

The Regulation also extends the current filtering mechanism for appeals of decisions of the General Court, ensuring that only cases of importance for EU law are referred to the ECJ. It also aims to increase transparency by publishing written observations on the court's website. The reform process began in December 2022, and the next steps involve amending the rules of procedure for both courts, with the aim of all changes entering into force simultaneously. To read KPMG's previous discussion of this measure, click here.

Source: European Union -Council of the EU Adopts Regulation to Transfer Jurisdiction to General Court on Preliminary Rulings on VAT, Excise Duties, Customs, Transports and GHG Emissions, (March 20, 2024), News IBFD

Miscellaneous Developments in EMEA

- **Denmark:**[xxxiii] On March 21, 2024, the Danish Customs and Tax Administration published National Tax Court Decision No. SKM2024.187.LSR which clarified VAT refunds for nonresidents that are part of a VAT group with a resident member. In this case, the taxpayer, a UK company, filed a VAT refund claim. The tax authority denied the claim because the taxpayer was part of a VAT group (jointly registered) with another UK company that was VAT-registered in Denmark. The National Tax Tribunal ruled that VAT groups in certain third countries, such as the UK, should be treated similarly to EU VAT groups, and the VAT group members should be considered a single taxpayer. Consequently, the company that was VAT-registered in Denmark was identified as the settling unit for the group. Upon its VAT registration in Denmark, all VAT group members were included in the Danish VAT registration. Thus, services rendered to the taxpayer were viewed as delivered to the VAT-registered company in Denmark. Therefore, the taxpayer company could not secure a VAT refund for services procured in Denmark, as it failed to meet the Danish VAT legal requirement of not being VAT registered in Denmark.
- **Denmark:**[xxxiv] On March 22, 2024, the Danish Customs and Tax Administration published City Court Decision No. SKM2024.196.BR, which clarified the conditions for VAT deduction on intercompany purchases. In this case, a company registered for VAT in Denmark sought to deduct VAT from invoices for alleged purchases it made from a related company, arguing that the goods were purchased and then resold to Danish customers. However, the court determined that the company had not provided evidence that payment of the invoices for the supposed purchases and resales had taken place, or that these transactions had been recorded. There were no order confirmations, correspondence, or similar evidence to substantiate a genuine commercial relationship between the company and its related entity. As a result, the court did not find it proven that the company had obtained the right to dispose of the goods as an owner, meaning the conditions for VAT deduction were not fulfilled.

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- **Estonia:**[xxxv] On March 4, 2024, the Estonian Ministry of Finance proposed amendments to the VAT law, which include measures to implement the EU's small business VAT reform, effective from January 1, 2025. This reform allows EU Member States to maintain small business exemptions up to EUR 85,000 and extends these exemptions to small businesses in other EU states, provided their gross receipts in the non-established state are below the national threshold and their total EU gross receipts are below EUR 100,000. Non-EU businesses are not eligible for these exemptions. For more information, click here. The amendments also amend the VAT rules for newly constructed buildings to stipulate that the sale of a building will be taxable if it is sold within one year of completion, regardless of whether it has been used or not. Additionally, it also proposes to change how VAT credits are calculated for fixed assets for both taxable and exempt activities, to prevent claims for full VAT refunds despite mixed use.
- **European Union:**[xxxvi] On March 1, 2024, the European Public Prosecutor's Office issued its Annual Report 2023, announcing the launch of 1,371 investigations during the year, a 58 percent increase from 2022. The report also highlighted an estimated EUR 19.2 billion in overall damages. Of this, 59 percent, or approximately EUR 11.5 billion, was associated with VAT fraud.
- **European Union:**[xxxvii] On March 5, 2024, the European Commission proposed a new defense strategy to support Ukraine and counter Russian threats, including VAT waivers for EU defense equipment. The proposal suggests VAT or excise duty exemption for jointly procured and owned defense equipment, technology, or services under the new Structure for European Armament Program (SEAP). Part of the long-term European Defense Industrial Strategy, SEAP aims to enhance Europe's military defense industry production. The proposal also allows Member States to use standardized procedures for cooperative defense programs and to issue bonds for financing long-term armament programs. SEAP would be considered an international organization for issuing VAT and excise duty waivers and bonds.
- **European Union:**[xxxviii] The European Commission has released a study on Missing Trader Intra-EU (MTIC) fraud, a type of VAT fraud in which a trader collects VAT but fails to remit it to tax authorities before disappearing. The study's objective is to identify the most effective method for estimating VAT revenue loss due to this fraud. It highlights two main forms of MTIC fraud: (i) simple acquisition fraud, in which a fraudulent company purchases goods and services from a company in another EU Member State under the VAT self-assessment mechanism, charges VAT on the subsequent sale, and then vanishes without remitting the collected VAT; and (ii) carousel fraud, a more intricate scheme in which the same companies can repeatedly commit fraud, similar to a carousel. The study proposes that the most effective way to estimate the scale of the MTIC gap is through analytical methods and data sources, especially intra-EU trade data. It recommends this approach for the study's next phase and suggests exploring the use of Member State administrative data from the VAT Information Exchange System (VIES) and VAT returns.
- **European Union:**[xxxix] On March 20, 2024, the European Commission proposed an internal reform plan to accommodate new Member States within the EU. The plan suggests shifting from unanimity to qualified majority voting (QMV) on tax and other matters to avoid potential delays, especially with the EU's anticipated growth in membership. Despite resistance from some countries fearing isolation on strategic national matters, the Commission proposed safeguards to protect individual country interests. These safeguards could allow Member States to invoke national interest grounds to prolong discussions or

