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. Click here to subscribe.

In this issue

Click to jump to a story

- **KPMG Publications**
- **Overview of Indirect Tax Developments from KPMG International Member Firms**
  - KPMG in Bahrain
  - KPMG in Costa Rica
  - KPMG in Cyprus
  - KPMG in the Czech Republic
  - The KPMG EU Tax Centre
  - KPMG in Germany
  - KPMG in Greece
  - KPMG in Hungary
  - KPMG in India
  - KPMG in Malaysia
  - KPMG in Malta
  - KPMG in Nigeria
  - KPMG in the Netherlands
  - KPMG in Oman
  - KPMG in Poland
  - KPMG in Saudi Arabia
  - KPMG in Spain
  - KPMG in Switzerland
  - KPMG in the United Arab Emirates
- **Global Rate Changes**
- **Indirect Tax Developments and News from Around the World**
  - The Americas
    - » United States
    - » Chile
  - Europe, Middle East, Africa
    - » European Union
    - » European Union
    - » European Union
    - » France
    - » Italy
    - » Romania
    - » Ukraine
    - » United Kingdom
  - Trade & Customs
    - » European Union
- **In Brief**

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KPMG Publications

KPMG *TaxNewsFlash* Newsletter on COVID-19 Measures

KPMG has set up a dedicated *TaxNewsFlash* newsletter reporting tax measures adopted by countries around the globe in response to the coronavirus (COVID-19) pandemic, including indirect tax measures. We recommend readers subscribe to this newsletter as jurisdictions adopt or amend their measures at a frantic pace. The most common indirect tax measures include delays in VAT return filing and payment deadlines, relief from late payment interest and penalties, accelerating VAT refunds, and other targeted measures such as exempting certain medical equipment.

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.

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 discussing updated VAT registration guidelines and a new excise decision on application of the digital stamp program to waterpipe tobacco.
- **KPMG in Bahrain** published a report on preparing for VAT field audits. It notes that the National Bureau for Revenue (NBR) may conduct in-person VAT field audits in addition to requests for information/queries via email or through the taxpayer portal. During a field audit, the NBR may verify or collect data for further examination, interview relevant staff, inspect and access IT systems, record violations, and close the premises in certain cases.
- **KPMG in Costa Rica** published a report discussing the updated list of cross border digital services providers for which Costa Rican financial intermediaries (e.g., banks) are required to withhold VAT on payments. The list includes 136 vendors and intermediaries of cross-border services and becomes effective November 1, 2022.
- **KPMG in Cyprus** published a report discussing the application of the VAT self-assessment mechanism on domestic sales of raw and semi-finished precious metals effective from October 7, 2022. The VAT self-assessment mechanism applies if the buyer and the seller are both taxpayers in Cyprus and the goods fall under the definition of raw and semi-finished precious metals.

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- **KPMG in the Czech Republic** published a report on the extension of the EU's Excise Movement and Control System (EMCS), which became partly effective in October 2022 and will become fully effective from February 13, 2023. The EMCS is a computerized system for monitoring the movement of excise goods within the EU. The system has been extended to include the movement of selected products between EU Member States under a duty suspension arrangement. The EMCS will further be interconnected with the Czech Customs Administration's system for the import and export of selected products for more rigorous supervision and to eliminate tax evasion.
- **The KPMG EU Tax Centre** published a report discussing recent tax developments in the EU, including windfall profit taxes proposed in Sweden and Poland.
- **KPMG in Germany** published a report discussing recent indirect tax developments in Germany, including deduction of VAT incurred on outplacement services related to a targeted reduction of staff, VAT treatment of transfers of vehicles to staff for private purposes, and limits on the retroactive effect of the correction of an invoice.
- **KPMG in Greece** published a report discussing recently adopted tax measures, including clarifications to the scope of the stamp duty regime and its application to interest-bearing loans from January 1, 2021, new penalties for non-transmission of retail receipts issued through the Electronic Tax Mechanisms, and amendments to the e-invoicing rules.
- **KPMG in Hungary** published a report noting that the Hungarian National Tax and Customs Administration (NAV) has revised the concept of the e-VAT system to a machine-to-machine approach. In the revised system, the corporate governance system or other software used by the taxpayer (or its accounting service provider) can provide VAT return data directly to the NAV. The communication is similar as applied by the Online Invoice System. The revised system is intended to simplify VAT reporting and provide taxpayers with access to various queries and validations.
- **KPMG in Hungary** published a report discussing the ability to query the data of invoices issued through online cash registers from the NAV online invoice system. The new service is now available for testing.
- **KPMG in India** published a report discussing a recent decision of the Jaipur Bench of the Income-tax Appellate Tribunal, in which the Tribunal held that the 6 percent equalization levy does not apply to online advertising charges paid by an Indian company to a non-resident company because the advertiser, the targeted audience, and the advertising platform were all outside India, and the Indian company was merely acting as a conduit.
- **KPMG in India** published a report discussing recent indirect tax developments, including guidelines for launching prosecutions under the CGST Act, a ruling on whether GST credits are available on vouchers procured from a third-party vendor for the redemption of loyalty points, and a High Court decision clarifying when GST can be refunded in case the vendor sells products at a reduced rate.
- **KPMG in Malaysia** published a report discussing tax measures in the budget for 2023, which would introduce a carbon tax, tax incentives for manufacturers of electric vehicle charging equipment and tour operators, an import duty and sales tax exemptions on nicotine replacement therapy, and a new mandatory e-invoicing mechanism.
- **KPMG in Malta** published a report noting that Malta will introduce mandatory online filing of VAT returns for all taxpayers from February 2023.
- **KPMG in Nigeria** published a report discussing the VAT treatment of renewable energy products and its effects on the power sector.

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- **KPMG in Nigeria** published a report discussing introduction of a "*Sentinal National Payment Gateway and Electronic Solution*" (Sentinal), an e-reporting program that will provide the Nigerian tax authorities with the ability to collect taxes on gaming transactions in real-time. Although Sentinal can be deployed to enable real-time collection in e-commerce more generally, the regime is currently limited to online gaming. Taxpayers are required to connect to the gateway no later than December 31, 2022.
- **KPMG in the Netherlands** published a report discussing proposed legislation to implement the Central Electronic System of Payment Information (CESOP) reporting obligation beginning January 1, 2024. The proposed legislation incorporates virtually all the EU rules relating to CESOP and is substantially consistent with draft legislation that was previously opened for consultation. However, there are some notable aspects of the proposed legislation that deviate, including a new penalty clause imposing a maximum penalty of EUR 900,000 for noncompliance and a temporary IT solution for submitting reports.
- **KPMG in Oman** published a report discussing Decision No 456/2022, which amends certain provisions of the Oman VAT Executive Regulations effective October 17, 2022. The amended regulations provide that telecommunication services are no longer sourced based on the VAT status of the customer (taxable or not), but based instead on the place where the services are actually used or enjoyed, which is the place of residence of the customer, except in these two cases: (1) when the services are provided through fixed tools/ communication equipment situated in a specific location, they will be sourced to that location, and (2) when the services are provided through mobile networks, the services will be sourced to the country identified by the country code stored on the SIM card used to receive the services. Further, the amended regulations clarify that the exemption of financial services remunerated by way of margins extend to all businesses that provide such services i.e., not only to regulated/authorized financial institutions. Moreover, the amended regulations introduce a 15-day deadline for issuing VAT invoices, provide a framework for issuing e-invoices, and extend administrative penalties for failure to issue VAT invoices. Finally, the regulations remove conditions for granting VAT refunds to foreign governments, international organizations, diplomatic and consular missions, except for the reciprocity of treatment. Granting the refund will now be subject to other conditions to be determined by the Omani Tax Authority after coordination with the Ministry of Foreign Affairs and upon approval of the Ministry of Finance.
- **KPMG in Poland** published a report discussing recent indirect tax developments including a guidance issued by the Ministry of Finance on VAT groups and a Supreme Administrative Court clarifying the criteria for identifying a fixed establishment for VAT purposes.
- **KPMG in Poland** published a report discussing a draft decree which would amend regulations for the sugar tax and the fee on alcohol bottles of up to 300ml when finalized. The draft decree clarifies the tax point, introduces a mechanism to verify whether the fee was paid by wholesalers at the beginning of the supply chain, and shifts the obligation to pay the fee from retailers to manufacturers and importers. The proposed amendments are expected to become effective from July 1, 2023.
- **KPMG in Saudi Arabia** published a report discussing the launch of consultation on a draft proposal to amend the VAT zero-rating for certain exports of services. The new clause suggests that the sale of services to a customer without a place of residence in any Gulf Cooperation Council (GCC) Member State (currently any non-Saudi customer) would be zero-rated in cases when the sale is based on facilitating the sale of taxable services by that non-resident customer to a person in Saudi Arabia. The public discussion of the draft was completed on November 11, 2022, and a final amendment is expected to be issued.

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- **KPMG in Spain** published a report discussing a new decree law, which includes measures introducing mandatory e-invoicing for transactions between businesses. The new regime will become effective within one or two years of adopting implementing regulations, depending on certain circumstances.
- **KPMG in Spain** published a report discussing VAT proposals in the draft 2023 budget law including amendments to the use and enjoyment sourcing rules, the recovery of VAT on bad debts, and transactions requiring the business customer to self-assess VAT.
- **KPMG in Switzerland** published a report discussing updates to the Swiss e-filing portal. The Swiss tax authority is planning to replace the "ESTV SuisseTax" online platform with the "ePortal" online platform at the beginning of November 2022. The aim is to centralize more services in one single portal. Users will be automatically forwarded to the ePortal as soon as the transition is complete.
- **KPMG in the United Arab Emirates** published a report discussing amendments to the VAT law. The amended provisions of the VAT law clarify applicable definitions, the concept of sale of goods, sourcing rules for goods and services, VAT treatment of transactions involving agents, valuation rules, and VAT recovery rules. The amendments also introduce a new article relating to the statute of limitations. Subject to certain exceptions, the tax authority may not conduct a tax audit or issue a tax assessment after the expiration of five years from the end of the relevant tax period unless the tax authority notifies the taxpayer of the tax audit before the expiration of the fifth year; in these cases, the tax audit or issuance of tax assessment must be completed within four years from the date of such notice.

