Inside Indirect Tax

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About this Newsletter

Welcome to *Inside Indirect Tax*—a publication from the KPMG U.S. Indirect Tax practice focusing on global indirect tax changes and trends from a U.S. perspective. *Inside Indirect Tax* is produced 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.

KPMG Publications

KPMG *TaxNewsFlash* Newsletter on COVID-19 Measures

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

Developments Summary of the Taxation of the Digitalized Economy

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

Global E-invoicing & Digital Reporting Tracker

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

Global Rate Changes

— **Angola:**[i] Effective January 1, 2022, Angola reduced the VAT rate for consumer goods from 14 percent to 7 percent.

— **Bulgaria:**[ii] Bulgaria recently extended the 9 percent reduced VAT rate applicable to certain goods and services through December 31, 2022. The reduced VAT rate applies to books, restaurant and catering services (including takeaway food and napkins but excluding alcoholic drinks), food for babies and infants, tourist services, and sport facility services.

— **Cambodia:**[iii] On January 11, 2021, the Cambodian Ministry of Economy and Finance announced that VAT on certain basic food will be allowed as state-charge between January 1, 2022 and December 31, 2023. The exemption is part of the Cambodian government's effort support the living standard of local citizens by rendering the daily necessary food more accessible and affordable and covers beef, lamb, chicken, pork, duck, eggs, fish and seafood, sugar, salt, and soy, as well as other staples.

— **Laos:**[iv] Effective January 1, 2022, Laos reduced its standard VAT rate from 10 percent to 7 percent.

— **Paraguay:**[v] Paraguay recently extended certain VAT and selective consumption tax (ISC) relief measures implemented to address the COVID-19 pandemic. These measures include (1) the special regime applying the 10 percent VAT to only 50 percent of the price for tourism, restaurant, and accommodation services; (2) the special VAT regime for the provision of immovable property leasing services for business activities which generally calls for applying the 10 percent VAT rate to 50 percent of the taxable amount; and (3) the reduced ISC rates for certain products including reduced rates of 2 percent to 7 percent for beers and ciders with and without alcohol, fruit wines, champagne, whiskey, rum, and other spirits, and perfumes and cosmetics. These measures were scheduled to expire on December 31, 2021 and have now been extended through March 31, 2022.

— **Uzbekistan:**[vi] Uzbekistan recently extended the VAT exemption for the import and sale of certain foods through April 30, 2022. The VAT exemption applies to the production or sale of vegetable oil (except cottonseed oil) and the import and sale of meat (beef, mutton, chicken, and other poultry) as well as potatoes and frozen fish.

— **Vietnam:**[vii] On January 11, 2022, Vietnam's National Assembly approved a temporary VAT rate reduction as part of a broader COVID-19 economic relief package. The standard VAT rate was reduced from 10 percent to 8 percent effective February 1, 2022, through December 31, 2022. However, the reduced VAT rate does not apply to telecommunications services; information technology services; financial activities, banking, securities, and insurance; real estate businesses; metal production, and manufacturing of prefabricated metal products; mining (excluding coal), production of coke and refined petroleum; manufacture of chemicals and chemical products; and goods and services subject to special consumption tax**.**

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Overview of Indirect Tax Developments from the KPMG International Member Firms

— **KPMG in Albania** published a report discussing changes to the Albanian tax legislation effective in 2022. The VAT measures include (1) replacing the VAT exemption for agricultural inputs with a reduced VAT rate of 10 percent; (2) reducing the VAT rate applicable to farmer's compensation from 6 percent to a zero rate; (3) introducing a VAT exemption for certain imported machinery and equipment used for investment contracts of ALL 500 million ($4,643,095) or more; and (5) postponing for six months the application of penalties for certain categories of taxpayers which have not yet implemented the e-invoicing procedure.

— **KPMG in Bahrain** published a report discussing a recent tax authority guidance in the form of "frequently asked questions" (FAQs) regarding the transitional rules for the recent VAT rate increase. Bahrain increased its VAT rate from 5 percent to 10 percent with a one-year transitional period, effective January 1, 2022. Under the transitional rule, sales made during

2022 pursuant to a contract signed on or before December 23, 2021 are subject to a 5 percent VAT until the earliest of contract expiration, renewal, or amendment. Initial guidance issued by the National Bureau for Revenue (NBR) covered sale of goods and services made during the transitional period. The updated FAQs (17.3, 17.4 and 17.5) further clarify the position regarding the transitional rules for imports. Finally, the NBR provided guidance in the updated FAQs (17.7 and 17.8) regarding what constitutes a "contract" for the purpose of applying the transitional rules and what is considered to be a 'change' to the contract.

