KPMG

Inside Indirect Tax

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About this Newsletter

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

Global Rate Changes

- **Finland**: Effective July 1, 2019, Finland reduced the VAT rate for electronic publications from 24 percent to 10 percent. The amendment covers electronic books and audiobooks as well as electronic newspapers and magazines. However, the rate reduction does not apply to publications that include mainly advertising, music or video content or to computer programs and games.
- **Greece**:[i] Effective May 20, 2019, Greece extended the scope of the reduced VAT rate of 13 percent to include certain foodstuffs including, among others, all pastas, fish and crustaceans, breads, coffee, tea, juices, fruits and vegetables, salt, vinegar, various food preparations based on cereals, flours, and starches, and preparations for sauces, soups, and broths; welfare services provided by retirement homes, boarding schools, and structures providing accommodation for persons with disabilities; ready-to-eat foods, prepared meals, and desserts for on-site consumption that are provided by restaurants, cafeterias, confectioneries, grills, and other related undertakings, other than entertainment centers, but excluding alcoholic and non-alcoholic beverages for onsite consumption (which remain subject to the standard VAT rate); and accommodation services with included breakfast services. In addition, Greece extended the scope of the reduced VAT rate of 6 percent to include sales of electricity, gas, and heating through a network.
- **Norway**:[ii] Effective July 1, 2019, Norway exempts the sale of electronic journals with mainly political, literary, or religious content, the sale of electronic journals to regular subscribers or members of an association, and the sale of electronic books and audio books that are parallel editions of

the electronic books provided the publications are not sold together with a different kind of product to form part of a common item. The VAT exemption also extends to the printing of books and their corresponding electronic or audio editions, if the taxpayer distributes the product free of charge or the resale amount is too small to be subject to VAT registration.

— **Romania**:[iii] Effective June 1, 2019, Romania reduced the VAT rate applicable to certain organic or traditional high-quality foods from 9 percent to 5 percent.

The Americas

United States: Broad Interpretation of When Manufacturing Begins Adopted by Ohio Board of Tax Appeals

On May 16, 2019, the Ohio Board of Tax Appeals decided in favor of the taxpayer in a dispute that focused primarily on when the taxpayer's manufacturing process began. *Marion Ethanol v. McClain*, CASE NO(S). 2017-337, 2017-338. Under Ohio law, a sales and use tax exemption exists for purchases made for use "primarily in a manufacturing operation to produce tangible personal property for sale." Before the Board, the taxpayer argued that a process of manufacturing corn-based products at its facility began at the point the corn passed through a magnet to remove impurities. The Board noted that under a prior Ohio Supreme Court case, "manufacturing" begins when two conditions are met. The first is when raw materials have been changed, converted, or transformed into a different state or form from which they previously existed. The second condition is when raw materials have been "committed" to the manufacturing process, meaning that the initial storage of the raw materials has ceased. In addressing the first condition, the Board ruled that the magnet refined and changed the corn by removing undesirable metal contaminants, and thus was the first step in the manufacturing process. Further, once the corn passed beneath the magnet, the corn was within a closed manufacturing system and was committed to the next step in the manufacturing process. The Board concluded that the taxpayer was entitled to the exemption.

Canada: Proposed Amendments to GST/HST Rules

On May 17, 2019, the Department of Finance of Canada published proposed goods and services tax (GST) and harmonized sales tax (HST) rules. The proposal allows partnerships and trusts used as holding vehicles to claim input tax credits (ITCs) for expenses related to operating corporations they own, in certain limited circumstances. However, corporations that act as holding companies for trusts and partnerships are still not eligible for ITCs. Even though the proposals do open up ITC eligibility to trusts and partnerships, this relief is only available at the parent level (i.e., any parent corporation that holds units of an operating partnership or trust will not be able to claim ITCs on expenses incurred by the parent corporation). The proposed rules further include that holding vehicles may be able to claim ITCs if they own assets used in commercial activities as well as the eligible operating corporation's shares or debts. Under the earlier July 2018 draft amendments, holding companies could claim ITCs only if they owned no other assets beside shares or debt of an eligible operating corporation

In addition, the draft GST/HST rules broaden the drop-shipment rules so that a drop-shipment certificate may be issued for businesses with commercial services that involve certain interchangeable goods. This change is good news for businesses that sell these qualifying goods and services to non-residents who are not registered for GST/HST and could have risked negative tax consequences. Notably, the new proposal does not expand the drop shipment rules to all exchangeable goods. The proposal will not benefit commercial services dealing in goods that are "continuous transmission commodities" transferred using a wire, pipeline or conduit (e.g., oil and gas businesses will not benefit from these changes). These rules are effective as of May 17, 2019; they also apply to transactions that have already taken place if vendors did not collect GST/HST for applicable services.

The draft rules also provide that the Canada Revenue Agency will generally not require GST/HST to be collected on sales of qualifying cryptocurrency as of May 17, 2019. Eligible cryptocurrency would be treated as financial instruments so that when cryptocurrency is sold or used as payment, the transaction will be treated as an exempt financial service. Importantly, the proposal does not treat the sale of eligible cryptocurrencies as money; however, as with money, the proposal recognizes currencies as a measure of value and treats cryptocurrencies as an instrument that is accepted as payment in transactions for property and services. Cryptocurrencies must meet specific requirements to qualify as "virtual payment instruments" and be excluded from GST/HST. For instance, qualifying cryptocurrencies can exist only at a digital address of a "publicly distributed ledger." There are also exceptions to the new rules—excluded cryptocurrencies could be subject to GST/HST if transactions include tokens or a coin that confers a future contingent right to be exchanged for a common share of a corporation (such as initial coin offerings, often offered by start-ups). To read a report prepared by the KPMG International member firm in Canada, please click here.

Finally, Quebec recently issued Information Bulletin 2019-7 in which it announced, among other things, that the province will harmonize with various federal GST/HST measures proposed in draft legislation released on May 17, 2019, including expanding the definition of a "freight transportation service," extending the application of drop shipment rules, and treating virtual currency as a financial instrument. Quebec says it is studying the federal measure to extend the GST/HST holding corporation rules to holding partnerships and trusts, and will announce any harmonization decisions on this measure at a later date. To read a report prepared by the KPMG International member firm in Canada, please click here.

Costa Rica: VAT Implementation Rules Published

On June 11, 2019, Costa Rica published in the official gazette Decree 41.779, which regulates the application of the value-added tax (VAT) which was implemented effective July 1, 2019. (For KPMG's previous discussion on the new VAT regime in Costa Rica, please click here.) Regarding the implementation of the new VAT on cross-border digital services, the Decree establishes that financial service intermediaries (e.g., credit card issuers) will be liable to withhold VAT on purchases of digital services made by Costa Rican consumers from non-resident vendors. The Treasury Administration must provide the credit card issuers with a list of companies rendering cross-border digital services to which VAT applies. Credit card issuers will be required to start withholding VAT for such services one month after receiving the list. As of mid-July, the Treasury Administration has not sent the list to the credit card issuers.

On June 21, 2019, the Treasury Administration published in the official gazette Resolution DGT-DGH-R-031-2019, which establishes registration rules for marketers, distributors, and producers of basic goods or raw materials; provides an exemption from registration for taxpayers under the simplified taxation regime; sets a 12–month period of validity for the registration; and establishes rules for requesting a VAT exemption. Moreover, the Treasury Administration grants a general VAT exemption until June 30, 2020, for those services related to construction that fall under the transition period. The general exemption applies for engineering, architecture, topography, and construction of civil works services that have their plans duly endorsed by the Federated College of Engineers and Architects of Costa Rica (CFIA by its initials in Spanish) by September 30, 2019. Projects that are registered and have the plans duly endorsed by the CFIA by July 1, 2019 will be included ex officio in the Exonet system by the Exemption Department. For projects that have the plans approved by the CFIA after July 1, 2019, or during the following three months, the application must be submitted individually by each taxpayer in the Exonet system before the Exemption Department of the General Treasury Administration. To read reports prepared by the KPMG International member firm in Costa Rica, please click here for a discussion on the registry of basic goods producers and exporters and here for a discussion on the temporary VAT exemption for construction services.

On June 24, 2019, the Treasury Administration published in the official gazette Resolution RES-DGH-DGT-DGA-033-2019, which regulates the application and procedure of the reduced VAT rate of two percent for drugs and sales for their preparation. The Resolution clarifies the definition of drugs subject to a reduced rate; the VAT treatment of imports and sales in the local market of medicines; the VAT treatment applicable to raw materials, machinery, equipment, and reagents necessary for medicines; and the procedures for the Exemption Management Department to grant the respective reduced rates to taxpayers. To read a report (in Spanish) prepared by the KPMG International member firm in Costa Rica, please click here.

Source: Costa Rica—New VAT regulations gazetted and VAT withholdings on cross-border digital services suspended (June 12, 2019), News IBFD; Bloomberg Law News Jun 26, 2019, Costa Rica Gazettes Resolution Providing VAT Registration, Exemption Procedures for Producers, Suppliers of Basic Goods.

Europe, Middle East, Africa (EMA)

Bahrain: VAT Treatment of Import of Goods by Non-Residents Clarified

On May 6, 2019, Bahrain's National Bureau for Revenue (NBR) published an updated version of its Imports and Exports VAT Guide. The main update is a new sub-section on imports by non-resident vendors. According to the guide, there may be cases in which a non-resident vendor is required to bring goods into Bahrain as part of a sale of goods with installation or as part of a construction service carried out in Bahrain. From a contractual point of view, the ownership and the risks associated with the goods will transfer from the non-resident vendor to its customer at the time the installation/construction is completed. At the time of their import into Bahrain, the goods will still be under the ownership and "control" of the non-resident vendor. According to the guide, if the customer is a VAT-registered person resident in Bahrain, he may import the goods under his CR number and VAT Account Number. Import VAT will be payable upon import of the goods unless a VAT exemption at import applies. If the non-resident vendor's subsequent sale of the goods (with installation or as part of a construction service) is not VAT exempt, the VAT-registered customer will be entitled to recover in full the VAT paid on the import of the goods, regardless of the taxpayer's usual recovery entitlement. The full recovery of import VAT is subject to the VAT-registered customer being able to prove that the goods are imported for a taxable sale (at 5 percent or 0 percent) to be made by a non-resident vendor. Evidence can be the sales agreement or purchase order entered into between the VAT-registered customer and its non-resident vendor. Unless VAT at the zero-rate applies, the VAT-registered customer will also be liable to self-account for VAT under the reverse charge mechanism on the sale of the goods with installation or on the construction services, including on the value of the goods, made by the non-resident vendor. The recovery of this self-assessed VAT will depend on whether the VAT-registered customer will use (partially or fully) the acquired goods/construction for a taxable activity.