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pass critical decisions to EU leaders. The Commission plans to use existing provisions of the Treaty on the Functioning of the European Union to transition to QMV in certain areas, including tax, pending unanimous approval from the EU Council or the European Council. Policy reviews are set to begin in early 2025, with reform proposals drafted based on the results of the reviews.

- **European Union:**[xl] On March 26, 2024, the VAT Committee of the European Commission published the minutes of its 123rd meeting which took place on November 20, 2023. The meeting covered updates on various topics, including statistics on VAT collected from e-commerce, implementation of the new VAT regime for small enterprises starting January 1, 2025, digitalization of the exemption certificate procedure, the VAT in the Digital Age (VIDA) initiative, and customs and VAT reform. The committee also discussed the ongoing preparation of the assessment report on the Vouchers Directive and the suspension of work on the travel and tourism package for VAT purposes. Additionally, the meeting addressed extending relief from import duties and VAT for goods distributed free of charge to individuals affected by the Russia – Ukraine war.
- **France:**[xli] On March 20, 2024, the French tax authority clarified that for photographs to be considered works of art for VAT purposes, they must have been taken by their authors, printed by them or under their control, signed, and numbered, with a limit of thirty copies.
- **Germany:**[xlii] On February 27, 2024, the German Ministry of Finance issued Letter No. 2024/0129235, providing guidance on VAT invoices with incorrect tax amounts issued to end consumers. This guidance is informed by the recent decision of the ECJ in *P GmbH* Case C-378/21 (December 2022). The guidance clarifies that a taxpayer who has provided a service and included an amount of VAT calculated based on an incorrect rate on the invoice is not liable for the part of the VAT invoiced incorrectly if there is no risk of loss of tax revenue because the recipients of that service are exclusively final consumers who do not have a right to deduct VAT. It states that the ECJ judgment supersedes the Federal Fiscal Court's ruling in this regard. However, the ECJ judgment does not extend to incorrect VAT invoices issued to businesses or other scenarios covered by the German VAT law.
- **Germany:**[xliii] On March 5, 2024, the German Ministry of Finance issued Letter No. 2024/0053891, amending the taxation procedures for cross-border passenger transport services. Among other things, the amendments allow taxpayers to participate in the special one-stop shop (OSS) taxation procedures as an alternative to individual transport taxation. The changes also clarify the procedures for VAT refunds and registrations under the regime. The amendments apply to sales made after April 1, 2024.
- **Hungary:**[xliv] On March 13, 2024, the Hungarian tax authority issued Taxation Guideline No. 2024/3, clarifying the VAT treatment of the Extended Producer Responsibility (EPR). Effective from July 1, 2023, the EPR regime mandates that producers and first distributors in Hungary of certain products bear the financial and organizational responsibility for managing the waste stage of a product's life cycle. Producers fulfill their obligations through the appointed concession company (MOHU MOL Hulladékgazdálkodási Zrt.) and pay the EPR fee for the concession company. The concession company performs activities such as the collection, transportation, preconditioning, and trade of circular product waste, as well as the operation and maintenance of waste facilities. The EPR fee consists of two elements: the fee payable to the concession company and the fee payable to the local municipality. Local municipalities also perform activities subject to EPR obligations, such as removing circular product waste from public places. The EPR fee covers the costs associated with these tasks. The concession company receives the total amount of the EPR fee; however, local municipalities are entitled to a share from it. The guidelines clarify that the concession