- **KPMG in Chile** published a report discussing proposed changes to the Chilean VAT law. The proposed amendments include imposing VAT on all services except those expressly exempted; extending the timeframe to issue credit notes for transactions subject to VAT; and clarifying the application of VAT in franchise and lease contracts. These amendments were adopted by the Chilean legislature through Law No. 21,420, which was published in the official gazette on February 4, 2022.
- **KPMG in the Czech Republic** published a report discussing changes to the Czech VAT regime for 2022. The changes include the repeal, effective January 1, 2022, of the temporary VAT exemption on electricity, gas, filter half masks, and respirators of protection class FFP2 and higher. Further, tour operators will be required to start declaring VAT on advances received and are not to calculate VAT based on aggregated monthly data. In addition, the Czech Republic introduced a simplified Intrastat reporting for taxpayers that have not exceeded the limit of CZK 20 million ($940,650) in twelve consecutive months from receipts or dispatches of goods from or to other EU Member States.
- **KPMG in France** published a report discussing updated guidelines from the tax authorities on the VAT treatment of intra-group transactions. The updated guidelines incorporate the decision of the Court of Justice of the European Union (ECJ) in *Skandia,* Case *C-7/13,* in which the ECJ held that a provision of service from a non-EU head office to its Swedish branch belonging to a local VAT group was within the scope of VAT. The head office is viewed as dealing with a distinct taxpayer (i.e., the VAT group), disregarding the fact that the branch belongs to the same legal entity. Although France has not fully implemented the VAT group regime (i.e., the reform is in process but effective only as from January 1, 2023), recent case law developments confirming the *Skandia* principles persuaded the French tax authorities to incorporate those principles in their guidelines. The revised guidelines cover both head office/branch and branch-to-branch transactions when one of the parties belongs to a VAT group set up under the EU VAT directive.
- **KPMG in Greece** published a report discussing recent indirect tax changes, including: (a) the extension of the application of the reduced VAT rate of 6 percent for certain health-related goods and a 13 percent rate for art objects, collections, or antiquities; (b) extending the Donation Tax exemption for certain donations received by non-profit legal entities through June 30, 2022; and (c) providing that transfers of real estate pursuant to

contracts concluded until March 31, 2022 for the sale, donation, or gift by parents to children, of real estate are considered to have taken place on December 31, 2021 for real estate tax calculation purposes.

— **KPMG in India** published a report discussing a decision of the Maharashtra Appellate Authority for Advance Ruling (AAAR) on the GST treatment of the allocation of salary costs to branch offices. In the case, the AAAR ruled that "common input services" provided to a head office by third-party sellers and then further allocated to branch offices or units registered as distinct persons qualify as a taxable sale for GST purposes. The cost of the common input services allocated to branch offices/units by the head office will not be subject to GST because these costs were incurred by the head office in the capacity as a "pure agent." However, the allocation of the cost of the employees' salary to the branch offices would be subject to GST.

— **KPMG in Malaysia** published a report discussing updated service tax guides for food and beverages, motor vehicle repairs, and parking services. In a separate report, KPMG Malaysia discussed a recently issued service tax policy on the service tax exemption for brokerage services related to the trading of listed shares in Bursa Malaysia (but not other types of brokerage services including other types of securities and derivatives) effective January 1, 2022. In addition, KPMG Malaysia covered a tourism tax policy extending the tourism tax exemption for foreign tourists staying in registered premises through December 31, 2022.

— **KPMG in Malta** published a report discussing a recent tax authority notice reminding taxpayers of their obligation to file Intrastat declarations when there are transactions involving goods shipped between Malta and other EU Member States. This requirement applies even if the goods cross the external frontier of the EU or enter the territory of non-EU jurisdictions. An exemption will apply if the goods have a value not exceeding EUR 700 ($799.80) in a calendar year. Penalties apply for failures to file Intrastat declarations in a timely manner.

— **KPMG in Mexico** published a report (in Spanish) discussing the introduction of several tax measures in the state of Nayarit. They include a phased-in increase in the lodging tax from percent (increased from 3 percent to 5 percent by 2023, and a tax on the sale of alcoholic beverages imposed at a rate of 4.5 percent.

— **KPMG in Mexico** published a report on the updated list of nonresident providers of digital services who are compliant with the obligation to register for VAT in Mexico. The updated list includes seven new entities and 129 total entities.

— **KPMG in Montenegro** published a report discussing recently approved amendments to the Montenegrin VAT law, which include extending the scope of the 7 percent reduced VAT to the provision of services related to preparation and serving of food and beverages (except alcoholic beverages, carbonated beverages with added sugar and coffee) in facilities for the provision of catering and accommodation services, effective January 8, 2022.

- **KPMG in Nigeria** published a report discussing the tax treatment of interest income and proceeds from the disposal of certain bonds and short-term securities. Interest income and proceeds from the disposal of certain bonds and short-term securities no longer qualify for a VAT exemption; it expired on January 2, 2022. However, with an amendment of the definition of goods in the VAT law through the Finance Act, 2020, to exclude "money and securities," proceeds from the disposal of already-issued securities continue to be exempt from VAT, as debt securities do not constitute goods for VAT purposes.
- **KPMG in Oman** published a report on a recent VAT guide for the oil and gas sector clarifying the following: (1) the scope of zero-rating of sales of crude oil, oil derivates, natural gas, and related goods and services; (2) the definitions for upstream, mid-stream, down-stream, and shipping and storage activities; (3) the VAT treatment of upstream, mid-stream, and down-stream activities; (4) the VAT treatment of transactions when the government is involved; (5) the VAT treatment of transactions between joint venture partners; (6) the VAT treatment of transactions between operators; and (7) the VAT treatment of procurements by operators (including transactions with affiliates).
- **KPMG in Pakistan** published a report discussing a proposed legislation that would introduce several sales tax measures. The proposed measures include removing the zero-rating for certain goods including sales to duty free shops; and introducing a VAT zero-rate for certain goods including drugs.
- **KPMG in Poland** published a report discussing the new Polish e-invoicing system. Effective January 1, 2022, taxpayers can use the Polish national e-invoicing system (*Krajowy System e-Faktur*, KSeF) on a voluntary basis, with mandatory requirements to be introduced at a future date in Q2 2023. The platform can be used by active VAT taxpayers, VAT-exempt businesses, and taxpayers identified in Poland for the special EU OSS procedure. The key feature of the e-invoicing system is that e-invoices can be issued and sent directly from the taxpayers' financial and accounting system in a structured digital form using the KSeF platform if their systems are integrated with the National e-Invoicing System. Any taxpayer-authorized entity or individual may issue and access structured invoices in the KSeF system. Taxpayers who use the system enjoy a reduced standard VAT refund period (i.e., 40 days instead of 60 days), subject to certain conditions and simplifications in terms of settling credit notes. Further, the system makes it easier to verify and compare received invoices efficiently, and to automate accounting processes.
- **KPMG in Qatar** published a report discussing the proposed VAT regime of Qatar. Qatar is expected to implement a VAT regime in 2022, with VAT being imposed at a rate of 5 percent on most sale of goods and services with limited exceptions.
- **KPMG in Serbia** published a report discussing changes to the property tax regime effective January 1, 2022. The changes include the extending the scope of the property tax and amending tax exemptions under the regime. The legislation also addresses the tax on the transfer of absolute rights and