Source: Orbitax, Bahrain Updated Imports and Exports VAT Guide with Guidance on Imports by Non-Resident Suppliers (Jun. 6, 2019).

Bahrain: Overview of Recently Published VAT Clarifications

The NBR recently clarified several points regarding the recently introduced VAT. According to the NBR, taxpayers must determine that the full address as per the VAT registration certificate is indicated on an invoice; however, certain relief may be available for invoices missing this information (but otherwise compliant) if received in the first quarter of 2019. Also, there may be relief available from the issuance of a tax invoice for exempt margin-based financial services that are "zero-rated" (due to export conditions being met). The NBR further clarified that rounding of output tax amounts concerning electronic transactions can be applied. The taxable base is to be reported on the VAT returns based on the rounded amounts. If there are differences between the taxable base as per the system records and the taxable base reported on the VAT return due to the application of the rounding rules, records need to be maintained to explain the difference. Moreover, the NBR held that both the purchaser and the seller need to notify the tax authority within 30 days of the transfer of a business falling under the VAT relief mechanism for the transfer of a business as a going concern. It is expected that a form specifically for this purpose will be available soon. The NBR is further of the opinion that a bank statement may be used in some instances as a valid tax credit note or debit note and that a taxpayer issuing tax invoices on behalf of a registered seller under a self-billing arrangement may also issue a tax credit note in some instances. In addition, the NBR clarified that a single tax credit note may be issued as long as the invoice numbers of all tax invoices are indicated on the tax credit note and that a tax invoice that is issued for a standard-rated sale, but that should have been zero-rated, can be corrected by canceling the tax invoice and reissuing a proper tax invoice. Similarly, this process also applies when a tax invoice is issued for a zero-rated sale, but should have been standard-rated. The NBR further held that under the VAT grouping rules, the group's taxpayer registration number must be used by a company that joins the tax group, and the company's prior registration number will be considered to be dormant. There is no requirement to deregister. Finally, the NBR announced that an option for taxpayers to defer payment of VAT on imports will not be available soon.

Czech Republic: Proposed Amendments to VAT Law

The Czech Republic recently proposed changes to the VAT law which would incorporate into Czech law the EU VAT Quick Fixes effective January 1, 2020, including changes to the VAT regime applicable to consignment stock arrangements and new conditions for the zero-rating of sales to another EU Member State. The transfer of goods to a warehouse in another member state for subsequent sale to a local customer generally requires the registration (or identification) for VAT in the state of sale. To reduce the administrative burden, it is currently possible to use simplification procedures such as call-off (consignment) stock arrangements, generally to avoid the redundant registration or identification for VAT of a European seller in the state of ultimate sale. However, the rules for these simplification procedures vary materially in the individual Member States. One of the quick fix measures, therefore, aims to unify and simplify the procedures in these particular cases. At present, the consignment stock regime in the Czech Republic functions as follows: the transfer of goods from another member state to the Czech Republic can be regarded as the acquisition of goods by a particular customer already at the date of transfer. The customer then self-assesses the acquisition of goods as early as goods are received into stock. Effective January 1, 2020, the entire system of taxing consignment stock arrangements will completely change. According to the draft amendment, the customer will neither pay VAT nor declare the acquisition of goods from another Member State earlier than at the moment the goods are withdrawn from stock. In connection with this, a new time limit over which goods can be stored has been set at twelve calendar months within which goods must be dispatched from the warehouse and taxed. The duty to monitor the time over which goods are stored may represent a significant administrative change to stock records. Another condition is that goods stored may not be lost or destroyed since this could be classified as a violation of conditions for the application of simplification procedures.

Moreover, according to the draft amendment, in all Member States, the zero-rating of the delivery of goods to another Member State will apply only to sales to customers registered for VAT in that particular state. This condition will have to be duly verified via the EU-wide VAT Information Exchange System (VIES). According to the existing case law, this condition has so far only been a formal one; from 2020, it should turn into a substantive condition (i.e., essential for the claiming of the zero-rating). It should be pointed out that, in this respect, the Czech VAT Act is ahead of its time, as it specifies this duty beyond the EU VAT Directive. This measure should therefore not have a significant impact on Czech taxpayers. To read a report prepared by the KPMG International member firm in the Czech Republic, please click here.

European Union: EU Non-Resident Refund Claim May Not Be Denied For Missing Deadline to Answer Tax Authorities

On May 2, 2019, the Court of Justice of the European Union (ECJ) published its judgment in *Sea Chefs Cruise Services GmbH*, Case C-133/18, regarding the legal time limit for an EU-established taxpayer to file a non-resident refund claim in another EU Member State. Recall, in the case at hand, the taxpayer applied to the French tax authority for the refund of a VAT credit. The taxpayer's claim was dismissed in its entirety due to its failure to reply to a request for additional information sent to it by the French tax authority. The Advocate General (AG) earlier this year opined that the time limit prescribed to answer an information request from the tax authority for a non-resident refund claim filed by an EU-established taxpayer is not mandatory.

The ECJ broadly followed the Opinion of its AG. In its decision, the ECJ highlighted that the right to get VAT refunded corresponds to a taxpayer's right to deduct VAT incurred on expenditures. The purpose of both these rights is to relieve the taxpayer entirely from the burden of VAT due or paid in the course of all its economic activities. Therefore, neither the VAT deduction right nor the right to a VAT refund can be limited as a general rule. However, the Directive allowing non-residents to claim a VAT refund grants the tax authority of the Member State of refund the possibility to request additional information from the taxpayer. The deadline for the presentation of these items of information is one month. It is not clear, however, from the wording of this provision whether this deadline is a mandatory time limit or not.

According to the ECJ, the legislation did not intend to make this deadline a mandatory time limit. Furthermore, the tax authority of the Member State of refund may also ask for additional information from the tax authorities of the other Member State or even from third parties. If the deadline were mandatory, the taxpayer would thus be denied the refund because of the actions of these other parties, which would be contrary to the principle of neutrality. Finally, the ECJ observed that as a general rule, the Member State of refund is obliged to pay late payment interest to the taxpayer if the VAT is refunded belatedly. There is, however, no obligation to pay late payment interest if the taxpayer did not provide the tax authorities with the requested information within the prescribed deadline. As a consequence, the ECJ held that a taxpayer may not be denied the refund of VAT from another Member State if the taxpayer missed the deadline for presenting additional information requested by the tax authorities of the Member State of refund but presented those items of information to the tax court.

Source: FR: ECJ, 2 May 2019, Case C-133/18, Sea Chefs Cruise Services GmbH v. Ministre de l'Action et des Comptes publics, ECJ Case Law IBFD.

European Union: Limits on VAT Adjustment on Bad Debts Clarified

On May 8, 2019, the ECJ published its judgment in *A-PACK CZ*, s r.o., Case C-127/18, regarding whether a taxpayer may adjust the taxable amount in the case of total or partial non-payment by its debtor if the latter no longer qualifies as a taxpayer for VAT purposes. In the case at hand, a taxpayer in the Czech Republic adjusted the taxable amount for unpaid debts for sales in the period from October 30, 2008, to February 2, 2009, in its VAT return for the fourth quarter of 2011 due to the insolvency of its clients. The debtor ceased to be a taxpayer for VAT purposes on November 3, 2011. The Czech tax authority reduced the amount requested on the ground that the VAT law does not allow correction of the amount of the tax if the debtor has ceased to be a taxpayer.

The ECJ considered that the provision of the EU VAT Directive, which relates to the reduction of the taxable amount in cases of total or partial non-payment, embodies one of the fundamental principles of the EU VAT Directive. However, Member States are allowed to derogate from that rule in the case of total or partial non-payment of the price of the sale if the derogation is justified and if the measures implementing the derogation do not undermine the objective of fiscal harmonization. Neither can the derogation allow the Member States to exclude altogether reduction of the VAT taxable amount in the event of non-payment. According to the ECJ, the condition that the debtor has not ceased to be a taxpayer for VAT purposes is not justified because of the need to take account of the uncertainty as to the definitive nature of the non-payment in question. Moreover, the ECJ held that there is no particular risk of tax evasion by authorizing a taxpayer to reduce the VAT taxable amount where it is faced with the non-payment of debt owed to it by an insolvent debtor which has since become a non-taxpayer. As a consequence, the ECJ held that Member States cannot deny a taxpayer the right to adjust the taxable amount in the case of total or partial non-payment by its debtor if the latter is no longer a taxpayer for VAT purposes. To read a report prepared by the KPMG International member firm in the Czech Republic, please click here.

Source: CZ: ECJ, May 8, 2019, Case C-127/18, A-PACK CZ, s r.o. v. Odvolací finanční ředitelství, ECJ Case Law IBFD.

European Union: Live Streaming Services Should be Sourced Where Vendor is Established

On May 8, 2019, the ECJ published its judgment in *L.W. Geelen*, Case C-568/17, regarding whether live streaming services should be sourced to the location where the performance occurs or where the vendor is established. Under the EU VAT rules, the general sourcing rule for sales of services provided to a consumer (B2C services) is where the vendor is established. However, the EU VAT Directive provides multiple exceptions, including for services relating to cultural, artistic, sporting, entertainment and similar activities, which are sourced to the location where those activities take place. Recall, in the case at hand, the taxpayer, established in the Netherlands for VAT purposes, provided live interactive webcam sessions to consumers in the Netherlands. The Dutch consumers paid fees for interacting with performers located in the Philippines through accounts created on the platform of an Internet service provider, which in turn transmitted part of the payment to the taxpayer who provided the necessary software and material equipment to the performers in the Philippines, enabling them to interact with the customers in the Netherlands. The Dutch tax authorities assessed VAT for the services provided by the taxpayer to the Dutch customers. However, the decision was canceled by the court of first instance which opined that the services related to entertainment activities and their sourcing was to where the services were physically carried out (i.e., in the Philippines). Consequently, the services should not have been subject to Dutch VAT. The AG earlier this year opined that live streaming services should be sourced where the vendor is established.