Back to top

Back to top

Global Rate Changes

- **Aruba:**[i] As part of broad tax reform measures, Aruba plans to increase its tourism levy from 9.5 percent to 12.5 percent, and the turnover tax (BBO) component of the sales tax regime from 1.5 percent to 2.5 percent.
- **Cabo Verde:**[ii] Carbo Verde recently published the Excise Duty and VAT (Amendment) Bill 2022, which, if approved, would (1) reduce the VAT rate for electricity and the sale of water to end consumers from 15 percent to 8 percent, (2) introduce an exemption for VAT, special consumption tax, excise tax, and customs duties for certain imported vehicles, machines, and raw materials, and (3) increasing the tourist tax imposed on hotels and similar entities from CVE 220 ($ 2.07) to CVE 276 ($ 2.60) for each overnight stay, subject to certain conditions. These changes would become effective January 1, 2023 if enacted.
- **Croatia:**[iii] Effective September 30, 2022, Croatia introduced a temporary reduced VAT rate of 5 percent on the sale of heating from thermal stations, firewood, pellets briquettes, and wood chips, applicable through March 31, 2023. In addition, Croatia introduced a zero percent VAT rate on the delivery and installation of solar panels on and near private residential buildings and other buildings used for activities of public interest.
- **Finland:**[iv] Between December 1, 2022 and April 30, 2023, Finland will apply a 10 percent reduced VAT rate on electricity. In addition, from January 1 to April 30, 2023, Finland will exempt passenger transportation services.

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- **Greece:**[v] On October 3, 2022, the Greek government submitted its draft 2023 budget to parliament. If approved, the budget would extend the reduced VAT rate on transportation of passengers and their luggage, coffee, carbonated water, and non-alcoholic drinks and services related to the provision of such beverages to June 2023, as well as apply it to cultural activities (cinema, theatre, and concert tickets), tourism, gyms, and dance schools. The budget further proposes to extend the super-reduced VAT of 6 percent on the sale of goods of products destined to be used for personal hygiene and protection (e.g., protective gloves and masks for medicinal use, soap, etc.), hemodialysis, hemofiltration, hemodiafiltration and plasmapheresis filters, and defibrillators to June 30, 2023.
- **Jersey:**[vi] On October 11, 2022, Jersey's parliament accepted for consideration Bill No. P.100/2022. If approved, the bill would introduce a GST zero-rate for food items except alcoholic drinks.
- **Lithuania:**[vii] On October 19, 2022, the Lithuanian Parliament accepted for consideration Bill No. XIVP-2148(2). If approved, the bill would apply a reduced 9 percent VAT rate to tourist accommodations, catering services and takeaway food, excluding alcoholic beverages, visits to institutions for art and culture, sporting events, and similar activities. The reduced rates will also apply to performance services provided by actors, singers, musicians, conductors, and dancers. If approved, the measure will become effective from January 1, 2023.
- **Paraguay:**[viii] On October 21, 2022, Paraguay announced introduction of a 10 percent reduced VAT rate in November and a 5 percent reduced VAT rate in December for the tourism sector, and a reduced selective consumption tax rate of 0.5 percent for specified electronic products, effective until December 31, 2022.
- **Poland:**[ix] On October 22, 2022, the Polish President signed a law extending the Anti-Inflation Shield until the end of 2022. The measures include a reduction to the VAT rate on fuel from 23 percent to 8 percent; a reduction of the VAT rate on basic foodstuffs, gas, and fertilizers to zero percent; and introduction of a 5 percent VAT rate on electricity and heat.
- **Portugal:**[x] On October 21, 2022, Portugal published Law No. 19/2022, which applies the 6 percent reduced VAT rate to electricity for up to 100 kWh in a 30 day-period, and up to 150 kWh in a 30-day period for households of five or more people. The measure was effective October 21, 2022.
- **Spain:**[xi] On September 29, 2022, Spain's Ministry of Finance presented the Budget bill for 2023. The bill would reduce the VAT rate on feminine hygiene products, prophylactics, and non-medical contraceptives from 10 percent to 4 percent if approved.

Back to top

Back to top

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Indirect Tax Developments and News from Around the World

The Americas

United States: Maryland Digital Advertising Tax Struck Down

On October 17, 2022, an Anne Arundel County (Maryland) Circuit Court judge struck down Maryland's digital advertising tax after a hearing on certain motions associated with the case. It has been reported that the judge ruled from the bench that the digital advertising tax violated the Internet Tax Freedom Act, the Commerce Clause, and the First Amendment. It remains to be seen whether the ruling will be appealed. Although the Maryland Senate President indicated the state would appeal, Peter Franchot, the Maryland Comptroller, issued a statement appearing to question whether an appeal should be filed. "I firmly believe that instead of continuing to expend public resources to defend a law that was constitutionally questionable at the time of enactment, the incoming governor and the incoming legislature should instead be given the opportunity to revisit this law." For more information, click here.

Chile: Overview of Recent Indirect Tax Developments

On September 29, 2022, the Chilean Internal Revenue Service (IRS) issued Letter No. 2916 clarifying VAT treatment of the sale of real estate by a VAT-registered taxpayer. In the case, a taxpayer who purchased real estate in 2012 and 2020 without paying VAT later sought clarification regarding whether VAT applies upon resale of the properties, and if VAT applies, what the tax base should be. The IRS clarified that the sale transaction would be subject to VAT because the taxpayer was a seller who regularly sells assets. The IRS further clarified that the tax base would be the difference between the sale price and the purchase price, with the value of the land deducted from both.

On October 12, 2022, the IRS issued Letter No. 3017 clarifying the taxation of digital assets linked to the provision of financial services. In the case, the taxpayer, a digital platform based on blockchain technology, sought clarification as to the taxation of platform token transactions. The IRS clarified that token transfers between the platform and users are not subject to income tax to the extent the value is equivalent to the Chilean pesos delivered. In addition, the IRS held that exchange transactions in the soft liquidation process constitute transactions subject to income tax and that the services provided by the platform are subject to VAT. Finally, the IRS clarified that transactions paid for by transfers of digital assets are subject to income tax.

On October 12, 2022, the IRS issued Letter No. 3019 clarifying the use of VAT-exempt invoices for sales of used vehicles. In the case, the taxpayer was in the business of buying and selling used vehicles and sought clarification as to whether its vendors should issue exempt invoices when selling vehicles to the taxpayer. The IRS clarified that sales of used vehicles are exempt from VAT if they involve transfer to the final consumer and are no longer owned by the manufacturer, distributor, or dealer. If the seller purchased the vehicles as used vehicles, without VAT, the invoices to the taxpayer must exclude VAT; alternatively, if the vendor bought the vehicles with VAT, the invoices to the taxpayer must include VAT.

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On October 12, 2022, the IRS issued Letter No. 3020 clarifying the VAT treatment of sales of undeveloped plots of land. In the case, the taxpayer sought clarification as to the taxation of sales of undeveloped subdivided plots of land in which the seller would retain ownership over a strip of land by creating an easement of passage. The IRS clarified that for VAT purposes, a taxable sale requires alienation of tangible real estate and its ownership. The sale in the present case is not subject to VAT because the land will be sold without any tangible real estate built on it. The IRS further emphasized that it is authorized, under the general anti-avoidance rule, to review land sales for pricing, potential tax avoidance through easements, and issues regarding related parties.

Source: Chile Tax Agency Clarifies Taxation of Financial Services, Digital Asset Transactions on Blockchain Platform, Bloomberg Law News, October 20, 2022; Chile Tax Agency Issues Clarification on Exempt Invoices for Sales of Used Vehicles, October 20, 2022; Chile Tax Agency Clarifies VAT on Sale of Plots of Land by Habitual Seller, Bloomberg Law News, October 20, 2022

Back to top

Back to top

Europe, Middle East, Africa (EMA)

European Union: Roundup of Recent ECJ Decisions

On October 6, 2022, the Court of Justice of the European Union (ECJ) published its decision in *O. Fundusz Inwestycyjny Zamkniety reprezentowany przez O S.A*, Case C-250/21, addressing the services provided by a sub-participant under a sub-participation agreement. The services in question consisted of making available to the originator a financial contribution in exchange for payment of the proceeds from the receivables specified in the agreement. The ECJ held that to the extent the receivables remain in the assets of the originator, they fall within the concept of "granting of credit" to qualify for VAT-exempt treatment. To read an article by the KPMG International member firm in Poland on this case, please click here

On October 6, 2022, the ECJ published its decision in *Vittamed technologijos*, Case C-293/21, in which it held that a taxpayer is required to adjust VAT originally deducted as the acquisition of goods or services intended to produce capital goods when the capital goods produced have not been used, and will never be used, in the course of taxable economic activities.

On October 13, 2022, the ECJ published its decision in *Veliko Tarnovo pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite*, Case C-1/21, in which it held that a Member State may provide for a system of joint and several liability for a legal person's VAT debts in the following circumstances: (1) the person held jointly and severally liable is a manager or member of an executive body of the legal person; (2) the person held jointly and severally liable made payments from the legal person's assets in bad faith which could be characterized as a hidden distribution of profits or dividends, or transferred those assets free of charge or at a price significantly lower than the market price; (3) the acts carried out in bad faith had the effect of rendering the legal person unable to pay all or part of the VAT for which it is liable; (4) the joint and several liability is limited to the amount by which the legal person's assets were depleted as a result of the acts carried out in bad faith; and (5) joint and several liability is incurred only in the alternative, when it proves impossible to recover from the legal person the amounts of VAT payable.

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On October 13, 2022, the ECJ published its decision in *HUMDA*, Case C-397/21, in which it held that a Member State cannot preclude a taxpayer from claiming VAT refunds for wrongly charged VAT directly from the tax authority if it is impossible or excessively difficult to claim the refunds from the seller or service provider due to that person having gone into liquidation. Further, when the taxpayer can claim refunds for wrongly charged VAT directly from the tax authority, the tax authority is obliged to pay interest on that amount if it has not made that refund within a reasonable time after having been requested to do so. In this case, the method for calculating interest due is based on the rules of the Member State. However, these rules must not result in the taxpayer being deprived of adequate compensation for the loss caused by the late refund of that amount.