the tax on inheritances and gifts (including when an open-end investment fund or alternative investment fund that is not a registered legal entity is involved).

- **KPMG in South Africa** published a report on a recent tax authority regulation that specifies details to be included on tax invoices issued by nonresident VAT-registered electronic services providers effective December 10, 2021. The requirements under the new regulation are more comprehensive than under the previous rules prescribed in Binding General Ruling 28 (BGR28). For KPMG previous discussion of the new invoicing requirements, please click here.
- **KPMG in Sweden** published a report (in Swedish) discussing the Swedish tax agency position regarding VAT refunds for acquisitions used for making sales in other EU countries, in particular, with respect to branch structures.
- **KPMG in Switzerland** published a report discussing proposed plans to increase the VAT rates. The National Council and the Council of States in December 2021 voted to increase the VAT rate, as part of the reform of the Swiss pension system. As the VAT rates are fixed by the Swiss constitution, the increase is subject to a mandatory voter referendum. The referendum deadline is April 7, 2022, with the vote happening within one year after this deadline. The potential increase of the VAT rates would be implemented in 2023 at the earliest.
- **KPMG in Taiwan** published a report discussing draft amendments to the tax registration rules for e-commerce anticipated to be effective March 1, 2022. Taiwan will require local e-businesses to register their domain names and IP addresses. Further, these taxpayers will also be required to disclose their registered names and business IDs by displaying them on any online platforms/apps they use. While the rules apply to local businesses, when these businesses make use of a nonresident digital services provider's app or platform, the nonresident platform provider will be required to aid in complying with this requirement. Once the new rules become effective, taxpayers not in compliance with the registration requirement will be subject to fines ranging from TWD1,500 ($53.90) to TWD15,000 ($539).
- **KPMG in Vietnam** published a report discussing a recent tax authority guidance that includes a number of VAT measures. The guidance includes (1) an investment project that registers for implementation in multiple phases will be eligible for VAT for the phases under construction; (2) no VAT refunds will be issued for the reporting period that does not generate export revenue; (3) VAT refunds are still available when a construction permit is issued after the construction stage; (4) businesses are still entitled to a VAT refund upon dissolution for the accumulated creditable VAT amount that was not eligible for a VAT refund during the operation period. Further, the guidance also states that for purposes of the 30 percent CIT reduction eligibility determination, revenue from the sale of goods and provision of services does not include indirect taxes such as VAT (including cases declaring VAT on the deemed method), special consumption tax, export tax and environmental protection tax.

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Indirect Tax Developments and News from Around the World

The Americas

United States: Fees Associated with the Sale of Software are Taxable in Tennessee

In a recent Letter Ruling, the Tennessee Department of Revenue addressed whether separately stated fees associated with the sale of computer software were subject to sales and use tax. The taxpayer was an information technology company that sold access to its software platform. The sales included three separately stated fees: a platform fee, an implementation fee, and a content fee. The mandatory platform fee covered the access and use of the computer software, and it was not disputed that this fee was taxable as access to software. The implementation fee covered mandatory onboarding necessary for integrating the platform into a customer's system and included training provided by the taxpayer. The content fee was a charge for access to the taxpayer's proprietary content. The taxpayer requested a ruling on the taxability of only the implementation and content fees.

Under Tennessee law, retail sales of tangible personal property and computer software are subject to sales and use tax unless an exemption applies. Tennessee also imposes sales tax on those services specifically enumerated by statute as taxable. The sale of access to and use of computer software in the state is subject to sales and use tax regardless of the chosen method of delivery. When transactions involve the sale of a combination of items and services and taxable and nontaxable components are included, if the true object or the transaction is subject to tax, the entire transaction is subject to sales tax.

The Department concluded at the outset that the true object of the transactions at issue was for customers to obtain access to the platform software. The fees, although separately stated, were either necessary to complete the sale or essential and integral to the sale of software and/or remote access to and use of software; they were therefore subject to Tennessee sales tax. The ruling also addressed the optional software training. The training would be nontaxable if it was optional and separately stated from the sale of the taxable product. In the instant case, the training was optional, but it was not separately stated from the overall implementation fee, which was deemed part of the sales price.