The ECJ started its analysis by stating that the sourcing rules for entertainment services do not prevail over the general sourcing rules and that they are not an exception to the general rule. As such, they should not be interpreted strictly. The ECJ continued with examining the characteristics of the services that were provided and verified that the basic purpose of the services was to entertain and amuse customers. In that regard, the ECJ stated that the mere fact that the services have a basic purpose to entertain is sufficient to apply the sourcing rules for entertainment services (i.e., to where the services are physically executed). According to the ECJ, the execution of the services at issue is rather done in the Netherlands than by the performers in the Philippines, because the taxpayer makes possible the creation and transmission of the live interactive webcam sessions leveraging technical and organizational elements such as providing the necessary software to the performers. The ECJ did not address the question referred to it regarding whether the services in question should be regarded as electronic services as the particular sourcing provision related to sales of electronic services was not applicable at the time the transactions at issue were carried out.

Source: NL: ECJ, May 8, 2019, Case C-568/17, Staatssecretaris van Financiën, L.W. Geelen, ECJ Case Law IBFD.

European Union: Sale of Fuel Cards May Qualify as VAT Exempt Financial Transaction

On May 15, 2019, the ECJ published its judgment in *Vega International Car Transport and Logistic—Trading GmbH*, Case C-235/18, regarding whether the sale of fuel cards may be considered a VAT-exempt sale of granting credit. In the case at hand, a taxpayer established in Austria was engaged in transporting commercial vehicles from factories to customers. The taxpayer provided personal fuel cards to the drivers of its subsidiaries, one of which was in Poland. The subsidiaries used fuel cards for the provision of vehicle transportation services. The taxpayer received invoices from the fuel vendors with VAT and recharged those costs to each subsidiary by way of issuing monthly invoices with a surcharge of 2 percent. The taxpayer requested the Polish tax authorities to refund the VAT incurred on the fuel invoices that it had received relating to fuel provided to the Polish subsidiary for the period from April to June 2012. The Polish tax authority denied the request on the basis that a fuel management agreement such as used here was a contract to finance the purchase of fuel rather than a sale of fuel. According to the tax authorities, the taxpayer should not be allowed to deduct VAT on costs directly connected to the VAT-exempt sale of financing services.

The ECJ, referring to its case-law in *Auto Lease Holland*, Case C-185/01 (Feb. 6, 2003), held the view that the subsidiaries had been empowered to dispose of the goods (i.e., the fuel) as if they were owners because they obtained the fuel directly from the gas stations and they had the right to decide on the quality, quantity and type of fuel, as well as on the time of purchase and how to use it, as it was the subsidiaries who were consuming the fuel. Moreover, the ECJ stated that the Polish subsidiary, other than consuming the fuel, was also bearing the full cost of the fuel that was passed to it by the taxpayer. The ECJ considered that the subsidiary was paying the fuel cost either by way of offsetting the received invoices relating to the use of fuel cards with the invoices issued to the taxpayer or by a direct payment. As a consequence, the sale of the fuel was made to the subsidiary rather than to the taxpayer and the taxpayer was not entitled to claim the VAT charged by the gas stations. The ECJ further stated that the taxpayer, rather than selling goods, was providing services. Referring to its established case law, the ECJ observed that the granting and negotiation of credit cannot be limited only to credit granted by banking and financial institutions. In the case at hand, all the transactions made with the use of fuel cards were centralized by the taxpayer that re-invoiced the cost of the fuel, adding a 2 percent surcharge. According to the ECJ, this surcharge corresponds to the remuneration paid to the taxpayer for financing the purchase of fuel in advance and, therefore, the taxpayer provided a VAT exempt financial transaction acting in the same way as a financing or credit institution.

Source: PL: ECJ, May 15, 2019, Case C-235/18, Vega International Car Transport and Logistic—Trading GmbH, ECJ Case Law IBFD.

France: Digital Services Tax Implemented

On July 25, 2019, France published in the official gazette the new digital services tax (DST). The DST is imposed at a rate of 3 percent on the gross revenues derived from two types of digital services. First, the provision of a digital interface enabling users to enter into contact and to interact with others ("intermediary services"). There is a list of excluded services such as, for example, the sale of digital content, communication services, and qualifying payment services. Second, the provision of services to advertisers that aim at placing targeted advertising messages on a digital interface based on data collected about users and generated upon the consultation of such interface. The purchase and storage of advertising messages, advertising monitoring, and performance measurement, as well as the management and transmission of user data also fall within this category ("advertising services based on users' data"). Advertising services on a digital interface that are not targeted based on user's data are de facto tax-exempt.

Companies, whether French or foreign, that perform at least one of the above two taxable digital services are within the scope of the digital services tax when the group they belong to receives revenue in consideration of such taxable digital services during the previous calendar year in excess of the following two thresholds: (1) EUR 750 million for taxable digital services sold worldwide and (2) EUR 25 million for taxable digital services supplied in France. The thresholds are based on receipts in consideration for taxable digital services received by the consolidated group. For intermediary services, the term receipts means all sums paid by users of the interface for accessing it and using it. For advertising services based on users' data, all amounts paid by advertisers or their agents in consideration of the actual posting of advertising messages or any economically linked transaction. To assess the receipts corresponding to taxable services supplied in France, a French digital presence ratio must be determined. This ratio applies to worldwide receipts paid during a calendar year in consideration of the taxable services to determine the deemed amount of receipts paid in consideration of services sold in France. This ratio must be calculated for each kind of taxable digital services.

For each of the two types of taxable services, a specific set of rules applies (notably territoriality rules) to attract the related value creation by French users. For digital interfaces, the services will be considered sold in France when a transaction is concluded during the calendar year by one of the users located in France or, for a digital interface that does not enable the supply of goods or services, when one of the users possesses during that year an account having been opened from France that allows such user to access all or part of the services available on that interface. For targeted advertising, the services will be considered sold in France when an advertising message is placed during the year on a digital interface consulted by a user located in France or, for sales of data generated or collected upon the consultation by users of digital interfaces, when data sold during that year is derived from the consultation of one of those interfaces by a user located in France. Users will be considered located in France based on any means available. In principle, the user's IP address will be used to determine whether or not the user is located or present in France.

The digital services tax will apply to the percentage representing the portion of taxable services related to France after the application of the "French digital presence" ratios (described below) to the corresponding worldwide receipts. For any given calendar year, the digital service tax is due in April of the following year. Two installments must be paid in April and October of the same year (each of them corresponding to advance payment of 50 percent of the tax due for the previous calendar year) with regularization of the tax liability performed in April of the following calendar year. For 2019, there are transitional rules. There will be only one installment due in November 2019, based on 100 percent of sums received in 2018. For 2019 only, the French digital presence ratios are based on data over the period running from the date of publication of the law to October 31, 2019. A final regularization will take place in April 2020, with applicable ratios based on data of the period running from the date after the publication of the law to December 31, 2019. To read a report prepared by the KPMG International member firm in France, please click here.

Germany: VAT Treatment of Acquisition of Molds Clarified

On April 16, 2019, the German Federal Ministry of Finance (BMF) issued Guidance Letter III C 2—S 7100/19/10003:004 in which it clarified its position on the VAT treatment of the acquisition abroad of molds, models, and tools which remain in the country of acquisition but are used for the production of goods that are delivered to Germany. In a Guidance Letter on export deliveries dated November 27, 1975, the BMF held that when molds, models, and tools located in Germany are used by non-residents to produce goods destined to be exported, the molds can be regarded as ancillary services to the goods produced or as independent deliveries. According to the BMF Letter of April 16, 2019, the general principles of uniformity apply in determining whether the purchase of molds, models, and tools by German companies in connection with the delivery of the produced goods from the other EU Member States and third countries is an ancillary service to the main service or an independent service. At the same time, however, the BMF emphasizes that the test criteria laid down in the 1975 BMF Letter for export cases must be applied analogously to the acquisition of molds, models, and tools from the EU and third countries. If different legal opinions exist in the participating countries about the VAT implications of a situation, the problems cannot be resolved by the German tax authorities always applying a no-objection rule such that the legal assessment of the other state can be followed. According to the BMF, the tax offices must, therefore, decide on each case, weighing the risks accordingly. To read a report prepared by the KPMG International member firm in Germany, please click here.

Italy: Amendments to VAT Law and Clarifications on E-invoicing

The Italian parliament recently passed the Law on urgent economic growth measures, which converts into law Decree No. 34 of April 30, 2019 ("the Decree"). In addition, on June 17, 2019, the Italian Tax Authority (ITA) published Circular Letter No. 14/E ("the Circular Letter"). The Decree extended the issuance deadline regarding "immediate" invoices for the sale of goods or services from 10 to 12 days. The Circular further clarifies that for e-invoices issued on or after July 1, 2019, the date to be shown in the "data" field of the XML file is the date on which the transaction is deemed to be carried out. For instance, if a sale of goods takes place on September 28, the date to be included in the "data" field of the XML file is September 28 and the XML file should be transmitted via the SdI system (*sistema diinterscambio*) within 12 days (i.e., by October 10). For paper invoices, if the invoice is not issued on September 28, both the transaction date and the date of issuance should be shown on the invoice. In the case of "deferred" invoices, the deadline to issue such invoices remains the 15th day of the subsequent month to the one in which the transaction took place. In case of e-invoices, the date to be reported in the XML file is the date of the last transaction performed in that month.

Italy further reduced the penalties for noncompliance with the e-invoicing requirements so that no penalties are imposed if a compliant e-invoice is issued by the deadline for the VAT settlement of the relevant month and the penalty is reduced by 80 percent if a compliant e-invoice is issued by the deadline for the VAT settlement of the month following the relevant one. The Circular clarifies that the reduction does not include penalties for late VAT payments and any other penalties. The reduction applies to all taxpayers until June 30, 2019. However, taxpayers with monthly VAT settlements may benefit from the 80 percent reduction until September 30, 2019.

In addition, the Decree provides that where a seller has charged VAT for a higher amount than due, the customer is entitled to recover VAT, but is subject to a fixed penalty between EUR 250 ($280) and EUR 10,000 ($11,220), unless the incorrect VAT amount is charged in a tax fraud. The Decree further allows taxpayers who submit the annual VAT return by the end of February instead of April to not file the communication of periodical VAT settlements for the last quarter, provided they include the relevant data in the annual VAT return. In addition, the Decree clarifies that the e-transmission of daily payment details must be made within 12 days of the transaction taking place. For sales made to non-resident customers, Italian vendors can opt to send e-invoices through the Sdi system and provide their customer with a paper copy of the e-invoice or to issue paper invoices and report the data to the ITA via the monthly cross-border communication. For purchases from non-resident vendors for which the Italian taxpayer is required to issue a self-invoice, the Italian taxpayer can choose to electronically issue the self-invoice through the Sdi system to avoid reporting these transactions in the monthly cross-border communication.