On October 27, 2022, the ECJ published its decision in *Climate Corporation Emissions Trading*, Case C-641/21, in which it held that in the case of cross border business-to-business services, which should be sourced to the Member State of the recipient, the tax authorities of the Member State of the vendor cannot deem the services to be sourced to that Member State because the vendor knew, or should have known, that he or she was, by that transaction, participating in VAT evasion committed by the recipient in the other Member State.

Source: European Union; Poland – ECJ Decides on Whether VAT Exemption Relating to Credit is Applicable to Sub-Participation Agreement: *O. Fundusz Inwestycyjny Zamknięty reprezentowany przez O* (Case C-250/21) (VAT), (October 6, 2022), News IBFD; Taxnotes, Investment Fund's Financing Agreement Is VAT Exempt, CJEU Says, Posted on Oct. 11, 2022, European Union; Lithuania – ECJ Decides on Whether Input VAT Needs to be Adjusted With Regard to Capital Goods if Taxable Person Goes Into Liquidation: *Vittamed technologijos* (Case C-293/21) (VAT), (October 6, 2022), News IBFD; European Union; Hungary – ECJ Decides on Whether Tax Authorities are Required to Refund VAT Incorrectly Charged and Paid in Relation to VAT Exempt Supplies: *HUMDA* (Case C-397/21) (VAT), (October 13, 2022), News IBFD; European Union; Hungary – ECJ Decides on Whether Tax Authorities are Required to Refund VAT Incorrectly Charged and Paid in Relation to VAT Exempt Supplies: *HUMDA* (Case C-397/21) (VAT), (October 13, 2022), News IBFD; European Union; Austria – ECJ Decides on Place of Supply of Transfers of Greenhouse Gas Emission Allowances: *Climate Corporation Emissions Trading* (Case C-641/21) (VAT), (October 27, 2022), News IBFD.

European Union: Overview of Recent Indirect Tax Developments

On September 29, 2022, the European Commission announced that it closed its infringement proceedings against Bulgaria, the Czech Republic, Greece, Latvia, and Slovenia regarding the transposition into domestic law of the temporary VAT exemptions in response to the COVID-19 pandemic. The infringement procedures were opened on January 27, 2022.

On September 29, 2022, the European Commission announced that it closed its infringement proceedings against Estonia and Greece regarding their failure to implement the EU VAT e-commerce package into national law. The procedures were closed without an explicitly stated rationale. Nevertheless, both Estonia and Greece have amended their VAT legislation to incorporate the VAT e-commerce package into national law. The infringement procedures were opened on July 23, 2022.

On September 29, 2022, the European Commission announced that it closed its infringement proceeding against Poland,

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regarding the exemption from excise duty for gas and coal products provided by the national legislation, which was subsequently extended to all energy-intensive businesses. The infringement procedure was launched because the Polish legislation did not require a level of energy efficiency to apply for this exemption, which created distortions of competition in the EU's internal market. The infringement procedure was opened on March 8, 2018.

On October 14, 2022, the Group on the Future of VAT (GFV) held its 39th meeting to discuss the VAT treatment of the travel and tourism sectors following a review carried out by the European Commission. As a result of the meeting, the GFV published a working document, which notes that considering the importance of travel and tourism in the EU economy and the hit that the pandemic has placed on those sectors, the European Commission will assess the possibility of adopting a legislative VAT package focusing on three interlinked sets of provisions of the VAT Directive.

The GFV first recommends focusing on the special VAT mechanism for travel agents (also known as the tour operator margin scheme (TOMS)) as the review conducted by the European Commission highlighted inconsistencies between EU and non-EU travel agents in the application of the mechanism by EU Member States. Under TOMS, travel agents pay VAT on the margin of the services purchased and resold in the Member State of establishment and not on the value of the services in the Member State where the individual services are consumed. The main issues are the scope of the special scheme; the sourcing rules; the definitions of the concepts of the special mechanism; and the margin calculation. Some solutions have been proposed to solve these issues.

The GFV further recommends clarifying the VAT rules on passenger transport. The GFV proposes four main packages to address the complex rules in this area, which also creates distortions in the EU internal market. The administrative simplification package would address issues related to legal certainty and compliance. The exempt international services package would give all international transportation services the VAT treatment currently enjoyed by the air and sea sectors. The intra-EU services package would tax all intra-EU passenger transport services, including international air and sea services that are currently zero-rated. The green transport promotion package would also tax services that are currently exempt, to incentivize the production and consumption of greener transportation services.

Finally, the GFV recommends reviewing the VAT exemption for the sale of goods to non-EU travelers. In this respect, it considered the following options regarding VAT refunds: (1) mutual recognition of different digital systems by agreeing on a minimum common format of contents to exchange information; (2) full digitalization of VAT refund systems; and (3) technical and legal harmonization of VAT refund implementation requirements. The GFV further considers the following for duty-free shops: (1) extension of the VAT exemption to travel hubs other than airports and ports; (ii) extension of the VAT exemption for tax-free shops selling to airport inbound passengers within the limits of the personal allowances at import; and (iii) application of the same VAT refund system to duty-free shops and high street shops.

Source: European Union; Bulgaria; Czech Republic; Greece; Latvia; Slovenia – European Commission Closes Infringement Procedures Against Bulgaria, Czech Republic, Greece, Latvia and Slovenia Regarding Implementation of Temporary VAT Exemptions in Response to COVID-19 Pandemic, (October 3, 2022), News IBFD; European Union; Estonia; Greece – European Commission Closes Infringement Procedures Against Estonia and Greece Related to Lack of Transposition of VAT E-Commerce Package into National Law, October 3, 2022; European Union; Poland – European Commission Closes Infringement Procedure Against Poland

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Regarding Exemption from Excise Duty for Gas and Coal Products, (October 3, 2022), News IBFD; European Union- Group on the Future of VAT Discusses VAT Rules Applicable to Travel and Tourism Sector in its 39th Meeting, (October 17, 2022), News IBFD; European Union – EU Commission Publishes Stakeholders' Assessment on VAT Rules Applicable to Travel and Tourism Sector, (October 28, 2022), News IBFD.

European Union: Overview of Recent VAT Committee Working Papers

On October 21, 2022, the European Commission VAT Committee held its 121st meeting and published documents resulting from that meeting. The VAT Committee comprises representatives of the Member States' tax authorities and was established to promote the uniform application of the provisions of the VAT Directive. The VAT Committee cannot take legally binding decisions because it is an advisory committee only and has not been attributed any legislative powers. It can provide guidance on the application of the Directive.

In Working Paper No. 1046, the VAT Committee discusses the ECJ decision in *Vega International*, Case C-235/18, regarding VAT treatment of the sale of fuel cards. According to the Committee, determining the character of a sale of fuel through fuel cards requires considering to whom the right to dispose of the fuel as owner is transferred. If it can be established that the right to dispose of the fuel as owner is transferred to the issuer or seller of a fuel card, that person may be considered as selling the goods concerned. Such a transfer of the right to dispose of the fuel does not seem to take place under the buy/sell model for the sale of fuel cards, as described by the VAT Expert group in its presentation made to the VAT Committee at its 120th meeting. However, if the fuel cards constitute a mere instrument to structure the sale of fuel under a commissionaire contract, whereby the commissionaire acts in its own name but on behalf of a principal, the sales received and delivered by the commissionaire should qualify as a sale of goods.

In Working Paper No. 1047, the VAT Committee discusses a Danish consultation on the changes to be made to the global margin mechanism applicable to second-hand goods, works of art, collector items, and antiques. To ease the administrative burden, Denmark intends to allow taxable dealers to choose between a method of aggregation (based on items sold) or a periodic tax assessment method (item by item) for calculating their profit margin, without regard to whether the purchase or selling price of individual items is known.

In Working Paper No. 1048, the VAT Committee discusses a consultation from the French tax authorities to further clarify the right of deduction and invoicing rules of a VAT group after the introduction of the VAT grouping mechanism into French legislation. The VAT group provisions will become effective January 1, 2023.

In Working Paper No. 1049, the VAT Committee discusses which Member State should be able to bring legal proceedings in the cross-border application of the new special mechanism for small enterprises (SME) that will apply from January 1, 2025. With updates made to the SME mechanism, a small enterprise established in one Member State will also, if eligible and below the respective domestic threshold, be able to benefit from exemption in other Member States ("cross-border SME exemption"). Any Member State applying an exemption to the sale of goods and services made within its territory by a small enterprise established there must also grant access to that exemption when the small enterprise making the sale is established in another Member State. As part of the process of granting exemption, not only the Member State of establishment but also the Member State of exemption is attributed a role. The question is therefore which Member State is to take the steps necessary to ensure the protection of the fundamental rights of the taxpayer.

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In Working Paper No. 1050, the VAT Committee discusses the ECJ decision in *Grundstücksgemeinschaft Kollaustraße* 136, Case C-9/20, regarding when the time to deduct VAT arises. The Croatian tax authority wanted to clarify whether the postponement of the right to deduct VAT until the moment of payment when the seller applies the cash-accounting scheme, could be seen as contraryto the principle of neutrality and have negative effects from a market competition point of view.

In Working Paper No. 1051, the VAT Committee discusses whether a fixed establishment can be regarded as "established" in a Member State for the purposes of the special mechanism for SMEs, which will apply as of January 1, 2025. SMEs whose gross receipts in their Member State of establishment (MSEST) are below the national exemption threshold, may benefit from the exemption in the MSEST regardless of their EU annual gross receipts. When, however, SMEs established in another Member State want to benefit from the exemption in a Member State, in which they are not established (MSEX), their gross receipts must not exceed either the national or the EU gross receipts thresholds. It is therefore important to define the notion of an established SME and to clarify whether a taxpayer having a fixed establishment should be regarded as "established" in a Member State for purposes of the SME preference.