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company assists producers in fulfilling their EPR obligations by providing services, for which the EPR fee is the consideration. This fee is subject to VAT at the standard rate. Similarly, local municipalities provide services to the concession company, fulfilling tasks that qualify as EPR obligations. The fee payable to local municipalities is the consideration for these services, also subject to VAT at the standard rate.

- **Iceland:**[xlv] On March 4, 2024, Iceland launched a public consultation on a proposal to align its VAT law rules for cross-border services between businesses with those of the European Union. Under the proposed change, Iceland will adopt provisions from the EU VAT Directive prescribing that a cross-border provision of services between businesses will, in principle, be taxed where the customer is established. This will eliminate the current complexity under Icelandic rules that requires businesses to make a case-by-case assessment of whether the services are effectively enjoyed in Iceland.
- **Ireland:**[xlvi] On March 4, 2024, the Irish Revenue issued Revenue eBrief No. 060/24, which includes a Tax and Duty Manual (TDM) – VAT Treatment of Construction Services. This manual explains the VAT implications for construction services provided by a subcontractor to a principal contractor. It provides that if the application of Relevant Contracts Tax (RCT) is necessary, these services are handled on a self-assessment basis, meaning the principal contractor must self-account for VAT as the service provider. The guidance further confirms that VAT on construction services not subject to RCT are taxed under standard VAT rules, meaning that the service provider is responsible for charging the VAT. The eBrief also states that the Tax Duty Manual for Supply of Property has been updated to offer additional clarity regarding taxable property sales.
- **Ireland:**[xlvii] On March 4, 2024, the Irish Revenue issued Revenue eBrief 059/2024, which includes a Tax Duty Manual on the VAT treatment of negotiation services in respect of financial services. The manual confirms that negotiation or agency services related to financial services are exempt from VAT, subject to certain conditions. A negotiation or agency service is one provided by a person acting in an agency or intermediary capacity, and it involves bringing together parties with a view to either concluding a contract or negotiating a change to contract terms. These services include agency or negotiation services related to arranging a share issue, services related to marketing, distributing, and selling payment products, services that involve connecting a credit provider and a debtor to conclude a contract or negotiate payment terms, and services that involve negotiations related to the granting of credit, regardless of whether the transaction is ultimately finalized. The VAT exemption does not extend to stand-alone clerical or administrative tasks associated with negotiating credit grants, such as explaining loan terms or advising on loan procedures. Services provided by personal insolvency practitioners, as well as the design, management, and operation of a budget, are also not covered by this exemption.
- **Ireland:**[xlviii] The Irish Revenue recently published a Tax Duty Manual on the Deposit Return Scheme (DRS). The DRS, which came into operation on February 1, 2024, is an environmental measure providing a refundable deposit on drink products supplied in plastic bottles and aluminum or steel cans. The deposit is refunded to a person who returns an empty container to the DRS for recycling or reuse. The manual outlines the VAT treatment applicable to DRS deposits. For sales of drink products in the supply chain (e.g., by a manufacturer or importer, wholesaler, retailer), no VAT arises on the DRS deposit. VAT on the deposit arises only when the container is not returned under the DRS. When this occurs, it is the Scheme Operator for the DRS who is liable to account for and pay the tax.