Brazil: Amendments to State VAT Rules on Interstate Transactions with Final Consumers

On January 5, 2022, the Brazilian government published Complementary Law No. 190/2022 (*Lei Complementar* **nº 190/2022)**, which provides for the state-level VAT (ICMS) differential rate (DIFAL) to be levied on interstate transactions with final consumers. The ICMS is a state-level sales tax imposed on the physical movement of merchandise. For interstate sales of goods, the state of origin levies ICMS at a reduced rate (7 percent or

12 percent depending on the state involved) instead of the standard state rate (which range from 17 percent to 19 percent). This reduced rate serves as a mechanism allowing the origin state to share the collection of ICMS with the destination state when a subsequent taxable transaction is carried out in the destination state. However, if the transaction in the destination state is with final consumers that are non-ICMS taxpayers, only the state of origin collects ICMS. This was the case until Constitutional Amendment 87/2015, which provided that in this case, the difference between the ICMS reduced rate applied in the origin state and the ICMS internal rate of the destination state (DIFAL) must be paid to the destination states. Consequently, the states in Brazil approved a measure to regulate the new DIFAL mechanism and enact laws to provide that the ICMS DIFAL must be charged at the destination state.

In February 2021, the Federal Supreme Court (Supremo Tribunal Federal) ruled that the measures introduced by the states to implement the ICMS DIFAL were unconstitutional, holding that it lacked validity since it was not addressed by a "complementary law." It held that such a measure should only produce effects as of 2022, to provide the federal Congress with sufficient time to enact a new Complementary Law by the end of 2021. Complementary Law No. 190/2022 was enacted to fulfil this requirement. In summary, the law provides for a mechanism similar to that provided for by the states, establishing that on interstate transactions ICMS DIFAL must be paid as follows: (1) by the sender/seller to the destination state, if the recipient or acquirer is a final consumer that is not an ICMS taxpayer; (2) and by the recipient/acquirer to the destination state if the recipient/acquirer is an ICMS taxpayer final consumer. The Complimentary Law further modifies the ICMS DIFAL rules and increases the ICMS taxable base in the origin and destination states, by providing that the tax must be included in its own taxable base (i.e., grossed up). However, the Complementary Law is subject to the "90-day principle" and the "annual principle." These principles provide that a law providing for a new tax or which increases taxes must not become effective sooner than 90 days after enactment and cannot become effective in the same calendar year in which it is published. This has created controversy with taxpayers challenging the constitutionality of the law on these grounds, asking the courts to declare that the law can only be applied as from 2023. A decision from the Supreme Court is pending in both lawsuits; in the meantime, some lower courts are granting preliminary injunctions to taxpayers, preventing the ICMS DIFAL from being charged on interstate transactions. Consequently, it remains uncertain as to whether DIFAL should be collected on interstate transactions with final consumers. To read a report prepared by the KPMG International member firm in Brazil on this, please click here.

Source: Brazil – Brazil Enacts Complementary Law 190/2022 Providing for State VAT on Interstate Transactions with Final Consumers, (January 28, 2022), News IBFD.

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European Union: Roundup of Recent ECJ Cases

On January 13, 2022, the Court of Justice of the European Union (ECJ) published the nonbinding Opinion of its Advocate General (AG) in *Norddeutsche Gesellschaft für Diakonie*, Case C-141/20, in which the AG opined that closely related persons that are members of a VAT group may be treated as a single taxpayer for VAT purposes. However, Member States cannot solely designate the member controlling the group, which owns a majority of the voting rights and has a majority shareholding in the controlled company in the group of taxpayers, as the representative of the VAT group.

On January 13, 2022, the ECJ published its judgment in *Termas Sulfurosas de Alcafache, S.A,* Case C-513/20, in which it held that an activity consisting in compiling an individual file, including the user's clinical record, which entitles the user to purchase "traditional thermal cure" medical care within a spa establishment, would qualify for the VAT exemption pertaining to activities closely related to medical care if those files set out data relating to the user's state of health, planned and prescribed medical care, as well as the manner in which that care is to be administered. Further, for the services to be VAT exempt, the medical care and activities closely related to it must be undertaken, under social conditions comparable with those applicable to bodies governed by public law, by a center for medical treatment or diagnosis or by another duly recognized establishment of a similar nature within the meaning of the EU VAT Directive.

On January 13, 2022, the ECJ published its judgment in *Zipvit Ltd, Case C-156/20,* in which it held that a taxpayer may not deduct VAT when the taxpayer and his seller/provider have wrongly assumed that the sale was VAT exempt and thus have no invoices that refer to tax being charged. In this case, the tax cannot be regarded as being due and paid within the meaning of the EU VAT Directive to entitle the taxpayer to a VAT deduction. Additionally, in the case at hand, no step to recover the VAT was taken in good time, with the result that any action by the seller and the tax authority to recover the unpaid VAT was time-barred. (For KPMG's previous discussion of this case, please click here.)

On January 27, 2022, the ECJ published the nonbinding Opinion of its AG in *S*, Case C-269/20, in which the AG opined that persons who, while legally independent, are closely bound to one another by financial, economic, and organizational links may, as a VAT group, be treated as a single taxpayer for their VAT obligations. However, this does not preclude that each member of that VAT group continues to be an independent taxpayer. Further, Member States cannot designate, to the exclusion of the other members of the group, just one member controlling the group (owning majority shares or voting rights) as the representative of the group and the taxpayer of the entire group.