In Working Paper No. 1052, the VAT Committee discusses a question brought by Belgium on the relationship between the SME mechanism and the rules on intra-EU acquisitions by SMEs applying the special mechanism SMEs. The question raised by the Belgian delegation concerns the situation in which a small enterprise is obliged under the normal rules to register as it is making intra-EU acquisitions of goods while also using the special mechanism for SMEs.

In Working Paper No. 1053, the VAT Committee discusses the possibilities to refund the VAT incurred by a pharmaceutical company established in one Member State on compensation paid for medicinal products to a health insurance institution in another Member State. According to the ECJ, in a pure domestic supply chain, manufacturers of medicinal products (pharmaceutical companies) may reduce the taxable amount of the medicinal products they sell by the amount of compensation paid to a health insurance institution, even without a VAT credit note being issued for such a reduction. In this case, for the purposes of VAT, it is considered that the manufacturer of the medicinal product granted a discount for the previously sold medicinal product and that such discount was granted at the final stage of the supply chain of the medicinal product. The Working Paper addresses the application of the ECJ decision in an intra-EU supply chain.

Source: European Union – European Commission VAT Committee Discusses VAT Treatment of Fuel Cards, SME and Margin Scheme and Other Issues in its 121st Meeting, (October 25, 2022), News IBFD.

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France: Overview of Recent Indirect Tax Developments

On September 30, 2022, the French General Directorate of Customs and Indirect Taxes issued Circular No. DA 22-021 regarding the taxation of energy products effective from October 1, 2022. Among other things, the circular explains the collection of import VAT (TVAI) and VAT on oil products (TVAP) with respect to chargeable events occurring on or after January 1, the territorial scope of the taxes, taxable products and specifications of taxable quantities, the internal consumption tax on energy products, and codes related to exemptions and exemption regimes.

On October 9, 2022, France published technical regulations on mandatory e-invoicing and e-reporting, the implementation of which will be phased-in beginning July 1, 2024. The technical regulations provide the terms and procedures for issuing, transmitting, and receiving e-invoices, and for transmitting invoicing and payment data to the tax authority. Taxpayers may use either partner dematerialization platforms or the public invoicing portal managed by the state financial IT agency (*Agence pour l'informatique financière de l'État*, AIFE).

On October 12, 2022, France updated its FAQs on e-invoicing. The updated FAQs clarify the scope and application of e-invoicing and e-reporting obligations, e-invoicing for transactions subject to the VAT margin regime, penalties for failing to submit e-invoices, a phased deployment schedule for the rollout of the mandatory reporting obligations between July 1, 2024 and January 1, 2026, application of e-reporting for transactions assimilated to intra-EU acquisitions located in France, required frequency for transmitting transaction and payment data, transmission of payment data for companies not established in France, procedures for transmitting payment data, use of partner dematerialization platforms to transmit e-invoices and data, and e-reporting obligations for triangular operations benefiting from the drop shipment simplification measure. To read KPMG's previous discussion of France's e-invoicing regime, please click here

On October 25, 2022, France published a draft administrative guidance regarding the optional VAT grouping regime, which will apply from January 1, 2023. The regime will apply to taxpayers established in France or French permanent establishments that are closely bound to one another by financial, economic, and organizational links, even though legally independent. Taxpayers opting for the VAT group must comply with several conditions and the election lasts for a minimum period of 3 years. The election must be filed before October 31 of the preceding year and will be effective January 1 of the following year. The draft guidelines clarify that the VAT group results in the formation of a single taxpayer for VAT purposes, access and exit of members to the VAT group and dissolution of the single taxpayer, the VAT treatment applicable to transactions received and performed by the single taxpayer, the single taxpayer's rights of deduction, and the reporting obligations and other formalities associated with the group. Interested person may submit comments to bureau.d1-dlf@dgfip.finances.gouv.fr through March 31, 2023.

On October 26, 2022, the French Directorate of Public Finance clarified that the VAT self-assessment mechanism applies to domestic transfers between VAT registered taxpayers of both emission reduction units (CER) and verified emission reduction units (VER).

Source: France Customs Agency Issues Circular on Taxation of Energy Products, Bloomberg Law News, October 5, 2022; France – France Issues Technical Details on E-Invoicing and E-Reporting for VAT Purposes, (October 11, 2022); France Tax Agency Updates FAQs on VAT E-Invoicing, Bloomberg Law News, October 17, 2022; France Tax Agency Posts FAQs on Single Taxpayer VAT Regime, Bloomberg Law News, October 17, 2022; France – Tax Authorities Launch Public Consultation on Administrative Guidelines Regarding VAT Group Regime, (October 27, 2022), News IBFD; CCH, Global VAT News & Features, France Releases Draft Guidance

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On VAT Grouping Regime,(Oct. 28, 2022); France Tax Agency Clarifies VAT Reverse Charge Mechanism for Transfers of Emission Reduction Units, Bloomberg Law News, October 31, 2022.

Italy: Overview of Recent Indirect Tax Developments

The Italian Tax authority (ITA) recently clarified the VAT exemption for provision of financial services. In Ruling Answer No. 360/2022, the ITA clarified that a bundle of consultancy services related to a sale of shares, consisting of the intermediation and preparation of meetings with the parties, evaluation of preliminary offers, coordination of data rooms, and assistance in the negotiation that are remunerated by a success fee qualify as pure consultancy services, and not as a financial service if the intermediation activity is just a portion of the entire service provided. Consequently, the provision of such services is subject to VAT at the standard rate. In Ruling Answer No. 361/2022, the ITA clarified that a bundle of consultancy services related to a sale of shares, consisting of preliminary analysis of the company and its business, evaluation of possible alternatives, drafting of an information memorandum, identification of relevant criteria for selecting potential purchasers, coordination of due diligence activities, and assistance in the negotiation that are remunerated by a success fee qualify as a pure consultancy service and not as a financial service. Consequently, the provision of such services is subject to VAT at the standard rate. In Ruling Answer No. 364/2022, the ITA clarified that the sale of software for the management of investment funds is VAT exempt, provided that the conditions highlighted by the ECJ in its judgment in K, Case C-58/20 (June 17, 2021), are met (i.e., the service is intrinsically connected to the management of the fund and is provided exclusively for the purpose of managing such fund).

The ITA published Ruling Answer No. 353/2022 clarifying that fees paid for online participation in scientific events are subject to VAT in the country where the event takes place. In the case, a foreign company organized an international medical event in Italy; paying participants could join either in person or online. In both cases, the participation fee gave the right to join the sessions in real time and access their recordings online for the following 3 months. In line with the principles highlighted by the ECJ in its judgment in *Srf konsulterna*, Case C-647/17 (Mar. 13, 2019), the ITA held that participating virtually or in person in a scientific event is the same, provided that all participants may enjoy the event with no substantial differences. Consequently, the provision of online admission services is subject to VAT in Italy, that being the country where the event took place.

On October 3, 2022, the ITA published Ruling Answer No. 484/2022 clarifying the VAT variation note and deduction rules in the context of corporate restructurings. In the case, the taxpayer took over a business branch in a partial demerger, meaning it assumed the branch's VAT rights and liabilities. The branch had no separate VAT accounting. The taxpayer issued a VAT variation note, reducing VAT for bad debt stemming from the branch's previous relationships. The taxpayer inquired as to the integration of the invoices considering the demerger. The ITA clarified that the taxpayer was entitled to issue reduced invoices after the effective date of the demerger or proceed with registering purchase invoices if the branch had not yet done so. The taxpayer could issue a single, self-invoice for each vendor, given the high number of invoices.

On October 3, 2022, the ITA published Ruling Answer No. 483/2022 clarifying application of the 10 percent reduced VAT rate to the sale of specified medical products. In the case, a taxpayer sought clarification as to whether sales of certain medical products qualified for the reduced rate. The ITA clarified that

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the reduced rate applies to medical devices used for treatments, whether used alone or mixed and prepared for therapeutic or prophylactic purposes. Qualifying medicinal products include homeopathic products, pharmaceutical substances, and medications in the form of doses for retail sale when used for medical treatment.

The ITA published Ruling Answer No. 387/2022 clarifying the procedure to be followed when a company unlawfully joins a VAT group before the required financial conditions are met. The ITA noted that it is necessary to determine and recover the tax advantage arising from the unlawful participation of the entity in the VAT group. Consequently, the VAT group must recalculate the input and output VAT amounts excluding the relevant entity, recalculate the VAT debt and credit positions and compare them to the ones declared in the relevant VAT return, and pay the amount of VAT due, plus applicable interest and penalties, or reduce the amount of excess input VAT.

On October 3, 2022, the Italian Customs authorities published Circular No. 34/2022 clarifying Commission Decision (EU) 2022/1108 of July 1, 2022 providing import duties and VAT reliefs on imports of goods to be distributed or made available free of charge to persons fleeing the war in Ukraine and to persons in need in Ukraine.

The ITA recently published Ruling Answers Nos. 370/2022 and 392/2022 clarifying that the provision of cross-border shipping services of goods for exportation, in transit or for temporary importation, are zero-rated if provided to the person holding the relevant customs authorization. The new rules are in line with the ECJ decision in *L.C.*, Case C-288/16 (June 29, 2017), effective from January 1, 2022.

On October 12, 2022, the ITA published Ruling Answer No. 505/2022 clarifying application of the 4 percent reduced VAT rate to sales of aids and prostheses used to address permanent functional impairments. In the case, a company operating in the food sector in Italy sought to apply the reduced rate to some of its food products. The ITA clarified that gelled water, gel drinks, thickening powders, and polymer mixtures do not qualify for the reduced rate because they are used generally for hydration and nutrition, not for the delivery of nutrients to address permanent functional impairments.

On October 13, 2022, the EU Commission published a proposal authorizing Italy to continue applying special measures to limit the right to deduct VAT on purchases of certain motorized road vehicles to 40 percent until December 31, 2025. These measures were previously extended to apply until December 31, 2022.