Finally, effective January 1, 2020, the Decree modifies the rules surrounding recurring exporters, which are allowed to purchase goods free of VAT. As a consequence, recurring exporters will no longer be required to provide their vendors with a letter of intent and the related receipt of transmission as proof of e-filing with the ITA. The vendors will have to verify on the ITA website that the letter of intent has been submitted by the recurring exporter. Failure to do so will result in a penalty ranging from 100 percent to 200 percent of the related VAT. In addition, the vendor of the recurring exporter will have to include the protocol number of the receipt of transmission released by the ITA to the recurring exporter on the zero-rated invoices. To read a report prepared by the KPMG International member firm in Italy, please click here.

Italy: Overview of Recently Published VAT Guidance

On May 14, 2019, the Italian Tax Authority (ITA) published Answer Ruling No. 142/2019, in which it clarified that goods imported by non-residents from Asian countries are not subject to mandatory electronic invoicing under VAT unless the goods are subject to a service provision during warehousing in Italy that changes their value. Invoices by non-residents can be submitted in electronic or analog form if the invoice is formatted according to the reverse charge mechanism and the Interchange System rules.

On May 18, 2019, Italy published in the official gazette a Ministerial Decree which provides for specific exclusions from the obligation of electronic storage and transmission of data on daily considerations that is effective July 1, 2019, for qualifying retailers. In particular, for the first period of application, the following sales will fall outside the scope of the new provisions: (1) sales not subject to the obligation to certify considerations; (2) sales of public transport services of persons and their luggage, for which the transport tickets are certifying the sale; (3) until December 31, 2019, sales connected to those listed above if the revenues derived from such connected sales are not higher than the one percent of the overall gross receipts for the fiscal year 2018; and (4) sales on board boats, aircraft or trains during international transport. Moreover, the Decree clarifies that the obligation of electronic storage and transmission of data on daily considerations to the ITA for petrol stations does not apply until December 31, 2019, to ancillary sales other than sales of gasoline or diesel fuel intended for use as a motor fuel for road vehicles. Taxpayers may voluntarily opt to electronically store and transmit data on daily considerations for the transactions listed above.

On May 24, 2019, Italy published in the official gazette a Ministerial Decree, which increases the threshold for issuing simplified invoices from EUR 100 ($113) to EUR 400 ($454).

On May 30, 2019, the ITA issued Protocol No. 164664/2019, which amends the rules for the issuance and receipt of electronic invoices. Electronic invoices must be issued and received through the ITA SdI system (sistema di interscambio). Effective July 1, 2019, qualifying taxpayers and their representatives may consult and download issued and received electronic invoices through a specific online service available on the ITA website, provided that they explicitly subscribe to such service by October 31, 2019. If a taxpayer does not subscribe to the service by that date, it will not be able to consult its electronic invoices, and related XML files will be deleted within 60 days. Conversely, if a taxpayer adheres to the service, related XML files will be available for consultation until December 31 of the second year following the receipt of the electronic invoice in the ITA SdI system and will then be canceled within 60 days from that date.

On June 3, 2019, the ITA published Answer Ruling No. 178/2019, in which it held that the VAT treatment of a VAT variation note during bankruptcy depends on whether the underlying transaction is a new transaction or the finalization of an existing transaction. If a VAT variation note is issued as part of the settlement for an existing transaction, the variation must be claimed within one year from the date of the original transaction. The clarification includes the conditions for creditors to issue variation notes and the procedures to report variation notes.

Source: Bloomberg Law News May 17, 2019. Italy Tax Agency Clarifies VAT Invoicing Rules for Warehoused Goods Imported From Asia; Italy—Electronic storage and transmission of data on daily considerations—ministerial decree published, IBFD, May 22, 2019; Italy—Simplified invoices—Ministerial Decree published (May 31, 2019), News IBFD; Italy—Electronic invoicing—implementing rules amended (June 4, 2019), News IBFD; Bloomberg Law News Jun 9, 2019, Italy Tax Agency Clarifies Issuance of VAT Variation Notes During Bankruptcy.

Norway: Proposal to Require Remote Vendors of Low-Value Consignments to Collect VAT

On June 6, 2019, the Norwegian Ministry of Finance launched a consultation on a proposal to abolish the VAT exemption for low-value imports and require remote vendors to register for and collect VAT. Under current rules, goods imported to Norway with a value below NOK350 ($41) are exempt from VAT. Parliament has proposed removing this threshold and subjecting to tax and duties all sales by foreign sellers to consumers effective January 1, 2020. The ministry has suggested that sales of goods (except food) with a value below NOK 3,000 ($352) to Norwegian consumers (B2C) should require the vendors to register and pay 25% VAT. A simplified registration and reporting solution ("VAT on Small Consignment"—VOCS) is suggested, similar to the one that is already existing for VAT on Electronic Services (VOES). If the sale of the goods is facilitated with the use of an intermediary, the intermediary shall be the "deemed seller". This, effectively, means that online marketplaces facilitating the distance sales of imported goods with an electronic interface (e.g., marketplaces, platforms, apps, portals) will be deemed to have sold those goods themselves. The "deemed seller" provision is according to the proposal mandatory, i.e. those who sell low-value goods through an intermediary cannot themselves be registered. The seller and intermediary cannot freely choose who shall be VAT liable for the sale. The consultation deadline is August 5, 2019.

Source: CCH, Global VAT News & Features, Norway To Remove Tax Exemption For Low-Value Imports (June 10, 2019).

Russia: Overview of Recently Published VAT Guidance

On April 26, 2019, the ministry of finance of Russia published Guidance Letter 03-07-08/31287, in which it clarifies that agency services provided by a non-resident that involve the search for potential clients for a Russian legal entity are not deemed to have been provided in Russia, and consequently are not subject to VAT in Russia.

On May 31, 2019, the Russian Federal Tax Service published Letter No. SD-4-3/8916, in which it clarified that for a Russian entity to be able to deduct VAT on purchases of electronic services from non-resident vendors, the vendors must be registered with the Russian tax authority, or act through an intermediary tax agent. The Russian entity may only deduct VAT on the amounts charged by the foreign vendors using the procedures and documents required to claim deductions as set out in the Letter.

Source: Russia—Deduction of VAT paid abroad—MoF clarifications (May 17, 2019), News IBFD; Iurie Lungu, Russia Issues Guidance on Cross-Border Dividend Payments, VAT, Tax Analysts (May 30, 2019); Bloomberg Law News Jun 5, 2019, Russia Tax Agency Posts Letter Explaining VAT Deduction for E-Services From Foreign Suppliers.

Ukraine: Overview of Recent VAT Developments

On April 3, 2019, the State Fiscal Service (SFS) published Guidance Letter no. 1343/ІПК/06-30-12-01-19, in which it clarified that certain goods imported, which are specified in article 197.16 of the Tax Code, into the customs territory of Ukraine are exempt from VAT if these goods are used by a taxpayer for own production purposes and if identical goods with similar qualitative indicators are not produced in Ukraine. The list of such goods must be approved by the government. Until then, the goods mentioned above are subject to VAT.

On April 12, 2019, a draft bill was submitted to the parliament of Ukraine, which, if approved, would amend the Tax Code to provide that the provision of services for the production and editing of video and films, television programs, commercials, photo-advertising materials, and related services would be sourced where the recipient of the services is resident and thus no longer subject to VAT when provided to a non-resident.

On April 19, 2019, the SFS clarified that the VAT liabilities on services sold to a non-resident are calculated on the date on which a non-resident's payments have been transferred to the Ukrainian resident's bank account. The taxable base is the amount of the foreign currency funds converted into Ukrainian hryvnia (UAH) at the official rate of the National Bank of Ukraine.

On April 25, 2019, the SFS published Letter No. 1825/ITC/17-00-12-01-06, in which it clarified that software services are sourced at the location of the recipient. Since software services provided to a non-resident would be considered sold outside Ukraine, such transactions are not subject to VAT. Further, the letter provides that such transactions are not considered in determining whether the sales threshold is met for VAT registration purposes, which is UAH 1 million ($38,250) in a 12 months period.

On April 25, 2019, the SFS published Letter No. 1816/6/99-99-15-03-02-15/ІПК in which it clarified the VAT implications of a split-off of a company whose assets and liabilities are transferred to a new company. According to the SFS, the transfer of assets from the existing company to the new company and the transfer of liabilities relating to a loan received from a non-resident from the existing company to the new company is not subject to VAT. Moreover, the registration of the existing company as a taxpayer for VAT purposes is not canceled upon the split-off.

On May 3, 2019, the SFS published Letter No. 1746/6/99-99-15-03-02-15/ITC, in which it clarified that telecommunication services provided by a resident to a non-resident are not subject to VAT because telecommunication services are sourced to the location of the recipient. For VAT purposes, telecommunications services comprise services related to the transmission, distribution, or receipt of signals, words, images, sounds, or information of any kind through the use of cable, satellite, or other electromagnetic communications systems. This includes the granting or assignment of rights to transmit, distribute, or receive such information, including the granting of access to global information networks.

On May 13, the SFS published Letter 1973/6/99-99-15-03-02-15/IPK, in which it clarified that if a non-resident provides vehicle rental services to a Ukrainian resident, those services will not be considered provided in Ukraine and will not be subject to VAT in Ukraine.

On May 27, 2019, the SFS published Letter 2241/6/99-99-15-03-02-15/IPK, in which it clarified that if the terms of a licensing or sublicensing agreement grant the licensee the right to use IP without the possibility of selling or otherwise alienating it, any fees that the licensor receives from the licensee will qualify as VAT exempt royalties. If the terms of a licensing or sublicensing agreement grant the licensee the right to use IP with the possibility of selling or otherwise alienating it, the fees that the licensor receives under the agreement do not qualify as royalties and the transaction will be subject to VAT at the standard rate of 20 percent.