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- **Isle of Man:**[xlix] Effective April 1, 2024, the Isle of Man increased its VAT threshold from GBP 85,000 to GBP 90,000, and the VAT deregistration threshold from GBP 83,000 to GBP 88,000
- **Romania:**[l] On March 6, 2024, the Romanian government proposed amendments to the format of certain VAT returns. The changes include a separate box for rectifying tax statements filed by taxpayers after receiving a compliance notification from tax authorities. The forms affected are VAT return forms: Form 301, Form 307, and Form 311. The draft bill also introduces a new standard form for correcting material errors in the VAT return; this also will include a separate box for rectification following a compliance notification. Currently, there is no standardized form required for such corrections.
- **Rwanda:**[li] On March 8, 2024, Rwanda published Ministerial Order No. 003/24/03/TC, clarifying the process for taxpayers to establish that certain services are not available locally. Verifying that services are not available locally is a requirement for claiming VAT credits on imported services. The Ministerial Order provides that a taxpayer applying for authorization to acquire imported services not available in Rwanda must be registered for VAT. Additionally, the taxpayer must submit an application letter for authorization, accompanied by supporting documents, to the tax authority. The taxpayer must also prove that they made a call for tenders and that no successful bidder was found in Rwanda, as well as provide a recommendation letter issued by a competent regulatory organ certifying that there are no providers of the service in Rwanda, or that those existing do not meet a satisfactory standard. However, the requirement of no successful bidders does not apply to a taxpayer seeking a service whose particularity is approved by the competent regulatory organ. A taxpayer applying for authorization to acquire a foreign service not available in Rwanda, or who needs a particular service approved by a competent regulatory organ, must submit the application at least two months before acquiring the service. Once authorization is granted, the taxpayer can claim VAT credits.
- **Sweden:**[lii] On March 21, 2024, Sweden proposed amendments to the VAT law, including measures implementing the EU's small business VAT reform, effective from January 1, 2025. This reform allows EU Member States to maintain small business exemptions up to EUR 85,000 and extends these exemptions to small businesses in other EU states, provided their gross receipts in the non-established state are below the national threshold and their total EU gross receipts are below EUR 100,000. Non-EU businesses are not eligible for these exemptions. For more information, click here. The amendments also include measures to increase the VAT registration threshold from SEK 80,000 to SEK 120,000; expand the types of entities allowed to issue simplified invoices; and amend the tax sourcing of virtual events and activities to the location of the purchaser/consumer.
- **Sweden:**[liii] On March 21, 2024, Sweden updated its policy on the right of parent companies to deduct VAT related to the acquisition of subsidiaries, following recent case law that supersedes its previous policy. According to the updated policy, a parent company can deduct VAT on costs incurred in acquiring a subsidiary, even if the parent participates only in the management of the acquired subsidiary's subsidiary.
- **Switzerland:**[liv] On March 4, 2024, the Swiss Federal Tax Administration launched consultation on draft VAT guidelines for motor vehicle rental subscriptions. Among other things, the draft guidelines cover the definition of a "vehicle subscription," general contract terms such as an 18-month subscription period, conditions for VAT exemption on additional insurance coverage, VAT applicability on delivery and cleaning services, and a VAT exemption for cash payments made for damages at the end of the contract by the responsible person.