On October 14, 2022, the ITA published Ruling Answer No. 511/2022 clarifying the VAT deduction rules for companies undergoing mergers. In the case, the taxpayer sought to clarify the calculation of VAT deductions following a merger of companies subject to different VAT exemption regimes or deductibility percentages. The ITA clarified that the company resulting from the merger assumes the rights and obligations of the participating companies, including those relevant for VAT. The acquiring company, during the year of completion of the merger, may continue to provisionally deduct VAT based on the VAT apportionment identified in the model VAT return for the year preceding the merger, and then adjust the VAT amounts when submitting the current year's VAT return.

On October 14, 2022, the ITA published Letter No.514/2022 clarifying application of the VAT exemption regime to shipping services for imported goods. The taxpayer was a terminal services operator that appointed a third party to perform shipping services. The taxpayer included the shipping costs in the value of the goods charged to its customer and questioned

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whether the VAT exemption regime applies to the shipping services performed by the third party. The ITA held that the exemption applies to qualifying individuals, including exporters, holders of the transit procedure, importers, goods recipients, and service providers. The taxpayer qualified for the exemption because it provided shipping services through the third party to carry out importation formalities as a direct representative of the recipient of the goods.

The Italian Ministry of Economy and Finance recently published the updated list of entities subject to application of the split payment mechanism in 2023. The list includes companies controlled by government ministries and by central and local public bodies, as well as companies listed on the FTSE MIB index of the Italian Stock Exchange. Additional updates to the lists are possible during the year. Under the split payment mechanism, vendors must charge VAT (when due and the VAT self-assessment mechanism does not apply) to qualifying public bodies and entities. These entities, however, "split" the payment of the invoice by paying the taxable amount to the seller and the VAT to a blocked VAT bank account belonging to the Treasury. Consequently, taxpayers that sell goods or provide services to qualifying public bodies and entities must issue invoices including the term "split payment" and record them as usual. However, they must not count the relevant VAT as a liability since such VAT is not included in the periodic (monthly or quarterly) payments.

Source: Italy – Tax Authorities Clarify VAT Exemption of Supplies of Financial Services, (October 3, 2022), News IBFD; Italy – Tax Authorities Clarify Place of Taxation of Supplies of Online Event Admission Services for VAT Purposes, (October 3, 2022), News IBFD; Italy Tax Agency Clarifies VAT Variation Note, Deduction Rules in Restructurings, Bloomberg Law News, October 4, 2022; Italy Tax Agency Clarifies Reduced VAT Rate for Medical Devices, Bloomberg Law News, October 4, 2022; Italy – Tax Authorities Clarify Procedure to Regularize Unlawful VAT Grouping Regime Application, (October 2022), News IBFD; Italy – Customs Authorities Clarify VAT and Customs Duties Relief for Importation of Goods Destined for Ukrainian Refugees, (October 19, 2022), News IBFD; Italy – Tax Authorities Clarify VAT Treatment of Supplies of Cross-Border Transportation Services of Goods, (October 10, 2022), News IBFD; Italy – Tax Agency Clarifies VAT Rate on Supply of Medical Nutrition Food Products, Bloomberg Law News, October 17, 2022; European Union; Italy – European Commission Proposes to Authorise Italy to Continue Limiting the Right to Deduct Input VAT of Motorized Road Vehicles, (October 14, 2022), News IBFD; Italy Tax Agency Clarifies Application of VAT Exemption Regime to Transport of Imported Goods, Bloomberg Law News, October 20, 2022; Italy – Finance Department Updates Lists of Entities Qualifying for the Application of the Split Payment Mechanism, (October 26, 2022), News IBFD; Orbitax, Italy Publishes Lists of Companies Subject to VAT Split-Payment for 2023, October 28, 2022.

Romania: New E-Transport Requirement

Effective July 1, 2022, Romania made its e-Transport system mandatory, with penalties applying to noncompliant taxpayers beginning October 1, 2022. The e-Transport system allows the Romanian authorities to monitor high-risk goods shipped within Romania and to determine possible losses within the supply chain as a means of preventing the illegal trade of certain goods and increasing taxes collected. The regime covers intra-EU acquisition and deliveries, goods subject of customs operations, and goods shipped between two locations in Romania. The list of high-risk goods includes fruit and vegetables, alcoholic beverages and vinegar, mineral products, clothing, and footwear, cast iron, iron, salt, sulphur, lime, cement and steel products. Further, vehicles covered by the regime are those that have a maximum authorized mass of at least 3.5 tons, loaded with high-risk goods with a total gross mass exceeding 500kg or a total value greater than

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RON 10,000 ($2,060). The following persons are subject to the reporting obligation for high-risk goods via the RO e-Transport: the consignor indicated in the customs import declaration, the exporter indicated in the customs export declaration, the recipient in Romania for intra-EU acquisitions, the vendor in Romania for domestic transactions or intra-EU deliveries, and the depositary for intra-EU transactions in transit in Romania.

In addition, taxpayers must include the following information in the RO e-Transport portal: (1) the name, characteristics, quantities, and value of the shipped goods; (2) the identification of the sender and beneficiary of the goods; (3) the place of loading, unloading, and mode of transportation; and (4) information regarding the vehicle (plate, carrier name, etc.). Once the shipment of high-risk goods is reported into the e-Transport system, the system will generate a UIT code that uniquely identifies the goods that are shipped. A UIT code can be requested no sooner than three calendar days before the shipment begins and is valid for five calendar days (except for intra-EU transactions for which the UIT is valid for 15 days) from the shipment date reported on the system.
The UIT code should be clearly legible on the shipping document and is available in physical or electronic format. Non-compliance with the new e-Transport system is subject to penalties amounting between RON 5,000 ($1,030) and RON 100,000 ($20,601) and seizure of the value of the undeclared good in certain cases.

Ukraine: Overview of recent Indirect Tax Developments

On September 21, 2022, Ukraine's State Tax Service (STS) clarified that contractual bonuses and other similar payments made by a vendor to a Ukrainian distributor for the distributor's compliance with contractual stipulations to promote the sale of goods or services in Ukraine are classified as payments for marketing services and are subject to VAT.

On September 27, 2022, the STS clarified that an employee's medical insurance, the cost of which is an expense of the employer is not subject to VAT.

On September 29, 2022, the STS clarified that if a taxpayer's fixed production or nonproduction assets are liquidated at its will, the liquidation should be classified as a taxable sale of the fixed assets, carried out at "regular prices" but not lower than the book value of the assets at the time of the liquidation. A regular price generally means the price established by the parties to the contract. Unless proven otherwise, that price corresponds to the market price for the relevant goods or services. If a valuation is mandatory at the time of the transaction, the value of the appraised goods should be the basis for determining the regular price. The market price is the price at which goods or services are transferred to another owner under the following conditions: (1) the seller wants to transfer the goods or services, and the buyer wants to receive them voluntarily; (2) both parties are mutually independent and have sufficient information about the goods or services; and (3) the prices prevailing on the market match those for identical or similar goods or services under comparable commercial conditions.

On October 4, 2022, the STS clarified that the VAT base of a freight forwarder should be determined based on the value of the freight-forwarding services provided, plus the cost of the shipping services if the carrier providing those services is a VAT taxpayer. If the carrier is not a VAT taxpayer, the cost of the shipping services does not increase the VAT base of the freight forwarder.

On October 19, 2022, the STS clarified the extension of the deadline for the VAT exemption on imports of scrap or ferrous and non-ferrous metals from January 1, 2022 to January 1, 2027. The announcement clarifies that although the extension was not approved until March, the exemption applies to all qualifying transactions for the entirety of 2022.

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On October 20, 2022, the STS clarified that transactions involving a monetary contribution to the authorized capital of a legal entity in exchange for participation stakes in the capital of that entity are not subject to VAT in Ukraine.

On October 26, 2022, the STS clarified that the transfer of an asset to a lessee under a finance lease agreement and the return of that asset to the lessor are subject to VAT. Further, a lessee that returns an asset to the lessor because of the early termination of a finance lease agreement must determine its VAT obligation regarding that return transaction on the date the asset is returned to the lessor.

Source: Taxnotes, Ukraine Issues Three VAT Guidance Letters, October 7, 2022; Taxnotes, Ukraine Clarifies VAT on Transfer of Goods Under Agency Contract, October 18, 2022; Taxnotes, Ukraine Issues Three VAT Guidance Letters, October 31, 2022; Ukraine Tax Agency Clarifies VAT Exemption Regime Application Extension for Supply of Ferrous, Non-Ferrous Metals, Bloomberg Law News, October 25, 2022.

United Kingdom: Overview of Recent Indirect Tax Developments

On September 21, 2022, the UK's First-Tier Tribunal (Tax Chamber) published its decision in *Innovative Bites Ltd*, [2022] UKFTT 352 (TC), on whether a product used for making s'mores qualified for the zero-rating applicable to food products. Innovative Bites is a U.K.-based wholesaler of American snacks, including Twinkies, that also sells oversize "Mega Marshmallows" to British retailers. The product's packaging suggests that they are intended for roasting over an open flame, rather than for consumption as a snack. The packaging includes instructions for properly roasting the marshmallow and a description for making a s'more. Under UK VAT law, food is generally zero-rated for VAT purposes and confectionery, such as chocolates, sweets, and biscuits, are standard rated. Innovative Bites took the position that the marshmallows do not fall within the scope of confectionery because they were intended to be used as an ingredient in s'mores which require additional cooking processes (as evidenced by the marketing and packaging of the product). In August 2019, HMRC claimed that the marshmallows should be subject to the standard-rate as confectionery and consequently issued VAT assessments to Innovative Bites for the period between June 2015 and June 2019. It argued that the marshmallows may be eaten as a snack on the go, and that they can be found on the company's website under the category "sweets, candy, and chocolate." In its judgment, the FTT considered the nature of the product, the placement of the product in grocery stores, and the packaging and marketing of the product. It found that most consumers purchasing the oversize marshmallows use them for roasting to make s'mores. Thus, it ruled in favor of the taxpayer holding that the marshmallows should not be standard-rated as confectionery.