Source: Ukraine—VAT exemption for imported goods—SFS clarifications (May 7, 2019), News IBFD; Orbitax, Ukraine Parliament Considering VAT Exemption for Exported Video and Film Production Services (May 8, 2019); Ukraine—VAT liabilities of advance payments received in foreign currency for services provided to non-residents—SFS clarifications (08 May 2019), News IBFD; Bloomberg Law News May 8, 2019, Ukraine Tax Authority Posts Letter Clarifying VAT on Telecommunication Services to Non-residents; Orbitax, Ukraine Clarifies VAT on Software Services Provided to Non-Resident (May 30, 2019); Iurie Lungu, Ukraine Explains Transfer Pricing, VAT Involving Non-residents, Tax Analysts (May 14, 2019). Iurie Lungu, Ukraine Issues Letters on VAT, Application of Treaty With Russia, Tax Analysts (May 16, 2019); Iurie Lungu, Ukraine Explains VAT Treatment of Licensing Fees, Tax Analysts (June 3, 2019); Ukraine—VAT implications of company split-off—SFS clarifications (May 24, 2019), News IBFD.

United Kingdom: Update on Digital Services Tax Proposal

The UK government considers that UK users create value for digital businesses through participation and engagement, which in its view is not currently captured by the international taxing framework. To address this gap, the UK has proposed a digital services tax designed to tax the UK revenue associated with social media networks, search engines, and online marketplaces in which there is UK user participation. Businesses with multiple activities that are not segmented into product lines or businesses that do not track in-scope revenue streams separately may face challenges in quantifying in-scope revenues. The UK Treasury distinguishes the UK approach as focusing on "users" and not "advertising"—whereas France and Germany have proposed an advertising focus to the European Union. In the Treasury's view, while an advertising-focused tax may be easier to administer, user participation is viewed as being a key value driver for digital businesses, and this would be better addressed via an appropriately targeted digital services tax. Accordingly, the revenue stemming from in-scope activities—regardless of whether advertising revenue, subscription revenue, or the like—would be subject to the digital services tax.

The proposed digital services tax would be effective for fiscal years beginning on or after April 1, 2020, and would apply to businesses that generate greater than GBP 500 million ($637 million) in global revenues from in-scope activities, and derive more than GBP 25 million ($32 million) in revenues from in-scope business activities linked to the participation of UK users. The first GBP 25 million of the UK revenues would be exempt from the digital services tax. The thresholds and allowance would apply on a group-wide basis, not on a separate entity or business line basis. A safe harbor for businesses with very low-profit margins would allow for an alternative calculation. To read a report prepared by the KPMG International member firm in the UK, please click here.

Asia Pacific (ASPAC)

China: Implementation Rules for Excess VAT Refund Pilot Program Published

On April 30, 2019, the State Administration of Taxation of China (SAT) published SAT Bulletin (2019) No. 20 to provide implementation guidance on the new excess VAT refund policy. Recall, China amended its VAT rules effective April 1, 2019, introducing, among other things, a pilot program allowing qualified general VAT payers in all industries to claim a partial refund of the uncredited VAT. Bulletin 20 provides that, once a taxpayer satisfies the conditions for the refund, it should file a refund application with the tax authority in the next filing period after completing the VAT filing. The tax authority should review the application and decide to approve or reject the application within 10 working days. If any of the following situations are identified during the review of the application, the tax authority should suspend the review: (1) a tax-related risk indicator exists; (2) a tax audit has been launched and is in process; (3) abnormal issues identified in regular VAT filing have not been resolved; (4) abnormal VAT credit vouchers received have not been resolved; and (5) other situations as provided by the SAT. Once such matters have been resolved and cleared, if the taxpayer still qualifies for excess input VAT refund, the tax authority should complete the review of the application and issue a written approval to the taxpayer within five working days. If the taxpayer no longer qualifies for the excess VAT credit, the tax authority should complete the review of the application and issue a written decision to the taxpayer to reject the application within five working days. The provincial tax bureaus should determine the time required for the investigation of the risk issues identified. If the tax authority determines that the taxpayer is suspected of fraud on export VAT refund, issuance of fake VAT invoices and other serious illegal tax-related activities, the processing of excess VAT refund should be terminated and a written notice issued to the taxpayer. After the suspected case is investigated and closed, if the taxpayer still qualifies for excess input VAT refund, it can submit a new application for the refund.

Source: Bloomberg Law News June 4, 2019, INSIGHT_ China—Implementation Guidance on Excess Input VAT Refund.

India: Amendments to GST Compliance

On May 14, 2019, India's Central Board of Direct Taxes issued Circular No. 9/2019 regarding the requirements to include information concerning the general anti-avoidance rules (GAAR) and goods and service tax (GST) compliance in Form No. 3CD, which is submitted as part of the annual tax audit report. The tax audit report is generally filed by persons carrying on a business with gross receipts of more than INR 10 million ($145,000) or carrying on a listed profession with gross receipts of more than INR 5 million ($72,500). According to the Circular, the implementation of reporting requirements under clause 30C (on GAAR) and clause 44 (on GST compliance) of Form No. 3CD had been deferred to March 31, 2020. Clause 30C includes information on whether an impermissible avoidance arrangement has been entered into and if so, the nature and amount of the arrangement. Clause 44 includes information on expenditure incurred in respect of entities registered for GST and entities not registered for GST.

On June 11, 2019, the Indian government released a transition plan for the implementation of the new GST return form GST RET-1. This new form will have two annexes: GST Anx-1 for sales and GST Anx-2 for purchases. The new forms will be made available to taxpayers in July 2019 for review. Large taxpayers (having aggregate gross receipts of more than INR 50 million ($726,000) in the previous year) will file form GST ANX-1 monthly, while small taxpayers should file the first form GST ANX-1 for the quarter October–December 2019 in January 2020. For October and November 2019, large taxpayers will be required to file form GSTR-3B monthly and will file the first forms GST RET-01 for December 2019 in January 2020. Invoices may be uploaded in form GST ANX-1 continuously both by large and small taxpayers from October 2019 onward. Form GST ANX-2 may be viewed simultaneously during this period, but no action will be allowed on form GST ANX-2. From October 2019, small taxpayers will be required to stop filing form GSTR-3B and to start filing form GST PMT-08. They will file their first form GST-RET-01 for the quarter of October—2019 in January 2020. From January 2020 onwards, form GSTR-3B will be eliminated. To read a report prepared by the KPMG International member firm in India, please click here.

On June 21, 2019, the GST Council held its 35th meeting follow which it extended the due date for the filing of the annual in form GSTR-9, GSTR-9A, and reconciliation statement in GCTR-9C until August 31, 2019. In addition, the GST Council extended the due date for filing form GST ITC-04 relating to job-work for the period July 2017 to June 2019 until August 31, 2019. The effective date for the requirement to block the issuance of e-way bills due to non-filling of returns for two consecutive tax periods was also postponed to August 21, 2019. The GST Council has further decided on a transition plan for the submission of simplified GST returns. Moreover, the GST Council has extended the tenure of the anti-profiteering authority by two years. The GST Council further proposes to introduce a mandatory electronic invoice system in a phased manner for all business-to-business transactions. The first phase is proposed to be voluntary and should be rolled out in January 2020. To read a report prepared by the KPMG International member firm in India, please click here.

On June 28, 2019, the Central Board of Indirect Taxes and Customs issued Notification No. 32/2019—Central Tax in which it extended the deadline to submit Form GST ITC-04 for GST credits for the period July 2017 through June 2019 from June 30, 2019 to August 31, 2019.

Source: Orbitax, India Provides Further Delay for Reporting Requirements in Relation to GAAR and GST Compliance (May 17, 2019); CCH, Global VAT News & Features, India's GST Council Agrees Overhaul Of GST Returns (June 25, 2019); Bloomberg Law News July 3, 2019, India Customs Agency Announces Deadline Extension for Filing GST Returns.

New Zealand: Proposed New GST Rules on Telecommunication Services

On May 17, 2019, the Minister of Revenue of New Zealand announced that the government intends to align the goods and services tax (GST) rules on telecommunications services with OECD guidelines and with the treatment of other remote services effective October 1, 2020. The New Zealand Inland Revenue Department (IRD) released an issue paper setting out details of the proposals. Under current GST rules, the GST treatment of telecommunications depends on who initiates the service, that person's location and who is the seller. The complexity of these rules meant telecommunication services were excluded from the remote services rules, which applied effective October 1, 2016. The remote services rules tax digital and other services provided by non-residents to New Zealand consumers.

Under the proposal, when the recipient of telecommunication services is a consumer, the current sourcing rule will be replaced with a residency rule. If the consumer's normal residence is New Zealand, GST at 15 percent will apply. However, this rule is modified if the consumer has to be in a particular location to receive the telecommunications service. Practically, this means that New Zealand residents will be subject to 15 percent GST on overseas roaming services. Visitors to New Zealand will continue to pay GST on telecommunications services received through the use of local SIM cards or accessing Wi-Fi at internet cafes. To read a report prepared by the KPMG International member firm in New Zealand, please click here.

New Zealand: Update on Proposed Amendments to Low-Value Consignment Rules

On June 26, 2019, the Taxation (Annual Rates 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill received royal assent. The Bill, among other things, introduces new GST obligations for remote vendors of low-value consignments sold to New Zealand consumers. (For KPMG's previous coverage on this proposal, please click here.) The main amendment to the original proposal is a deferral of the start date by two months (i.e., from October 1, 2019, to December 1, 2019). Remote vendors will also have a greater ability to charge GST on sales of high-value goods. The original threshold (95 percent of goods sold are less than NZD 1,000) has been reduced to 75 percent. This allows vendors a greater opportunity for a single system to account for New Zealand GST. The rule dealing with discounts provided by a marketplace rather than the vendor has also been clarified. Discounts offered will reduce the GST charged even though the discount is not provided by the vendor. A transitional rule, to cover sales made after December 1, 2019, but under contracts entered into before December 1, has been included. This is aimed particularly at magazine subscriptions which have an annual commitment, but periodic payments. To read a report prepared by the KPMG International member firm in New Zealand, please click here.