On January 27, 2022, the ECJ published the nonbinding Opinion of its AG in *GE Aircraft Engine Services Ltd*, Case C-607/20, in which the AG opined that unless all relevant information concerning the right to a sale of goods or services are already known when a third-party voucher is transferred from an employer to their staff, that transfer does not constitute a taxable transaction within the meaning of the EU VAT directive.

Source: European Union; Germany – ECJ Advocate General Opines on Whether VAT Grouping Exists with Financial Integration under EU Law: *Norddeutsche Gesellschaft für Diakonie*, Case C-141/20), (VAT, (January 13, 2022) News IBFD; European Union; Portugal – ECJ Decides On Whether Traditional Thermal Cure May Qualify for VAT Exemption: Termas Sulfurosas de Alcafache (Case C-513/20) (VAT), (January 13, 2022) News IBFD; European Union; United Kingdom – ECJ Decides On Whether Mistakenly Exempted VAT Can Be Regarded As Due Or Paid And Subsequently Be Deducted: *Zipvit Ltd v the Commissioners for Her Majesty's Revenue and Customs* (Case C-156/20) (VAT) (January 13, 2022), News IBFD; European Union; Germany – ECJ Advocate General Opines on Taxpayers Exercising Public Authority Becoming Members of VAT Group: *Finanzamt T* (Case C-269/20) (VAT), (January 27, 2022), News IBFD; European Union; United Kingdom – ECJ Advocate General Opines on Whether Granting Third-Party Vouchers to High-Performing Employees Qualifies As Deemed Supply of Services: GE Aircraft Engine Services (Case C-607/20) (VAT), (January 27, 2022), News IBFD.

France: Amendments to Indirect Tax Provisions

On December 31, 2021, France published the Finance Law for 2022, which, among other things, amends several indirect tax provisions in the French tax code effective January 1, 2022. (For KPMG's previous discussion on the proposals in the Finance Bill 2022, click here.) The Finance Law first extends the application period for the reduced VAT rate of 5 percent on masks, protective clothes, and sanitizers through December 31, 2022. The Finance Law further authorizes banking and financial companies to opt to subject to VAT on a transaction-by-transaction basis financial services that are in general VAT exempt rather than on the whole of their operations. In addition, the Finance Law taxpayers importing goods into France are required to self-assess VAT on their VAT return, repeals a provision allowing such taxpayers to declare input VAT within 60 days. (For KPMG's discussion on this new self-assessment requirement, please click here.)

The Finance Law further amends several compliance obligations as it introduces new requirements for the accreditation of tax representatives and one-off tax representatives for VAT purposes, taking into account not only fiscal morality, but also adequacy of means and financial solvency. This also applies to intermediaries appointed for the use of the one-stop shop for the settlement of VAT on distance sales of imported goods (IOSS). Further, the Finance Law replaces the declaration of trade in goods (*Déclaration d'échange de biens* – DEB) with two separate forms: (1) the declaration of customers' VAT recapitulative statements (*Déclaration des états récapitulatifs de clients pour les besoins de la TVA*) and (2) the declaration of statistical data by businesses (*Déclaration des données statistiques par les entreprises*). In addition, the French tax authorities are authorized to carry out joint tax audits with the tax authorities of other EU Member States starting from January 1, 2024.

The Finance Law also enacts into law the updates to Directive on administrative cooperation in the field of taxation (commonly referred to as DAC7); this requires platform operators to report certain information to the tax authorities effective January 1, 2023. The platform operators subject to the new reporting obligations are in principle resident in France. However, to avoid any bypassing of this rule, nonresidents may also be subject in some cases to such obligations, if they did not fulfil their reporting obligations in another EU Member State or if their state or territory of establishment has not concluded an information exchange agreement with France. The declaration must be submitted electronically and contain the identification details of each vendor or service provider and the amount of remuneration received by each seller or provider in each quarter. If available, the identifier of the financial account to which the payment is transferred must also be provided. Moreover, if the transactions facilitated by the platform consist of the rental of real estate, the address and the land registration number of each lot must be reported.

Moreover, the Finance Law introduced a new tax levied on operators of electronic transportation network platforms (*Taxe sur les exploitants de plateformes de mise en relation par voie électronique en vue de fournir certaines prestations de transport*). The in-scope platforms facilitate passenger transport or goods delivery services. The rate of the tax will be set each year by ministerial order and may not exceed 0.5 percent. The French government issued an order on February 1, 2022, requesting platform operators to provide by February 15, 2022 the relevant data for 2021 for the computation of the 2022 tax rate.

In addition, effective January 1, 2022, the French government enacted an Ordinance implementing the Goods and Services Tax Code (*Code des impositions sur les biens et services* – CIBS), which combines and harmonizes various indirect tax laws into one code. These taxes include excise duties on energy; excise duties on alcohol; consumption duties on tobacco manufactured in France, Corsica, and the Overseas Territories; road taxes; air transport taxes; navigation taxes; and industrial and craft activities taxes. However, the French domestic VAT provisions are not included in the new code. The CIBS provides harmonized rules regarding the material and geographical scope of the taxes covered; taxable events; taxable amounts and rates; tax liability; tax assessments or declarations payments; audit, recovery and litigation; and if applicable, the allocation of covered taxes. Even though the law entered into force on January 1, 2022, a ratification law must be adopted to allow the final enactment of the code. The French government is required to submit a ratification bill within three months of publishing the Ordinance.