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- **Ukraine:**[lv] On March 7, 2024, the Ukrainian State Tax Service (STS) clarified that imports of renewable energy equipment, goods, and materials are exempt from VAT if they are used by the importer for its own production needs and if similar products are not produced in Ukraine. If a taxpayer fails to comply with these conditions, they must increase their VAT liabilities for the tax periods of noncompliance by the amount of VAT usually paid for similar imports. Additionally, a penalty equal to 120 percent of the Ukrainian National Bank's discount rate for the period from the import date through the period of noncompliance will be applied.
- **Ukraine:**[lvi] On March 14, 2024, the STS clarified that the return of fixed assets by a legal entity to its founders or shareholders, upon their withdrawal from the entity, is considered a transfer subject to VAT. This is because the Ukrainian VAT law applies to any transfer of the right to dispose of goods, such as sale, exchange, donation, or sale to a third party based on a court order.
- **Ukraine:**[lvii] On March 18, 2024, the STS clarified that freight forwarding services are deemed to be provided in the location where the service recipient is registered to do business or, if not applicable, at their permanent or preferred residence. Consequently, such services provided to a Ukrainian resident are subject to VAT rate in Ukraine, irrespective of whether the services are rendered in Ukraine or overseas.
- **Ukraine:**[lviii] On March 11, 2024, the STS clarified that a sale or purchase of goods/services under a commission agreement, in which an agency fee is paid for the sale, is subject to VAT. For these transactions, the VAT base should be determined based on their contractual value, subject to the following limits: in transactions involving the sale of previously acquired goods or services, the VAT base may not be lower than the initial acquisition price of those goods or services; in transactions involving the sale of goods created or manufactured by the taxpayer, the VAT base may not be lower than the "usual" (market) price of the goods; and in transactions involving the sale of non-current assets, the VAT base may not be lower than the residual value of those assets or, if the non-current assets are not registered on the balance sheet, the VAT base may not be lower than the price normally applicable to those goods (except goods for which the prices are subject to state regulation; natural gas for consumers' needs; and electric energy, price for which is determines at the market price of electric energy).
- **Ukraine:**[lix] On March 11, 2024, the STS clarified that to calculate if a taxpayer meets the UAH 1 million annual VAT registration threshold, all transactions involving the sale of goods or services subject to the standard VAT rate, the reduced rates, or a zero VAT rate, as well as those exempt from VAT (including temporarily), must be considered. Transactions involving goods or services not subject to VAT should not be considered. For commission contracts, the VAT registration threshold must include the volume of goods or services transferred or received and the amount of commission fees received by the commission agent.
- **United Kingdom:**[lx] On March 4, 2024, the UK's First-Tier Tribunal (FTT) in *WM Morrison Supermarkets PLC (Morrisons) v. HMRC*, [2024] UKFTT 181 (TC), dismissed an appeal by WM Morrison Supermarkets (Morrisons) against HMRC's refusal to repay VAT it accounted for at the standard 20 percent rate on several types of food bars sold to its customers. Morrisons considered these bars to be zero-rated for VAT purposes as "food of a kind for human consumption" as opposed to confectionery that was subject to the standard rate under the UK VAT law. A different FTT had previously ruled in favor of HMRC in 2021, classifying the bars as confectionery and therefore standard-rated. Morrisons appealed this 2021 decision to the Upper Tribunal, arguing that the FTT had overlooked the products' healthiness and the absence of ingredients typically found in standard-rated confectionery. The Upper Tribunal in January 2023, the Upper Tribunal found that the case should be

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reheard and that factors such as healthfulness and ingredients should be considered. The Upper Tribunal returned the case to a different FTT for a fresh decision to avoid biases related to any previous analysis of the case. This second FTT ruled in favor of HMRC, stating that the products are marketed as sweet snacks and share similarities with traditional confectionery. It noted that confectionery is not limited to sweets and chocolates and that an ordinary person would consider the products to be traditional confectionery. The FTT agreed with the Upper Tribunal's multifactorial assessment, emphasizing that the look, feel, and taste of the products outweigh any other factors suggesting they are not confectionery. To read KPMG's previous discussion of this case and the 2023 decision of the Upper Tribunal, please click here.