Singapore: Self-assessment Requirement for Purchases of Remote Services

In addition to the previously discussed obligation of remote vendors to collect GST on sales of digital services to consumers in Singapore, Singapore will also impose a new self-assessment requirement for certain Singaporean businesses purchasing services from abroad effective January 1, 2020. The new self-assessment requirement under the reverse charge mechanism should apply only to businesses in Singapore that are not allowed to fully recover GST incurred on purchases, which is the case with banks, insurance, and reinsurance companies, mixed developers, GST-registered charities and voluntary welfare organizations that receive non-business receipts. These companies will need to register for GST and apply the reverse charge even if they are not currently registered for GST, to the extent that (1) they procure services from overseas vendors imported services exceeding SGD 1 million ($738,000) in a 12-month period and (2) they are unable to claim GST incurred in full if they were to procure such services from GST-registered vendors. Only imported services which would be standard-rated if sold by a local GST-registered business and for the making of exempt sales are subject to the self-assessment requirement. As a consequence, the following services are outside the scope of the reverse charge mechanism: (1) exempt services such as financial services; (2) international services that qualify for zero-rating; (3) services provided by the government of a jurisdiction outside Singapore, if the services are of a nature that falls within the description of non-taxable government sales under the GST Act; (4) services that are directly attributable to taxable sales (not applicable to businesses that are prescribed a fixed or special input tax recovery formula unless otherwise allowed by the IRAS (i.e. banks which opt for direct tracking).

As head offices and their branches are regarded as a single legal entity, any sales made among them are disregarded for GST purposes. However, for the reverse charge mechanism, inter-branch or intra-GST group businesses will be regarded as separate persons. As a consequence, the reverse charge will apply when a local branch or head office procures services from an overseas branch or head office and when a local member of a GST group procures services from an overseas member within the same GST group. In this respect, it should be noted that salaries, wages and interest costs in inter-branch and intra-GST group transactions, including proportionate mark-ups by following with transfer pricing policy, will be excluded from the value of the transaction for reverse charge purposes. Finally, the new rules provide transitional rules to address sales straddling January 1, 2020. A sale of imported services will be considered as "straddling" if one or two of the following three events occur before January 1, 2020: services performed, the invoice issued; and payment made. A transaction straddling January 1, 2020, is subject to reverse charge, to the extent that the services are performed or the payment is made on or after January 1, 2020. To read a report prepared by the KPMG International member firm in Singapore, please click here.

Vietnam: Overview of Recently Published VAT Guidance

On April 17, 2019, the General Department of Taxation of Vietnam published Official Letter No. 1485/TCT-DNL clarifying the VAT treatment applicable to two banks that enter into a Purchase Agreement to transfer the assets and liabilities of the bank. The transfer of assets and liabilities related to credit activities and software is not subject to VAT. Moreover, the transfer of assets including office machinery and equipment is subject to VAT at the applicable VAT rate. Finally, the transfer of assets not directly related to the credit activities is subject to VAT at 10 percent.

On April 3, 2019, the Ministry of Finance issued Circular 18/2019/TT-BTC, repealing Circular 134/2014/TT-BTC on the procedures for extending the deadline for VAT payment at import stage and VAT refunds related to machinery and equipment imported to create fixed assets of investment projects. Effective May 20, 2019, investment projects importing machinery and equipment with a value from VND 100 billion or more are no longer entitled to the VAT payment deferral of 60 days after the statutory deadline or prompt VAT refund. To read a report prepared by the KPMG International member firm in Vietnam, please click here.

Trade & Customs (T&C)

European Union: Notion of Similar Goods and Impact of Discounts in Applying Deductive Customs Valuation Method Clarified

On June 20, 2019, the ECJ published its judgment in *Oribalt Rīga*, Case C-1/18, regarding the factors relevant to calculating the customs value in accordance with the deductive method of Article 30(2)(b) of the Community Customs Code (CCC), in the special context of imported medicines. While the CCC has been replaced by the Union Customs Code (UCC), the rules governing the deductive valuation method are still in place. Under the deductive value method, Customs determines the price at which customers who are unrelated to the seller buy the imported items. The method limits the determination period to 90 days following importation.

In the case at hand, the taxpayer and an Indian company entered into a consignment agreement. Under the consignment agreement, the taxpayer imported goods (medicines) into Latvia for free circulation in the Union. In the customs declaration, the taxpayer stated that it was both the recipient and the declarant. It calculated the customs value of the medicines using the transaction value method of Article 29(1) CCC, using pro forma invoices prepared by the Indian company for customs purposes. The pro forma invoices indicated the type of imported goods, the item, the unit market price, and the total price. The medicines were held in storage by the taxpayer, but ownership did not change until they were sold to customers. The Indian company determined to whom the imported goods were sold, the terms of sale, the sales price and the discounts applicable. The taxpayer processed the orders from the Indian company's customers and completed the invoices using the product sales price provided by the Indian company in an authorized pro forma order. The medicines were sold on a First Expired First Out basis (FEFO) so that several months could lapse between the import and the sale of the goods, meaning the sales value of medicines at the time of sale could differ from their declared value at the time of import. The actual sales price of the goods was also affected by the discounts which the Indian company granted to customers. Once the goods had been sold, the Indian company issued new invoices for the goods sold. The Latvian customs authority challenged the deductive method of customs valuation applied by the taxpayer.

The ECJ first addressed which factors are to be taken into account when choosing appropriate “similar goods” in applying the deductive method of customs valuation laid down in Article 30(2)(b) CCC to medicines. The ECJ pointed out that the definition of “similar goods” is broad and is based on a factual assessment that allows for a broad application to all types of goods, including the medicines concerned. To identify similar goods, the customs authorities must use all data available to determine the customs value as accurately and faithfully as possible. In the case at hand, the composition of the medicines, the substitutability of their functions and the commercial interchangeability are among the factors to be considered in determining whether goods are similar. For the factual assessment, account must be taken of all the elements of such goods that may affect their economic value, such as the market position of the imported goods and its producer. The ECJ further addressed whether the time limit of 90 days as a reference period for similar goods may be applied flexibly to take account of ‘more similar’ goods imported beyond a period of 90 days. Because the 90-day time limit is an exception to the principle that the customs value reflects the real economic value of the goods at or about the time the goods enter the EU, the period of 90 days represents a strict limit when the customs value is determined using the deductive method. Finally, the ECJ held that commercial discounts cannot be taken into account when the customs value is determined using the deductive method. To read a report prepared by the KPMG International member firm in the Netherlands, please click here.

In Brief

- **Albania**:[iv] On May 15, 2019, the tax authority of Albania clarified that main operators of telecommunications, broadcasting, and electronic services are required to calculate and pay VAT on prepaid cards or telecommunication packages sold to distributors. Distributors are not liable for VAT on the subscriptions because VAT is applied to the final price reported by the main operator.
- **Angola**:[v] The Angolan government delayed implementation of the new VAT regime from July 1, 2019 to October 1, 2019, although there were calls for a further delay to January 1, 2020. For KPMG's previous discussion on Angola's new VAT regime, click here.)
- **Argentina**:[vi] On May 16, 2019, Argentina published in the official gazette General Resolution No. 4485/2019 establishing the conditions and procedures to claim VAT credits and refunds for the VAT exemption on printed books, newspapers, magazines, or digital news editions effective July 1, 2019. The resolution includes measures providing a procedure to request a VAT credit or refund for the amount invoiced to the taxpayer; accepting the invoice as evidence for claiming the credit or refund; requiring the application for tax credits and refunds to be submitted electronically; and limiting the credit or refund to the amount of tax due.
- **Australia**:[vii] On May 16, 2019, the Australian Taxation Office updated its guidance on the GST property settlement forms and instructions for residential property purchasers required to withhold GST for payment to the ATO. The updated guidance includes procedures for submitting the GST property settlement withholding notification form and the GST property settlement date confirmation form.
- **Belgium**: The KPMG International member firm in Belgium has prepared a report on the potential VAT impact the new tax modulation mechanism may have on pharmaceutical companies in Belgium.
- **Brazil**:[ix] On May 9, 2019, Brazil published Private Ruling 1008/2019 in the official gazette. It clarifies that income received by exempt educational institutions (i.e., educational institutions that are generally exempt under the Constitution) is subject to the contribution to the social security (*Contribuição para o Financiamento da Seguridade Social*, COFINS) under the cumulative regime. However, not-for-profit educational services provided in addition to those offered by the state are exempt from COFINS in respect of the income derived exclusively from their activity.
- **Brazil**:[x] On May 9, 2019, Brazil published Private Ruling 1006/2019 in the official gazette. The ruling clarifies that income received by IT companies for software development, licensing and the provision of services listed in article 10(25) of Law 10,833/2003 (e.g., programming, consultancy, technical support, maintenance, etc.) is subject to the contributions to the employees' profit participation program (*Contribuição para o Programa de Integração Social*, (PIS) and COFINS under the cumulative regime, provided that the services are invoiced separately. Income from the provision of services not included in the list is subject to PIS and COFINS under the non-cumulative regime.

- **Canada**: The KPMG International member firm in Canada has prepared a report on the new Quebec sales tax (QST) obligations that Canadian businesses may face when selling intangibles (e.g., digital music, software, movies, TV shows and games), services or goods to customers who reside in Quebec and who are not registered for QST purposes. The new rules also apply to non-Canadian businesses that are registered for GST/HST. (For KPMG's previous discussion on these new obligations, please click here.)
- **Chile**: The tax administration of Chile (SII) recently established rules for taxpayers providing services that are exported and used entirely abroad to identify themselves and to have at least one economic activity that requires registration for VAT purposes. VAT refund requests from vendors of exported services (that is, services that are provided and used entirely abroad) must comply with the following requirements: (1) the vendor has issued a corresponding export invoice; (2) the refund amount claimed only applies with respect to VAT paid on the exported services; and (3) the country where the services were provided and used has a tax of the same or similar nature as VAT. To read a report (in Spanish) prepared by the KPMG International member firm in Chile, please click here.
- **Czech Republic**:[xi] The Czech government recently announced a new proposal that would simplify and modernize tax compliance requirements and lower tax penalties. According to the Ministry of Finance, the package would put into law an online system allowing taxpayers to carry out their tax obligations more easily, as well as simplify compliance procedures, and reduce tax penalties and interest. Under the proposal, penalty interest would be reduced from 15.75 to 9.75 percent. The legislation also includes measures to accelerate the payment of VAT refunds to improve businesses' cash flow. Finally, interest on refundable VAT payments retained for long periods by the government would increase from 3.75 to 5.75 percent.
- **Ecuador**:[xii] On May 27, 2019, the Tax Policy Committee of Ecuador published Administrative Resolutions No. CPT-RES-2019-002 and No. CPT-RES-2019-003 (the Resolutions) in the official gazette. The resolutions establish new rules for obtaining refunds of VAT and remittance tax (ISD) for exporters of services in accordance with the regulations to the Law to Promote the Production, Attraction of Investment, Generation of Employment and Stability and Fiscal Balance (the Regulations). Individuals and companies engaged in the export of services may request refunds, on a monthly and proportional basis, of VAT and ISD paid on the import of raw materials and capital goods used in the provision of services, provided that such items are included in the catalog established by the Committee. In this respect, exporters of services must file an administrative VAT or ISD refund request once the services are effectively rendered, provide evidence of the net income obtained from the export of services; and demonstrate, with regard to the VAT refund, that the export of services is carried out on a regular basis (i.e., during the previous fiscal year, at least 25 percent of the taxpayer's total sales derived from the export of services). Moreover, the request must be submitted to the Internal Revenue Service using the official forms and contain relevant documentation

(including a list of invoices and receipts related to the transactions, accounting registers and customs information regarding the exports).