HMRC recently announced that effective November 1, 2022, VAT-registered businesses must use Making Tax Digital (MTD) compatible software for their VAT returns. Businesses that file their VAT returns on a quarterly and monthly basis are no longer able to submit them using their existing VAT online account, unless HMRC has agreed they are exempt from MTD. If businesses do not file their VAT returns through MTD-compatible software, they may face a penalty. Even if a business currently keeps digital records, they must ensure their software is MTD compatible and register for MTD before filing their next return. Further, new businesses not yet registered for VAT will be automatically signed up for MTD while registering through the agency's VAT Registration Service (VRS). However, they will still need to acquire the right software to submit VAT returns.

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On October 12, 2022, the UK Supreme Court published its decision in *DCM (Optical Holdings) Ltd.*, [2022] UKSC 26, on the conditions for a successful VAT refund claim from HMRC. DCM is a U.K.-based company that sells lenses and frames and conducts laser eye surgery under the business Optical Express; it is the representative member of a VAT group in the UK. Since DCM sells both taxable and VAT-exempt goods and services, the company was required to use the partial exemption method for apportioning the VAT incurred on expenditures between taxable and exempt elements of its business. HMRC released guidance on the various methods specifically tailored to sales of optical goods and dispensing services, saying that opticians can use either the full cost apportionment method or the separately disclosed charges (SDC) method. Following a settlement with HMRC in 2003 related to a best-judgment assessment, HMRC explained to DCM that if it chooses to use the SDC method, it must send HMRC actual customer receipts. DCM claimed that it was using the SDC method. In November 2003, DCM's accountants attempted to obtain approval to use the SDC method by sending HMRC receipts, which HMRC later discovered were proposed sample receipts. DCM's accountants said in a subsequent correspondence to HMRC that DCM had been using the SDC method since May 2003; this was inconsistent with the prior communication. In September 2005, HMRC visited DCM's office to access the company's VAT account and obtain information about its VAT calculations. HMRC discovered that DCM's method did not match the representation of its accountants and that DCM had not been using an approved SDC method to calculate its output VAT. In October 2005, HMRC issued DCM an assessment for underdeclared VAT. DCM argued that HMRC knew that "something was wrong" with its apportionment method by January 2004 and, from that point, it had one year to make its assessment. This meant that they were out of time to do so for the relevant accounting periods by October 2005, making their purported assessment time barred and invalid. HMRC further reduced DCM's VAT credits for the period between 2008 and 2013. DCM argued that HMRC did not have the powers to make the reductions. DCM was unsuccessful in both its challenges before the First-Tier Tribunal, but the Upper Tribunal allowed the time bar challenge. The Inner House of the Court of Session allowed HMRC's appeal on the time bar challenge and dismissed DCM's appeal on the challenge to HMRC's powers to reduce VAT credits. In its judgment, the Supreme Court determined that HMRC was within the limitations period prescribed under the VAT law. It reasoned that a court must first decide the facts which, in HMRC's opinion, justified the making of the assessment and then determine when the last piece of evidence of those facts was communicated to HMRC. It is from this date that the period of one year begins to run. HMRC obtained the last pieces of evidence relevant to the assessment of October 2005 (including, for the first time, from DCM's VAT account) on August 31 and September 1, 2005, before which time HMRC did not have evidence of facts sufficient to justify that assessment. It was then that the clock began to run. It held that HMRC's assessment is valid because it was issued a little over a month after the 2005 visit which enabled HMRC to fully understand DCM's partial exemption status and the calculation method for output VAT. Further, agreeing with the lower courts, it found that HMRC has implicit authority to refuse payment of claimed VAT refunds and explained HMRC cannot simply honor a repayment of a trader's VAT refund claim on its return because the government would be allowing "an unwarranted cash flow advantage" in violation of the EU's principle of fiscal neutrality, which applies to the years at issue. The statutory obligation on HMRC to pay a VAT refund arises only once it is established by the verification process that the VAT refund is due.

On October 18, 2022, HMRC published for consultation, the draft Platform Operators (Due Diligence and Reporting Requirements) Regulations to implement new reporting

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obligations for digital platforms based on the OECD Model Reporting Rules for Digital Platforms. The draft regulations set out further details of the actions with which digital platforms must comply, penalties for failing to do so, and the appeals process. Under the proposed regulations, UK platform operators must collect, verify, and report details of sellers to HMRC, with a copy of this information provided to the sellers themselves. Taxpayers may provide comments and feedback on the drafts through December 13, 2022. Final regulations are expected in early 2023 and will come into force on January 1, 2024.

On October 19, 2022, the UK Supreme Court published its decision in *NHS Lothian Health Board*, [2022] UKSC 28, regarding the correct approach to be taken by the courts and tribunals with respect to evidence, burden and standard of proof in historical claims for the recovery of overpaid VAT. In the case, the taxpayer carried out scientific testing for the National Health Service (NHS) as well as for private companies. The former were not business transactions. The VAT incurred in providing these services was thus not recoverable. However, the VAT incurred in providing services to private entities was claimable, and NHS Lothian sought recovery for the period 1974 to 1997 under the extended time limit for old VAT claims. However, the taxpayer no longer had detailed records of the VAT paid on each type of sale, so the taxpayer applied the recoverable percentage for 2006/07 (14.7 percent) to the total paid for the previous years. HMRC rejected the claim on the basis that this method of valuation was not reasonable. The taxpayer appealed, which was rejected by the FTT and upheld by the Upper Tribunal. The Court of Session approved the claim, and HMRC appealed to the Supreme Court. The Supreme Court agreed with the FTT and rejected the VAT claim on the basis of insufficient evidence to establish the correct allowable proportion of recoverable VAT during the claim period. Although there is a right to deduct VAT, this must be supported by credible evidence that gives reasonable certainty to the amount repayable. The approach taken by HMRC and the FTT did not make the taxpayer's claim virtually impossible or excessively difficult to enforce. This would be prohibited by the principle of effectiveness as established by EU law applicable to the years at issue. However, the ordinary rules of evidence and the standard of proof (the balance of probabilities) remain the same. There was no evidence to support the taxpayer's argument that the UK's policies had contributed to the difficulties in establishing the amount of its claim.

Source: Taxnotes, HMRC Under Fire for VAT Bill on S'mores Marshmallows, October 4, 2022; CCH, Global VAT News & Features, UK Making Tax Digital For VAT Transitional Period To End,(Oct. 5, 2022); Taxnotes, U.K. Supreme Court Upholds HMRC's Refusal to Repay VAT Credit, October 13, 2022; United Kingdom – Tax Authority Presents Draft Regulations for Digital Platforms, (October 20, 2022), News IBFD; United Kingdom – UK Supreme Court Rejects Claim for Input VAT Deduction, (October 21, 2022), News IBFD.

Back to top

Back to top

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European Union: EU Single Window Environment for Customs Adopted

On October 24, 2022, the European Council adopted new rules regarding the "EU Single Window Environment for Customs" which establish the appropriate conditions for digital collaboration between customs and partner competent authorities. The new rules will facilitate the exchange of information between authorities involved in goods clearance as businesses will no longer be required to submit documents to several authorities through different websites. In addition, the EU Single Window Environment will allow automatic verification of whether goods in question comply with EU requirements and that the necessary formalities have been completed.

The new rules were initially presented by the European Commission under the proposal published on October 28, 2020. The regulation is expected to be signed by the European Parliament at its November II plenary and then be published in the Official Journal of the European Union.

Source: European Union – European Council Adopts EU Single Window for Customs, (October 25, 2022), News IBFD.

Back to top

Back to top

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In Brief

- **Albania:**[xii] On October 26, 2022, the Albanian Council of Ministers approved a draft bill to amend the VAT law which would introduce a VAT exemption for the import of goods for the implementation of specified projects under a donation or grant agreement, electricity sold through the Albanian electricity exchange, and other specified items. The bill further includes measures that would clarify the calculation of VAT and the VAT self-assessment mechanism for energy buyers. The law would generally take effect from January 1, 2023.
- **Anguilla:**[xiii] On October 26, 2022, the Anguillan Inland Revenue Department announced that taxpayers are required to use of their tax identification number for all commercial transactions and for claiming GST credits.
- **Bolivia:**[xiv] Effective October 1, 2022, Bolivia expanded its e-invoicing requirement to 3,897 more taxpayers as part of the third phase of its rollout. The Bolivian National Tax (SIN) Service further announced the release of new forms for VAT and the tax on transactions (IT) on the SIAT online platform. Finally, on November 10, 2022, the SIN published Resolution (RND) Nº 102200000024, which lists 42,090 entities and individuals that correspond to the fourth group of taxpayers that will be required to issue e-invoices effective April 1, 2023. To read KPMG's previous discussion of Bolivia's e-invoicing regime, please click here.
- **Bulgaria:**[xv] On October 13, 2022, the European Commission published a proposal authorizing Bulgaria to temporarily increase its VAT registration threshold from BGN 50,000 ($25,750) to BGN 100,000 ($51,506) between January 1, 2023 and December 31, 2024.
- **China:**[xvi] On September 30, 2022, the Chinese State Administration of Taxation (SAT) issued Announcement No. 31 explaining tax policies to help banks and financial asset management companies disposing of foreclosed assets between August 1, 2022 and July 31, 2023. The SAT clarified that if the entity is a general VAT taxpayer disposing of debt-foreclosed real estate, it can deduct the property's value from the sales price minus out-of-pocket expenses and apply a 9 percent VAT rate. The SAT further introduced a stamp duty exemption for contracts, property transfer documents, and business account books involved in receiving and disposing of foreclosed assets. The SAT announcement also introduced a deed tax exemption for receipts of foreclosed assets and an authorization to local jurisdictions to reduce or exempt foreclosed assets from the real estate tax and urban land use tax. Finally, the announcement explains what constitutes a qualifying bank, as well as qualifying foreclosed real estate assets.
- **Dominican Republic:**[xvii] On September 29, 2022, the Dominican Republic government presented the 2023 Budget Bill, which includes a proposal to impose VAT (tax on the transfer of industrialized goods and services, or ITBS) on nonresident providers of digital services in the Dominican Republic as well as a 50 percent rate reduction on the VAT imposed on the textile, and manufacturing industries.
- **Dominican Republic:**[xviii] On October 19, 2022, the Dominican Republic Directorate General of Internal Revenue (DGII) issued General Rule 12-2022 clarifying the VAT refund procedure for exporters. The guidance explains the application requirements and procedures for the refund and the possibility for local sellers to invoice without VAT when selling raw materials, packaging material and other goods to exporters under certain conditions.