The French tax authority further recently issued an administrative doctrine on the VAT rules implementing the EU VAT e-commerce package. The administrative doctrine explains (1) the assessment and sourcing of intra-EU sales below the threshold of EUR 10,000 ($11,318) (2) the scope and application of the VAT rules for distance sales of goods; (3) the VAT base and sourcing rules applicable to sales of goods; (4) application of the normal VAT rate to products that do not fall under either a reduced or special VAT rate; (5) the list of transactions that allow VAT deductions; (6) VAT reporting requirements for taxpayers involved in direct distance sales of imported goods; (7) eligibility for and application of the simplified reporting mechanisms; and (8) registration, accounting, and invoicing obligations for taxpayers.

Source: France – Finance Law for 2022 Amends Import VAT Declaration Deadline and Prolongs Reduced Rate on Masks, (January 7, 2022), News IBFD; France; European Union Finance Law for 2022 Transposes DAC7 and Introduces New Tax for Electronic Transportation Network Platforms, (January 7, 2022) News IBFD; France, France Enacts Goods and Services Tax Code, (January 25, 2022), News IBFD

Italy: Overview of Recent Indirect Tax Developments

The Italian tax authority (ITA) recently published Ruling Answer No. 850/2021 in which it clarified that the super-reduced VAT rate of four percent applies to subscriptions to online databases, provided that the economic reason for the subscription is the granting of access to editorial products qualifying as newspapers, daily news, releases of press agencies, books and publications with periodical issues and identified by ISBN (International Standard Book Number) or ISSN (International Standard Serial Number).

The ITA recently published Ruling Answer No. 763/2021 in which it clarified the VAT exemption of library services. In the case, a taxpayer provided multiple services under a single consideration, including management of inventory, archiving and research support activities, planning activities, promotion and organization of events and exhibitions, and participation in statistical and qualitative analysis. The ITA pointed out that the VAT exemption applied to "services typically provided by libraries," which includes the "collection, cataloguing, preservation, archiving and consultation, also through electronic means, of books and other materials useful for the purposes of study and research." Consequently, some of the services listed provided do not qualify as services typically provided by libraries, and such services do not qualify for the VAT exemption. In addition, because the parties agreed on the payment of a single consideration for the entire bundle of services, the full amount (and not just the part that did not qualify for the exemption) is subject to VAT at the standard rate.

The ITA recently published Ruling Answer No. 855/2021 in which it clarified the required supporting documentation when goods are temporarily exported, without an actual transfer of ownership, to be processed abroad and subsequently reimported. In the case, an Italian taxpayer manufactured and processed products in Hong Kong, using also components bought by the taxpayer in Italy and other countries and directly delivered to Hong Kong. The tax authorities noted that with respect to the goods temporarily exported from Italy, the taxpayer should keep adequate documentation attesting that such goods have not been sold. For these purposes, the tax authorities clarified that the taxpayer should not issue pro-forma invoices but maintain a list of descriptions and values of the exported goods in a specific ledger, and a shipping document or delivery note. These documents should be attached as annex to the relevant customs bill, where it should also be clearly stated that the export does not qualify as a transaction under the habitual exporter regime. A list of the descriptions and values should also be prepared for those components bought by the resident taxpayer in other countries and directly delivered to Hong Kong.

The ITA recently published Ruling Answer No.701/2021 in which it clarified the VAT treatment of publishing fees. In the case, authors paid an "article processing fee" covering peer-review activities by a board of independent experts, editing and publication activities, software, and general costs. The fee would vary depending on the online journal; the articles were required to be freely accessible by the public, since the publishing costs were directly borne by the author. Each selected article received a Digital Object Identifier to uniquely identify it and associate it to an online journal with its own International Standard Serial Number. The ITA noted that the payment of the publishing fee did not grant access to qualifying editorial products, as required for application of the super-reduced VAT rate of four percent. Instead, it granted to the author the right to publish a number of articles on online open-access journals. Consequently, the standard VAT rate of 22 percent should apply.

The ITA recently published Ruling Answer 757/2021 in which it clarified the VAT grouping regime. The case involved a company which was incorporated in 2021 and was acquired and fully owned by an entity member of a VAT group. Based on its previous rulings, the ITA clarified that the acquired company should be included in the VAT group starting from the year following the one in which incorporation took place, if it occurred before July 1; or the second year following the one in which incorporation took place if it occurred after July 1.

The ITA recently published Ruling Answer No.859/2021 in which it confirmed that a VAT group is not required to calculate and make the advance VAT payment in the first year of activity. It noted that, because the VAT group is a new taxpayer for VAT purposes, separate and independent from its members, no historical data are available to calculate the advance VAT payment.

The ITA recently published Ruling Answer 762/2021 in which it clarified the procedure to correct invoices. It confirmed that, in general, incorrect invoices must be rectified through the issuance of a credit note within one year from the time of sale. Alternatively, qualifying taxpayers may exceptionally initiate the procedure to recover VAT if objective conditions did not allow the issuance of a credit note. However, to preserve the neutrality of VAT, the right for a refund should be granted if there is no risk of losses for the Treasury (e.g., when the seller withdrew an invoice, and the purchaser did not deduct the related VAT).