- **United Kingdom:**[lxi] On March 21, 2024, the UK launched a consultation on the introduction of a UK Carbon Border Adjustment Mechanism (UK CBAM), asking for views on the design and administration of the new UK CBAM, which is expected to apply from January 1, 2027. The UK CBAM will impose a carbon levy on carbon-intensive imported goods from sectors including aluminum, cement, ceramics, fertilizers, glass, hydrogen, and iron and steel. The mechanism aims to ensure a carbon price is paid regardless of where the goods are produced, particularly for goods at risk of carbon leakage and covered by the UK Emissions Trading Scheme (UK ETS). The CBAM liability will be calculated based on embodied emissions and the overseas carbon price, using either default values or actual emissions data. The CBAM will have a higher registration threshold than the EU CBAM, with a quarterly declaration schedule from 2028 and the first payment due in May 2028. The consultation is open through June 13, 2024.
- **United Kingdom:**[lxii] On March 26, 2024, the UK's Upper Tribunal in *WTGIL Ltd. v. HMRC*, [2024] UKUT 77 (TCC), dismissed an appeal by WTGIL Ltd. regarding a claim for the recovery of VAT related to installation of black box insurance devices that collected driving information. In the case, WTGIL, serving as an insurance intermediary, had agreements with various insurers and arranged policies requiring the use of these devices. The devices were required to be installed in the policyholder's car within 10 days of the policy's start date and could either increase or decrease a policyholder's premium depending on the collected data. Under the VAT law, for VAT to be recovered, the incurred VAT costs must be attributable to a taxable transaction made for consideration. WTGIL sought to recover VAT related to the cost of purchasing and installing the devices, but HMRC denied the claim, stating that WTGIL provided only VAT-exempt insurance intermediary services. WTGIL argued that it provided services to policyholders for non-monetary consideration because the policyholders allowed the company to install the device and collect data. However, the Upper Tribunal determined that although WTGIL did provide a service to policyholders, it did not meet the VAT law criteria for a transaction made for consideration, as the policyholders did not provide any consideration. It stated that policyholders did not provide non-monetary consideration as they did not agree to do anything or allow anything in return for the installation of the device by WTGIL. The tribunal also rejected WTGIL's argument that policyholders provided monetary consideration, stating that the commission paid by the insurer to WTGIL upon installation was not a payment by policyholders for the installation services.
- **United Kingdom:**[lxiii] On March 28, 2024, the UK's Upper Tribunal in *Thyssenkrupp Materials (UK) Ltd. v. HMRC*, [2024] UKUT 00079 (TCC), ruled in favor of Thyssenkrupp Materials (UK) Ltd. (TK), reversing a previous decision that held the company liable for customs duty and VAT due to mismatched import data. Under UK law, goods imported into the United Kingdom from outside the EU are generally subject to customs duty and VAT. However, companies can claim inward processing relief, which exempts them from customs duty and VAT for goods imported into the EU, provided they adhere to procedural requirements such as submitting quarterly

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Bills of Discharge (BODs) to HMRC. In the case, TK imports metals into the UK for aircraft parts and claimed inward processing relief. However, HMRC held that TK did not qualify for the relief due to mismatches regarding the weight of goods and their customs values in its BODs. HMRC argued that these errors extended to all imports covered under the BOD. TK appealed the decision to the First-Tier Tribunal (FTT), which found in favor of HMRC, holding that a single error meant that customs duty and import VAT applied to all goods included in the BOD. TK then appealed to the Upper Tribunal. The Upper Tribunal ruling in favor of TK, rejected the notion that a single error invalidates the entirety of the BOD for claiming relief. It also rejected HMRC's interpretation of a related EU court decision and its suggestion that TK should have knowingly entered inaccurate descriptions of goods to reconcile with an incorrect customs declaration.

Overview of Indirect Tax Developments in ASPAC from KPMG International Member Firms

- **KPMG in Australia** published a report discussing a recent decision of the Australian Full Federal Court regarding whether overhead costs apportioned to zero-rated sales result in a GST recovery right. The court confirmed its earlier decision that commissions paid to a third-party for distribution and administration of life insurance policies in Australia were subject to GST and not entitled to GST recovery. However, overhead costs related to all enterprise activities were entitled to GST recovery to the extent apportioned to zero-rated sales.
- **KPMG in Sri Lanka** published a report discussing amendments to the Sri Lankan VAT law, including measures to reduce the annual VAT registration threshold from LKR 80 million to LKR 60 million, effective from January 1, 2024.

Miscellaneous Developments in ASPAC

- **New Zealand:**[lxiv] On March 22, 2024, the New Zealand Inland Revenue published Interpretation Statement Nos. IS 24/02 and IS 24/03, along with accompanying Fact Sheet IS 24/03 FS. These documents clarify GST grouping rules for companies. Among other things, the guidance covers eligibility requirements for GST group registration for both resident and non-resident companies. It provides explanations of the consequences of GST grouping. It also details compliance and administrative requirements, as well as the registration procedure. The documents offer clarification of the applicable accounting basis and taxable periods, as well as providing guidance on entities that may form a GST group and offering clarifications on mixed groups and the legal control test.

About *Inside Indirect* Tax

Inside Indirect Tax is a monthly publication from the KPMG U.S. Indirect Tax practice. Geared toward tax professionals at U.S. companies with global locations, each issue will contain updates on indirect tax changes and trends that are relevant to your business.

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