- **European Union**:[xiii] On May 8, 2019, the ECJ published its judgment in *EN.SA. Srl*, Case C-712/17, in which the ECJ held that a taxpayer, who had participated in circular fictitious transactions with the same trader, consisting of selling and purchasing the same amounts of energy for the same price, had zero VAT liability because the persons involved had paid the related VAT. The ECJ concluded that a taxpayer should not be allowed to deduct the VAT incurred on fictitious transactions where it is allowed to adjust that tax and should not be penalized by a fine equal to that amount in cases where there was no tax loss for the tax authorities deriving as a result of the fictitious transactions.

- **European Union**: On May 8, 2019, the ECJ published its judgment in *Związek Gmin Zagłębia Miedziowego w Polkowicach*, Case C-566/17, in which it held that the mere fact that domestic legal provisions do not contain rules on the apportionment of input VAT between economic and non-economic activities cannot be interpreted as granting the taxpayer full VAT deduction rights.

- **European Union**:[xiv] On May 8, 2019, the European Economic and Social Committee (EESC) published an Opinion on the definitive VAT system proposed by the European Commission. The EESC generally welcomed the reform of the current VAT system; however, it pointed out the following topics that will need to be addressed by the legislation. The EESC pointed out that the current proposal focuses on reshaping rules for cross-border sales of goods, and the Commission intends to shift to the new regime for services as a second step. The EESC, however, considers it important to introduce the new regime for both goods and services parallel to each other as much as possible. Moreover, a cornerstone of the definitive system will be the one-stop shop system (OSS) as a simplified registration and reporting system. The EESC suggests drafting additional detailed compliance rules regarding, for example, bad debt and refund procedures. Besides, the currently proposed rules will likely further expand the time difference between the taxpayer paying the collected VAT to the tax authorities and recovering VAT incurred. The EESC recommends investigating methods of how compliance and administrative costs for businesses could be mitigated. Besides the OSS, the certified taxpayer (CTP) status is the other cornerstone of the definitive system. To avoid possible abuse situations, the EESC emphasizes the importance of harmonizing the timeframe within which the Member States would need to decide on granting this status, and of also monitoring the functioning of the CTP status. Finally, because of the possible cash flow implications before the OSS system is fully implemented, the EESC suggests the general use of the self-assessment requirement under the reverse charge mechanism for cross-border situations.

- **European Union**: On May 10, 2019, the European Commission published a study on domestic and cross-border intra-EU VAT refunds. The study evaluates the implementation of the current regime by tax authorities and highlights potential problems and areas of difficulties encountered by taxpayers in making VAT refund claims. The first part of the study focuses on the conformity of national legislation both with the directive for cross-border intra-EU refunds and with the ECJ case law related to domestic refunds. The second part analyzes the level of implementation of the law and tries to identify and quantify the consequences of such implementation highlighting problems and/or obstacles that taxpayers and VAT refund agents are facing while claiming a refund of VAT both in the Member State of establishment and in another Member State. The study also takes into account the perspective and the difficulties of national tax administrations in administering and controlling such claims. The Commission will carefully examine the results and, in close cooperation with the EU Member States, will put in place the best strategies and solutions for possible inconsistencies of legislation and effective implementation of the law.

— **European Union**: On May 15, 2019, the European Commission launched the Transaction Network Analysis (TNA), a new system to combat cross-border VAT fraud. The TNA will allow tax authorities fast and easy access to cross-border transaction information, leading to quick action when potential VAT fraud is flagged. The TNA will further allow much closer cooperation between the EU's network of anti-fraud experts (Eurofisc) when it comes to jointly analyze information so that VAT carousel fraud can be detected and intercepted as fast and effectively as possible. It will boost cooperation and information exchange between national tax officials, allowing Eurofisc officials to cross-check information with criminal records, databases, and information held by Europol and OLAF, the EU's anti-fraud agency, and to coordinate cross-border investigations.

— **European Union**:[xv] On May 22, 2019, the ECJ published the Opinion of its AG in *SIA Altic*, Case C-329/18, in which the AG argued that the EU VAT Directive precludes national authorities from refusing deduction of VAT on the sole ground that a taxpayer involved in the food chain has failed to carry out checks on his co-contractor in compliance with of the traceability obligation laid down in the EU rules relating to food safety. The fact that a taxpayer has not checked whether a co-contractor is registered in accordance with the food safety provisions is not relevant when it comes to examining whether a company knew or should have known that it was taking part in a transaction with a fictitious company. Non-compliance with the obligations imposed by that provision may, however, ultimately be taken into account, together with other factors relevant to the circumstances of the case, in the framework of the overall assessment to be carried out by the referring court to assess the diligence of a taxpayer.

— **Greece**:[xvi] On May 17, 2019, the Public Revenue Authority of Greece published Circular E.2085 in which it clarified that hospital and medical care services provided by private hospitals to patients who are resident outside Greece are sourced where the provider is established and are therefore subject to Greek VAT.

— **Hungary**: Effective July 1, 2019, Hungary requires that tariff headings (as valid on January 1, 2018, and in accordance with Commission Regulation (EU) 2017/1925) and "TESZOR'15" numbers (as valid on January 1, 2018) must be included on invoices, instead of SZJ numbers. There are no transitional provisions concerning these changes; therefore, for invoicing purposes, the new classification numbers are to be applied as of the date of sale. To read a report prepared by the KPMG International member firm in Hungary, please click here.

- **Israel**:[xvii] On May 21, 2019, the Israeli tax authority issued Decision No. 4429/19 in which it held that brokerage-marketing services provided by a resident company to non-resident e-commerce operators are subject to VAT because these services are ultimately provided to Israeli consumers (non-resident exception does not apply). Thus, the Israeli company is subject to full VAT invoicing obligations. However, the brokerage-marketing services could qualify for a zero rate VAT under a customs regulation if the service fee is part of the underlying transaction that meets threshold requirements.
- **Mexico**:[xviii] The Mexican government said it has reached an agreement with several online ride-hailing and food delivery companies over the withholding of VAT and corporate income tax (ISR) on their services. The objective of the agreement is to facilitate tax compliance; the platforms will retain and report the VAT and ISR from the transportation and food delivery activities carried out through the use of digital platforms directly to the tax authority.
- **Netherlands**:[xix] On May 17, 2019, the Dutch district court in Gelderland held that sales of nitrous oxide gas, also known as laughing gas, should not fall under the reduced VAT applicable to food. The district court noted that the taxpayer's significant increase in gross receipts was likely was due to the rise in the recreational use of nitrous oxide as a sedative and not for the preparation of food and drink items, such as whipped cream. It dismissed as not credible the business's argument that its sales had increased instead because of the popularity of cooking shows in the Netherlands. However, the district court agreed with the taxpayer that cartridges of eight grams should benefit from the reduced VAT rate, being predominantly used for making non-alcoholic carbonated drinks.
- **New Zealand**:[xx] On June 4, 2019, the Ministers of Finance and Revenue released a document for consultation on options for taxing the digital economy. The government supports an Organization of Economic Cooperation and Development (OECD) led international solution to the problems of taxing the digital economy, but will seriously consider adopting a digital services tax (DST) if the OECD cannot make sufficient progress on an international solution in 2019. The DST outlined in the discussion document would be a flat tax charged at a low rate (2–3 percent) on gross turnover and would apply to (1) platforms that facilitate the sale of goods or services between people; (2) social media platforms; (3) content sharing sites; and (4) companies that provide search engines and sell data about users. The DST would be an interim measure for taxing the digital economy. The government would consider repealing it if and when an OECD international solution is implemented. If a DST is adopted, a further public consultation will be made on its final design. The legislation for any DST will probably be introduced in 2020.

- **Nigeria**:[xxi] On May 18, 2019, the Chairman of the Federal Inland Revenue Service (FIRS) announced that the FIRS intends to collect VAT on online transactions. Banks would be instructed to impose VAT on all online transactions involving purchases of goods and services.
- **Norway**:[xxii] On May 7, 2019, the Norwegian tax authority published Ruling No. 01 NS 134/2018 on a non-resident taxpayer's appeal of a 20 percent surcharge for failure to register for and report VAT for leasing an eye surgery laser in Norway. The tax appeals board found that the lease of a product located in Norway requires the business, as lessor, to calculate VAT. The board further stated that the transaction cannot be considered a delivery of a remote service, because the use of the laser machine cannot be remote. The taxpayer's delivery of services in the form of software is considered remote. The board reduced the amount of the surcharge to 10 percent due to delay in the total processing time, because taxpayers are entitled to the final decision being made within a reasonable time.
- **Norway**:[xxiii] On May 13, 2019, the Norwegian tax authority published Ruling No. 02 NS 162/2018 affirming the tax agency's rejection of the taxpayer's claim of a VAT exemption for the purchase of educational marketing services from abroad. The services involved were provided by a company developing and marketing educational concepts for companies. The board held that the marketing services cannot be regarded as dissemination of teaching or knowledge, and therefore, do not fall under the VAT exemption for education. Besides, the services aren't linked to a physical location, are remotely available, and subject to VAT.
- **Norway**:[xxiv] On May 13, 2019, the Norwegian Tax Administration published Ruling No. 01 NS 1/2019 on the right of a taxpayer to deduct recalculated VAT. In the case at hand, the recalculated fees applied to the purchase of advisory services from foreign service providers and the taxpayer costs incurred in connection with the purchase of foreign shares and credit portfolios owned by a foreign subsidiary. The tax appeals board found that the taxpayer had no right to deduct the VAT incurred because there was no sufficient connection between the procurement and the taxable activities of the taxpayer.
- **Philippines**: On May 16, 2019, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order ("RMO") No. 25-2019, prescribing the policies and procedures to implement the 90-day period to process and grant claims for VAT refund and VAT credit. To read a report prepared by the KPMG International member firm in the Philippines, please click here.
- **Poland**:[xxv] On May 24, 2019, the President of Poland signed into law a bill, which introduces a record of entities for VAT purposes, the so-called "whitelist of taxpayers" that will replace three current separate records effective January 1, 2019, unless otherwise specified. The record will be held by the head of the tax authority and will include information on entities registered as VAT payers (also zero-rated); entities that have been refused VAT registration or were deregistered by the tax authority; and entities whose VAT registration has been restored. The white list will be available online free of charge and is meant to facilitate the ability of taxpayers to

verify data related to VAT registration of other taxpayers. The record will be updated on an ongoing basis. Taxpayers using the record will receive confirmation of the date and time at which they verified a taxpayer. It will be possible to verify information on a taxpayer for a selected day, up to 5 years preceding the year in which the taxpayer checked. The data in the white list will include taxpayer bank account numbers, effective January 1, 2020. If a purchaser makes a payment exceeding PLN 15,000 ($4,019) to an account of a vendor other than the one indicated in the white list, he will not be entitled to include the expenses incurred as tax-deductible costs. Additionally, the buyer will be jointly and severally liable for the vendor's tax arrears.