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- **El Salvador:**[xix] On October 27, 2022, El Salvador's Ministry of Finance published a notice on e-invoicing. The notice provides that the tax authority will establish and communicate the plan for the gradual implementation of e-invoicing in subsequent publications indicating the groups of taxpayers and the start date for issuing invoices using the Electronic Tax Documents (Documentos Tributarios Electrónicos - DTE) portal. Taxpayers that have already been authorized to issue e-invoices will continue to issue them in the manner established in the corresponding authorizations, making the necessary adjustments in accordance with the new legal provisions.
- **Estonia:**[xx] On October 10, 2022, the Estonian government approved a draft bill to implement DAC7 requirements into its domestic law. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023.
- **Finland:**[xxi] On November 17 2022, Finland submitted a draft bill on changes to its tax on sugary drinks. Among other things, the proposals would introduce six tax brackets (two currently) to ensure that drinks with negative health impacts are more heavily taxed. A rate of 13 cents per liter would apply to drinks without added sugar. Meanwhile, drinks containing added sugar would be taxed at either 19, 25, 32, 39, or 46 cents per liter, depending on the sugar content. Further, the government proposes to amend the tax on unsweetened and unflavored waters and mineral waters so that it applies to retail packages containing more than five liters, and solid beverage ingredients will be removed from the scope of the tax.
- **Finland:**[xxii] On October 22, 2022, Finland submitted a draft bill to its parliament to implement DAC7 requirements into national law. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023.
- **Finland:**[xxiii] On October 7, 2022, the Finnish Tax Administration updated Guide No. VH/5079/00.01.00/2022 on the VAT treatment of goods transferred to tax warehouse. The guide covers establishing a tax warehouse, storage procedures, recordkeeping and documentation requirements, tax-free treatment of transactions taking place in the tax warehouse, guidance for when selling goods to tourists in airports, and termination of the tax warehousing procedure.
- **Ghana:**[xxiv] On October 11, 2022, Ghana published the Value Added Tax (Amendment) Act 2022 (Act 1082). It requires unregistered importers to pay VAT up front and allows recovery after the importer registers for VAT and files a return. The Act further clarifies the scope of the VAT obligations for nonresident resident digital services providers and removes the registration threshold for such nonresident providers. Finally, the Act introduces new e-invoicing requirements, clarifies eligibility to claim VAT deductions, and introduces a temporary VAT zero rate for locally assembled vehicles from September 1, 2022 through December 31, 2023.

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- **Guatemala:**[xxv] On October 14, 2022, the Guatemalan government published Governmental Agreement 245 of 2022 amending Governmental Agreement 5-2013 on VAT invoicing requirements. Governmental Agreement 245 clarifies that authorized documents supporting sales over GTQ 2,500 ($312.40) must contain an identification code number and a tax ID or personal identification number (PIN) of the seller and the buyer. The text "final customer" may only be used in tax documents supporting transactions of less than GTQ 2,500 or utility service bills (water, electricity, telephone) of less than GTQ 500 ($62.48). Failure to comply may constitute a violation of the formal duties (up to GTQ 100 ($12.49) per document).
- **Hungary:**[xxvi] On October 11, 2022, the Hungarian parliament approved a draft bill to implement DAC 7 requirements into national law. The new rules cover digital platforms located both inside and outside the EU and will generally apply from January 1, 2023. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023.
- **Indonesia:**[xxvii] On September 28, 2022, the Indonesian Directorate General of Taxation announced the launch of the 2022 version of the e-SPT PPN 1107 PUT application and the release of a related administrative regulation. Beginning with the October 2022 tax period, taxpayers are required to use the new version of the application to file VAT returns (SPTs) electronically. The requirement applies to VAT collectors, such as digital currency transaction organizers and insurers or reinsurers and does not apply to newly appointed government agencies, among others. Taxpayers using the current version of the application may switch to the new version, and these taxpayers can continue using paper filing. Taxpayers switching to the new version cannot go back to the old version. If there are no VAT transactions during a tax period, taxpayers are exempt from submitting a VAT return for that period.
- **Mauritius:**[xxviii] On October 19, 2022, the Mauritius Revenue Authority announced that online application to its tax amnesty program, the "Tax Arrears Settlement Scheme" (TASS), is now open. The program provides for a full waiver of penalties and interest for tax arrears due under the Income Tax Act, the Value Added Tax Act, or the Gambling Regulatory Act as of June 7, 2022, provided that the arrears are paid in full by March 31, 2023, and provided further that the taxpayer applies by December 31, 2022. The TASS was originally introduced in the Finance Act 2017 and has been renewed periodically. The Finance (Miscellaneous Provisions) Act 2022 renewed the program for 2022.
- **Mauritius:**[xxix] On September 19, 2022, the Mauritanian Revenue Authority (MRA) issued VAT Ruling No. 103, clarifying the VAT treatment of commissions and participation fees for retail. The taxpayer was a Mauritius VAT-registered entity that featured local brands in its store on consignment while the items remained the exclusive property of the producers until sold. The taxpayer sought clarification on the VAT treatment of the sale of the goods, as well as the commissions and participation fees it received for the sales. The MRA determined that the final sales of goods were subject to VAT. The taxpayer is thus required to charge VAT on the sale of goods to final customers and issue VAT invoices in its own name. The taxpayer must also charge VAT on the commissions and participation fees it receives from the local artisans and producers.

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- **New Zealand:**[xxx] On October 20, 2022, the New Zealand Inland Revenue announced changes to GST invoicing rules and recordkeeping requirements, effective April 1, 2023. It further announced support for e-invoicing and e-recordkeeping based on the Pan European Public Procurement Online (PEPPOL) framework. The changes include new terminology to support flexible recordkeeping practices, new and modernized procedures for providing sales information, tax invoicing procedures for members of GST groups and seller groups, date for providing sales information to GST-registered buyers for transactions of over NZD 200 ($123), and the requirements for correcting sale information.
- **Norway:**[xxxi] On October 6, 2022, Norway published its Budget Bill for 2023, which would repeal the VAT exemption on electric vehicles for which the sales price exceeds NOK 500,000 ($48,625). The budget would further expand the current requirement for nonresident digital services providers to register for and collect VAT to all remotely provided services to consumers in Norway. Finally, the budget would introduce rules to defer the timing of VAT for disputed claims and discontinue the VAT exemption for electronic news services.
- **Oman:**[xxxii] The Omani Tax authority recently issued a guide clarifying the VAT treatment of sales of goods or provision of services by commercial agents. The guide defines an agent as any person who represents another person (principal) to facilitate or arrange the sale of goods or services on behalf of that other person. For VAT purposes, the guide makes a distinction between disclosed and undisclosed agents. A disclosed agent refers to the situation in which the agent expressly acts on behalf of the principal, whereas the undisclosed agent refers to the situation in which the relationship between the principal and the agent is not known to third parties. Disclosed agents provide their services to the principal and charge service fees, which are subject to VAT on that basis. The principal remains the seller of the goods or services to the third-party customer. For VAT purposes, undisclosed agents are involved in the sale of the goods and services in two capacities: (1) as a customer in their relationship with the principal and (2) as a seller in their relationship with the third party. They do not separately charge service fees for the agency services they provide to the principal, as this is included in the margin they make on the purchase and sale. The guide provides details on several other relevant topics, including deductible expenses, the distinction and VAT treatment of reimbursements and disbursements, and the filing and invoicing obligations of agents.
- **OECD:**[xxxiii] On October 10, 2022, the Organization for Economic Cooperation and Development (OECD) published the Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard (CARF), which provides for the reporting of tax information on transactions in Crypto-Assets in a standardized manner, with a view to automatically exchanging such information. The CARF defines the Relevant Crypto-Assets in scope and the intermediaries and other service providers that will be subject to reporting. The CARF requires reporting of the transactions in scope on an aggregate basis, divided by type of Crypto-Asset and type of transaction. Finally, the CARF includes due diligence procedures to identify both individual and entity customers, as well as their controlling persons. To read KPMG’s previous discussion of the CARF, please click here.
- **OECD:**[xxxiv] The OECD recently published a report on the work of the newly established Inclusive Forum on Carbon Mitigation Approaches (IFCMA). The report explains that, among other things, the IFCMA will undertake technical and objective analyses of the effectiveness of the range of climate change mitigation policies across countries at different stages of development. According to the OECD, the initiative will not serve as a standard-setting body, nor will it “rank” countries. The IFCMA will develop a rigorous assessment

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of cross-country and country-level mitigation policies by taking stock of price-based and non-price-based climate change mitigation policies and assessing the impact of different policy approaches on greenhouse-gas emissions. The work of the IFCMA will be carried out in close coordination with other relevant international organizations including the United Nations, the International Monetary Fund, the World Bank, and International Energy Agency, by collecting data, developing tools, and providing results in consultation with country experts. The IFCMA will also build on the work of other fora such as the Coalition of Finance Ministers for Climate Action and existing OECD initiatives such as the International Program for Action on Climate. The main aim of the work is to build a database of mitigation policy approaches and to estimate their effectiveness in terms of emissions reductions. Over time, this approach could form the basis for a more rigorous assessment of the cost-effectiveness of different policy approaches. The first meeting of the IFCMA is scheduled for February 2023 in Paris.