The ITA recently published Ruling Answer No 802/2021 in which it clarified the application of the One Stop Shop mechanism for intra-EU sales of goods to final consumers (i.e., distance sales). The ITA confirmed that intra-EU distance sales constituted qualifying sales for purposes applying the habitual exporter regime. Therefore, intra-EU distance sales should be included in calculating the amount of zero-rated sales made in the preceding calendar year or in the previous 12 months. Furthermore, the ITA clarified that the taxable amount of intra-EU distance sales should also be considered when determining whether a taxpayer has the right to ask for a VAT refund on a quarterly basis. However, it noted that, to benefit from these rules, the taxpayer should continue to follow the applicable invoicing and accounting procedures provided by the domestic legislation. Consequently, the taxpayer should report intra-EU distance sales and pay the related VAT due under the OSS scheme, while continuing to record them into the VAT ledgers, and declare them in the relevant annual VAT return and Form TR to request the quarterly VAT refunds.

The ITA recently published Ruling Answer No.758/2021 in which it clarified the VAT deduction rights of holding companies. A holding company was incorporated in a merger leveraged buy-out (MLBO) transaction to streamline and reorganize the group's functions. As a result, the activities carried on by the holding company included both the holding of participations in the other group companies as well as the provision of financial, technical, and strategic services to them. The holding company, which had a suitable structure in terms of human resources, carried on purchases related to both the MLBO transaction and the provision of services. The ITA recognized that the holding company qualified as a taxpayer for VAT purposes and thus had the right to recover VAT paid on the purchases related to the MLBO transaction and the provision of services. In particular, the ITA clarified that, with respect to the VAT paid on the purchases related to the provision of services, an immediate and direct link had to exist between the purchase and the relevant sale or, more generally, the economic activity carried on by the holding company.

The ITA recently published Ruling Answer No 837/2021 in which it clarified the VAT grouping regime. A nonresident taxpayer, registered in Italy through direct VAT identification, intended to set up a branch in Italy and close its VAT position as nonresident, while continuing to benefit from the VAT grouping regime. The ITA noted that this operation qualified as a subjective transformation, with no impact on the taxpayer's assets and juridical relationships with third parties. Indeed, no entity ceased to exist, and no new entity was established. Consequently, the taxpayer could continue to benefit from the VAT grouping regime, provided that all related administrative obligations were duly fulfilled.

Source: Italy – Tax Authorities Clarify VAT Treatment of Subscriptions to Online Databases, (January 14, 2022), News IBFD; Italy – Tax Authorities Clarify VAT Exemption of Library Services, (January 20, 2022), News IBFD; Italy – Tax Authorities Identify Supporting Documentation for Exports of Goods for Outward Processing, (January 20, 2022), News IBFD; Italy -Tax Authorities Clarify VAT Grouping Regime, (January 21, 2022), News IBFD Italy- Tax Authorities Clarify Procedure to Correct Invoices, (January 21, 2022), News IBFD; Italy – Tax Authorities Clarify Application of One-Stop-Shop Scheme, (January 24, 2022), News IBFD; Italy – Tax Authorities Clarify Input VAT Deduction for Holding Companies, (January 26, 2022) News IBFD; Italy -Tax Authorities Clarify VAT Group Calculation Regime, (January 24, 2022), News IBFD

Romania: Overview of Recent Indirect Tax Developments

Romania recently published Order No. 10/2022 in which it approved the VAT refund procedure for excess VAT payments made by taxpayers registered under the one stop shop VAT compliance mechanisms. When Romania is the Member State of registration, if the taxpayer submits a declaration reducing the VAT amount before the transfer of the amounts due to each Member State of consumption, the taxpayer may request a refund of the amounts representing additionally paid VAT. The application may be submitted electronically to the e-mail address provided by the Romanian State. The refund of the excess VAT is performed only after offsetting it with any fiscal obligations due by the taxpayer who uses the special mechanism. If the taxpayer submits a declaration decreasing the VAT amount after the transfer of the amounts due to each Member State of consumption, the refund of the amount additionally paid shall be performed directly by the Member States of consumption to the requesting taxpayer. Moreover, when the taxpayer is registered in another Member State, and Romania is the Member State of consumption, the taxpayer may submit a refund request to obtain reimbursement of overpaid VAT when the taxpayer reduces the declared amount on a VAT return after the transfer by the Member State of registration of the amounts due to Romania.

Romania published Order No. 12/2022 in which it listed products with a high fiscal risk of fraud and tax evasion in business-to-business (B2B) transactions for which invoices are required to be transmitted through the RO e-Invoice System. These goods include vegetables, fruits, roots and tuber crops, and other edible plants; alcoholic beverages; new constructions (defined as per VAT rules); mineral products (natural mineral water, sand, and gravel); clothing; and footwear. This list is related to an earlier ordinance, which provides that starting July 1, 2022, sellers are obliged to send the invoices issued for goods with high fiscal risk, traded within B2B transactions, through the RO e-Invoice System. This requirement exists regardless whether the beneficiaries are registered in the RO e-Invoice System. Furthermore, between April 1 and June 30, 2022, sending the invoices for such goods through the e-Invoice System is optional. The list of products introduced by Order No. 12/2022 is the first one to which such measures are applicable. Nevertheless, the list will be periodically re-evaluated, and changes may occur in the future.