— **Portugal**: Effective January 1, 2020, companies established in Portugal with an annual turnover of more than EUR 50,000 ($56,000) in Portugal will be required to use certified invoicing software for all transactions taxable in Portugal with the exception of invoices issued under reverse charge mechanism and invoices issued for public events such as tickets for museums or shows, concerts (bearer documents). Following a recent Decree of the Secretary of State for Tax Affairs, the Portuguese Tax Authorities should issue guidelines until October 2019, clarifying the applicability of the certified invoicing software obligations as well as the VAT invoicing obligations arising for mere VAT registrations. For the invoicing software to be certified, the tax authority assesses any invoicing software/ERP confirming that it meets the requirements set out in the Portuguese law and then issues a certification number to be shown on each invoice.

— **Saudi Arabia**:[xxvi] On May 15, 2019, Saudi Arabia's General Authority of Zakat and Tax (GAZT) approved amendments to the selective excise tax regulations that expand the scope of products subject to the tax effective December 1, 2019. The excise tax, which was introduced as part of an agreement with other GCC states, is levied on products deemed harmful to health. It originally included a 50 percent tax rate on soft drinks and a 100 percent tax rate on energy drinks and tobacco products. With the amendments, the 50 percent tax rate will also apply to sweetened beverages and the 100 percent tax rate will apply to electronic smoking devices, tools, and liquids. The GAZT further published the Taxpayer Services Catalogue—Excise Tax, which provides English-language guidance on services for registration, declaration, payment and refund, and other excise tax services.

— **Sweden**:[xxvii] On June 3, 2019, the Swedish Tax Agency issued guidance on the application of the reduced VAT rate of 6 percent to electronic publications, effective July 1, 2019. According to the guidance, the reduced rate applies to electronic publications that are comparable to physical publications, but does not apply to electronic publications that are mainly music, moving images, or 75 percent advertisements. An assessment for the application of the reduced rate must be made based on the visual surface and text for reading in the electronic publication.

— **Switzerland**: The Federal Tax Authority of Switzerland (FTA) recently published an update draft ofits guidance concerning foreign companies, which clarifies that any foreign companies that are VAT-registered in

Switzerland are only required to report their gross receipts in connection with their sales in Switzerland. The declaration of their worldwide gross receipts is not required. Certain earnings or income that have been generated abroad may still have to be taken into consideration and could lead to a restriction of the Swiss VAT recovery. To read a report prepared by the KPMG International member firm in Switzerland, please click here.

- **Uzbekistan**:[xxviii] On April 19, 2019, the Ministry of Finance of Uzbekistan launched a consultation on Decree No. 3184 amending the procedure for refunding VAT incurred relating to zero-rated sales. According to the Decree, to receive a VAT refund, a taxpayer must submit an electronic application to the State Tax Committee using the taxpayer's account and submitting relevant VAT returns. If transactions involve the sale of goods under a contract of export or consignment, the State Tax Committee may request additional documents. The State Tax Committee will prepare and approve the decision on the VAT refund within six working days following the filing of the application. Following the receipt of the decision, the amount of the VAT refund will be paid into the taxpayer's bank account.
- **Zambia**:[xxix] On May 3, 2019, the Zambia Revenue Authority published frequently asked questions (FAQs) on sales tax. The FAQs address, among other things, the reasons for changing from VAT to sales tax, the nature of the sales tax, who is required to register, the rates (9 percent on local sales and 16 percent on imports), and other issues. Zambia further announced recently that the implementation of a sales tax in place of VAT would be delayed from July 1, 2019, to September 1, 2019.
- **Zambia**:[xxx] On May 23, 2019, and June 3, 2019, the Zambian Revenue Authority published the comprehensive lists of inputs proposed for sales tax exemption. The list includes: capital inputs available to all producers and general exemptions available to all consumers, unless specified otherwise, including: export of goods; sales to privileged persons, such as goods imported by the president, diplomats or diplomatic mission to Zambia, imports under a technical aid program; building sales; mosquito nets, medical supplies and educational material; energy-saving appliances, machinery and equipment; agricultural equipment and accessories, food and agriculture; water services, health services and educational services; and transportation services, financial and insurance services and the sale of gold in bullion forms to a bank. Moreover, the list includes exemptions available to specific producers in the following sector: accommodation and food service activities; agriculture, forestry and fishing; arts, entertainment and recreation; construction; electricity, gas, steam and sales of air conditioning; financial and insurance activities; information and communication; manufacturing; and mining and quarrying.

About Inside Indirect Tax

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

Footnotes

[i] Orbitax, Greece Changes Scope of Goods and Services Subject to Reduced VAT Rates (Jun. 6, 2019).

[ii] Bloomberg Law News Jun 20, 2019, Norway Parliament Passes Decree on VAT Exemption for Electronic Books, Journals.

[iii] Global VAT News & Features, Romania Gazettes Law For VAT Cut For Certain Foods (May 29, 2019).

[iv] Bloomberg Law News May 17, 2019, Albania Tax Agency Clarifies VAT on Prepaid Cards Supplied by Telecommunication, Broadcasting Service Providers.

[v] Orbitax, Angola's New VAT Regime Delayed to October 2019 (Jun. 26, 2019).

[vi] Bloomberg Law News May 27, 2019, Argentina Gazettes Resolution Providing Rules for VAT Exemptions for Books, Newspapers, Magazines, Digital News.

[vii] Bloomberg Law News May 20, 2019, Australia Tax Agency Updates Guidance on Forms, Instructions for GST Property Settlement.

[viii] Bloomberg Law News May 27, 2019, Australia Tax Agency Updates Guidance on Common GST Errors.

[ix] Brazil—COFINS on income derived by exempt educational institutions – clarified (May 13,2019), News IBFD.

[x] Brazil—PIS and COFINS on income derived by IT companies – clarified (May 13, 2019), News IBFD.

[xi] CCH, Global VAT News & Features, Czech Government Presents Tax Simplification Package (May 23, 2019).

[xii] Ecuador—VAT and remittance tax refunds for exporters – resolutions published (June 6, 2019), News IBFD.

[xiii] IT: ECJ, May 8, 2019, Case C-712/17, EN.SA. Srl v. Agenzia delle Entrate – Direzione Regionale Lombardia Ufficio Contenzioso, ECJ Case Law IBFD.

[xiv] European Union—European Economic and Social Committee opinion on definitive VAT system – published (May 9, 2019), News IBFD.

[xvii] B.J.M. Terra & J. Kajus, Opinion in Case C-329/18 (Altic) – Deduction – Checks on co-contractor's compliance – Feed and food law (May 27, 2019), News IBFD.

[xvi] Greece—Amendments to VAT Code – addition to draft bill submitted (May 20, 2019), News IBFD.

[xvii] Bloomberg Law News May 27, 2019, Israel Tax Authority Explains VAT on Online Services Provided to Foreign Sellers.

[xviii] Tax Analysts, Ride-Hailing, Food Delivery Platforms to Withhold Mexican Taxes (May 27, 2019).

[xix] Global VAT News & Features, Dutch Court Rules Nitrous Oxide Excluded From VAT Reduced Rate (May 22, 2019).

[xx] New Zealand—Discussion document released on taxing digital services industry (June 4, 2019), News IBFD.

[xxi] Nigeria—VAT to be collected on online transactions (May 24, 2019), News IBFD.

[xxii] Bloomberg Law News May 10, 2019, Norway Tax Agency Posts Board Ruling on VAT Calculation, Surcharges for Rental Services.

[xxiii] Bloomberg Law News May 16, 2019, Norway Tax Agency Posts Board Ruling on VAT Obligation for Educational Organization Purchasing Marketing Services.

[xxiv] Bloomberg Law News May 16, 2019, Norway Tax Agency Posts Board Ruling on Input VAT Deduction.

[xxv] Poland—White list of taxable persons for VAT purposes introduced – bill signed by President (June 3, 2019), News IBFD.

[xxvi] Orbitax, Saudi Arabia Expands Scope of Excise Tax (May 29, 2019).

[xxvii] Bloomberg Law News Jun 9, 2019, Sweden Tax Agency Issues Guidance on Reduced VAT Rates for Electronic Publications.

[xxviii] Uzbekistan—Amendments to VAT refunding procedure for zero-rated transactions – consultation launched (May 6, 2019), News IBFD.

[xxix] Orbitax, Zambia Publishes Sales Tax FAQ and Inputs Proposed for Sales Tax Exemption (May 8, 2019); CCH, Global VAT News & Features, Zambia Delays VAT Again, Until September (July 2, 2019)

[xxx] Zambia—Comprehensive lists of inputs proposed for sales tax exemption – updated (June 4, 2019), News IBFD.

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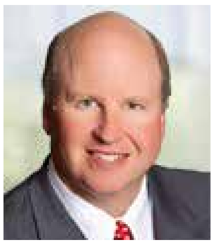

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