- **Peru:**[xxxv] On September 28, 2022, the Peruvian Ministry of Economy published the list of entities that are exempt from the special VAT collection mechanism known as *percepcion*. Under the percepcion mechanism, vendors are required to collect in advance from their clients an amount equivalent to a percentage of the VAT that is due on the VAT taxpayers' further sales as a mechanism to prevent tax evasion. Taxpayers on the list are exempt from this requirement.
- **Poland:**[xxxvi] The Polish Ministry of Finance recently granted a four-month extension to certain businesses obligated to install electronic fiscal devices. The deadline had applied to certain service providers that were deemed high risk for sales underreporting and tax evasion, including car washing and other services that feature customer-operated equipment. Pursuant to the extension, taxpayers will be allowed until February 1, 2023, to comply with the requirement to introduce electronic fiscal devices.
- **Poland:**[xxxvii] Poland released an updated version of its e-invoicing application, "the *e-mikrofirma*." The new version enables taxpayers to link their existing account, issue invoices, and receive invoices through the e-invoicing system (KSeF); it also enables the documents to be added to a taxpayer's account automatically. In addition, the updates include the ability to generate e-invoices and the official confirmation of receipt (UPO) in PDF format, a new warning when an invoice bears an already used invoice number, the ability to download a collection of invoices from the master list of invoices, a shortened form for the basic invoice, and a new session history functionality.
- **Saudi Arabia:**[xxxviii] On October 14, 2022, the Zakat, Tax and Customs Authority (ZATCA) issued a circular requesting property developers who are eligible for VAT refunds to apply for the refund within the stipulated period. These are promoters who meet the conditions for VAT refund and who did not submit their application in time due to force majeure. For the application to be accepted by the authorities, these taxpayers are required to state the reasons for the delay and provide evidence to support their application.
- **Singapore:**[xxxix] On October 20, 2022, the Singaporean Parliament accepted Bill No. 30/2022 for consideration. The bill proposes to increase the GST rate from 7 percent to 8 percent effective January 1, 2023, and from 8 percent to 9 percent, effective January 1, 2024. In addition, the bill would expand the current requirement for nonresident digital services providers to register for and collect VAT on all remotely provided services to consumers in Singapore and would require nonresident vendors of consignments to consumers of less than SGD 400 to register for and collect GST. To read KPMG's previous discussion of the measures in the bill, please click here.

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- **Singapore:**[xl] On September 30, 2022, the Singaporean Inland Revenue Authority updated the GST e-tax guide for property owners and holding companies. The updates include details on the GST registration and GST self-assessment for the import of low-value goods from January 1, 2023, clarifications on the residual GST deduction apportionment formula, and the ability to claim GST credits on low-value goods acquired by businesses subject to the GST self-assessment mechanism.
- **Slovenia:**[xli] On September 27, 2022, the Slovenian government submitted to parliament a bill to implement DAC 7 requirements into national law. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023.
- **Spain:**[xlii] On September 28, 2022, Spain published Law 18/2022 which includes e-invoicing requirements. According to the new law, all B2B transactions should be exclusively supported by electronic invoices, and the software solutions used by taxpayers to generate, process, and validate those invoices should be aligned with the mandatory requirements to be developed by pending implementing regulations. Businesses with total revenues of EUR 8 million or more per year will be required to comply with the mandate, one year from the date the e-invoicing technical regulations are enacted. Other businesses are required to comply with the e-invoicing mandate two years from the date the e-invoicing technical regulations are enacted.
- **Suriname:**[xliii] On November 1, 2022, Suriname launched an online registration portal for its new VAT regime, which is effective January 1, 2023. New and existing taxpayers are required to register through the portal. For KPMG's previous discussion on Suriname's new VAT regime, click here.
- **Sweden:**[xliv] On October 21, 2022, the Swedish Tax authority updated its guidance on VAT invoicing requirements. The updated guidance requires taxpayers to include in invoices the names and addresses of sellers and buyers. Moreover, the guidance clarifies that invoices sent to a buyer's accounting firms or other service providers must include the buyer's address. Finally, the guidance clarifies the use of abbreviations and codes, the invoicing requirements for invoices sent to companies that are part of VAT groups, the identification of the seller for brokered goods or services, and the correction of invoices that contain the wrong buyer's name.
- **Türkiye:**[xlv] On October 19, 2022, the Turkish Revenue Authority published an updated VAT and corporate tax exemption guide for sales of qualified real property and corporate shares. The guide includes the updated scope, conditions and documentation required for claiming exemptions on sales of immovable property, gains from subsidiary shares, founder shares, notes, and mutual funds.
- **Türkiye:**[xlvi] On October 25, 2025, Türkiye published General Communiqué No. 43 amending the VAT law. The Communique provides that taxpayers may claim a refund for VAT incurred on basic foodstuffs in VAT returns submitted for June in respect of transactions made from January to June. The claim for the period July to December may be made in January of the following year. Previously, taxpayers could claim a refund only in January of the year following the year in which the transactions took place. In addition, effective November 1, 2022, the Communique increases the partial VAT self-assessment (partial VAT withholding) rate for the delivery of iron and steel from 40 percent to 50 percent. The Communique

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further clarifies that foreign exchange rate differences in favor of an exporter due to purchased goods are deducted from the VAT refund amount if the refund procedure has not yet been completed. If the exchange rate difference arises after the refund procedure is completed, no correction will be made to the refund received. Finally, the Communique provides that for bail bonds issued by insurance companies for obtaining VAT refunds, the bail bonds must be issued by insurance companies established in Türkiye indefinitely and unconditionally without any restrictive conditions for their conversion into cash.

- **Zambia:**[xlvii] On September 30, 2022, the Zambian Minister of Finance presented the 2023 budget, which, among other things, proposes to (1) zero-rate the sale of milk cans and milking machines, as well as selected information and communications technology equipment, and telecommunications equipment; (2) introduce a VAT exemption for gaming, betting, lotteries, and game animals imported as breeding stock; (3) allow an exemption for plant, machinery and equipment imported by a special purpose vehicle (SPV) for projects under public-private partnerships arrangements; (4) apply the standard VAT rate to selected energy saving appliances and equipment; (5) remove the VAT relief on goods imported by the President; and (6) allow an SPV to claim VAT credits before commencement of commercial operations. These measures, if enacted, are expected to become effective from January 1, 2023.
- **Zambia:**[xlviii] Effective October 1, 2022, Zambia introduced a tax amnesty program on penalties and interest accumulated up to September 30, 2022 for all types of taxes. The amnesty will run for a period of 6 months and provides non-compliant taxpayers an opportunity to register and regularize their tax affairs with the tax authority.

Back to top

Back to top

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Back to top

Back to top

Footnotes

i. Aruba – Aruba 2023 Tax Plan Features Turnover Tax Increase, Income Tax Reductions and Tax Avoidance Measures, (October 3, 2022), News IBFD

ii. Cabo Verde – Budget 2023, Indirect Taxation: Government Proposes to Slash VAT Rates on Electricity, Water, (October 24, 2022), News IBFD

iii. Croatia Gazettes Law Amending VAT Act, Bloomberg Law News, October 5, 2022

iv. Finland – President Signs Law Temporarily Decreasing VAT Rate on Electricity and Exempting Personal Transportation from VAT, (October 31, 2022), News IBFD

v. Greece – 2023 Draft Budget Would Cut Social Security Contributions, Extend Reduced VAT to Certain Goods and Services, (October 21, 2022), News IBFD

vi. Jersey Assembly Considers Bill to Reduce GST on Food Items, Bloomberg Law News, October 14, 2022

vii. Lithuania – 2023 Budget Would Increase Tax-Exempt Amount of Income, Extend Reduced VAT Rate to Certain Services, (October 31, 2022), News IBFD

viii. Paraguay Tax Agency Announces Reduced VAT, Selective Consumption Tax for Specific Products Due to Coronavirus, October 27, 2022, Bloomberg Law News

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xi. Spain – Spain Unveils Plan for New Wealth Tax, Tax Loss Claim Cap for Large Companies, (October 3, 2022), News IBFD

xii. Albania Cabinet Approves Draft Bill to Amend VAT Law, Bloomberg Law News, October 31, 2022

xiii. Anguilla – Anguilla Requires TIN for All Commercial Transactions, (October 31, 2022), News IBFD

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xv. European Union; Bulgaria – European Commission Proposes to Authorize Bulgaria to Exempt from VAT Taxable Persons Whose Annual Turnover Does Not Exceed EUR 51,130, (October 14, 2022), News IBFD

xvi. China Tax Agency Announces Bad Debt Tax Policies to Support Banks, Asset Management Companies, Bloomberg Law News, October 5, 2022

xvii. Dominican Republic – 2023 Budget Bill Proposes Tax Relief for Textile and Gambling Sectors, Taxation of Remote Digital Service Providers, (October 13, 2022), News IBFD

xviii. Dominican Republic – Internal Revenue Provides Guidance on VAT Refund or Compensation for Exporters, (October 25, 2022), News IBFD

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xx. Orbitax, Estonian Government Approves Draft Bill to Implement DAC7, October 31, 2022

xxi. CCH, Global VAT News & Features, Finland Consults On Sugary Drinks Tax Regime Changes,(Oct. 7, 2022)

xxii. Orbitax, Finnish Draft Bill to Implement DAC7, October 28, 2022

xxiii. Finland Tax Agency Issues Guide on VAT Treatment on Tax Warehouses, Bloomberg Law News, October 13, 2022

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xxiv. Orbitax, Ghana Enacts Tax Measures of 2022 Mid-Year Review Including Several VAT Amendments Regarding Digital Services and E-Invoice Requirements, October 26, 2022

xxv. Guatemala – Guatemala Amends Invoice Content for VAT purposes, (October 27, 2022), News IBFD

xxvi. Hungary – Economic Committee of Parliament Approves Bill Implementing DAC7, (October 13, 2022), News IBFD

xxvii. Indonesia Tax Agency Announces New Version of E-SPT Application for VAT Collectors, New Requirements, Bloomberg Law News, October 3, 2022

xxviii. CCH, Global VAT News & Features, Mauritius Now Accepting Tax Amnesty Online Applications,(Oct. 20, 2022)

xxix. Mauritius Tax Agency Explains VAT Treatment for Commissions, Participation Fees for Retail Sales, Bloomberg Law News, October 25, 2022

xxx. New Zealand Tax Agency Explains Modernized GST Invoicing Rules, Recordkeeping Requirements, Bloomberg Law News, October 25, 2022

xxxi. Norway – 2023 Budget: Government Proposes to Impose VAT on Sales of Some Electric Vehicles – Indirect Taxes, (October 13, 2022), News IBFD

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