Source: European Union; Romania – Romania Approves VAT Refund Procedure for Amounts Paid in Excess by Taxpayers Applying VAT Special Schemes, January 12, 2022, News IBFD; European Union; Romania -Romania Publishes List of High Fiscal Risk Products for which Invoices are Required to be Transmitted Through RO E-Invoice System, January 12, 2022, News IBFD

United Kingdom: Overview of Recent Indirect Tax Developments

The UK recently published a notice regarding registrations under the One-Stop Shop (OSS) mechanism for intra-EU sales of goods to final consumers. Under the OSS, taxpayers who make a request for registration must have a valid VAT registration number and be identified as a "relevant Northern Ireland trader" under provisions of the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020. If a person does not have a valid VAT registration number, is not liable to be registered under the Act, and does not wish to be registered for any entitlement provided in the Act, the person must, if that person wishes to make a request for registration under the OSS, also make a request to be allocated a valid VAT registration number for the purposes of using the OSS. Taxpayers who do not wish to be registered under the Act must enter the 'VAT registration portal' and select "63990 Distance sales of goods (below UK VAT threshold) for OSS purposes" when asked to search for a business activity as part of obtaining a valid VAT registration number. Where a taxpayer has made a request to be allocated a valid VAT registration number, HMRC must allocate a valid VAT registration number for the purposes of using the OSS scheme to that person with effect from the day on which the request is made. A request to be allocated a valid VAT registration number must be made before, and in addition to, a request for registration under the OSS scheme. Where a taxpayer's registration under the OSS scheme is cancelled, HMRC must also cancel that person's registration number, when it is used solely for the purposes of the OSS scheme.

On January 7, 2022, the UK tax authority (HMRC) published Revenue and Customs Brief 1 (2022) in which it announced that it is reviewing how VAT is claimed for the cost of charging electric vehicles that are used for business purposes and how VAT for any private use should be accounted for. The announcement follows representations from businesses regarding the limited options for reclaiming VAT on the cost of charging electric vehicles as set out in Revenue and Customs Brief 7 (2021) published in May 2021. Further, HMRC also updated its guidance on VAT on motoring expenses to provide further information about who can reclaim VAT on the cost of charging electric vehicles for business purposes. HMRC is considering other simplification measures that may reduce administrative burdens of accounting for VAT on private use and intends to publish fresh guidance on these issues once its review is completed.

On December 23, 2021, HMRC published Revenue and Customs Brief 15 (2021) in which it announced that it is relaxing the time limit for non-EU businesses that are not registered for VAT in the UK to provide a certificate of status when submitting a claim for input VAT incurred in the United Kingdom. Non-UK business can file a VAT refund claim for VAT incurred in the UK, provided they can prove their taxpayer status in their home country among other things. The relaxation is a result of delays in certificates of status being issued. The relaxation applies only in exceptional circumstances (e.g., a government shutdown). Claims for input VAT must be submitted by the usual deadline and the delayed certificate of status as soon as possible after it has been issued, which is normally taken to be 30 days.

On December 23, 2021, HMRC updated three guidelines on various aspects of applying the VAT margin mechanism. The mechanism is an optional method of accounting that allows taxpayers to calculate VAT on the value they add to the goods they sell, rather than on the full selling price. The first guidance concerns the use of the VAT margin scheme when the business is importing from, or exporting to, countries outside the United Kingdom. The guidance sets out the conditions that must be met for the VAT margin mechanism to be used for imports and, when zero-rating applies, for exports. The second guidance deals with the mechanism used by agents acting on behalf of dealers or private sellers. The third guidance concerns the purchase of vehicles using a VAT margin mechanism. The guidance sets out when it can be used and what actions need to be taken to comply with the mechanism's requirements.

On January 7, 2022, the HMRC announced that April 1, 2022 is the deadline for all VAT taxpayers to register under the Making Tax Digital (MTD) program regardless of their gross receipts. Under MTD, VAT registered taxpayers are required to keep digital records, file VAT returns using MTD compatible software, and ensure that digital links within their digital records are in place. The announcement provides that taxpayers must register at least five days after their last non-MTD VAT return deadline, and no less than seven days before their first MTD VAT return deadline. Further, it includes instructions on the registration process; information on how to apply for a filing an MTD exemption; and digital record-keeping requirements.

On January 13, 2022, the UK announced that it has delayed until January 1, 2023, the implementation of its new penalty regime for tax noncompliance (including VAT). The regime is a measure to reform the late-filing and payment penalties to make them fairer and more consistent across taxes. The first stage of these reforms was set to come into effect April 1, 2022. HMRC says that the extra time allows it to ensure the IT changes necessary for the new penalties and interest charges can be introduced as effectively as possible.

HMRC recently issued revised technical guidance on its uncertain tax positions regime for consultation. Guidance on the legislation was published in August 2021 and re-issued on January 18, 2022. HMRC is seeking comments on the revised guidance before publishing a final version by February 28, before the regime comes into effect on April 1. An amount may be identified as an uncertain amount when a provision has been made in the accounts for the uncertainty, or the position taken by the business is contrary to HMRC's known interpretation as stated in the public domain or in dealings with HMRC. For KPMG's previous discussion of the uncertain tax positions' regime, click here.)

Source: Taxnotes, U.K. Issues Notice on Using One-Stop Shop Scheme, December 24, 2021; CCH, Global VAT News & Features, HMRC Reviewing VAT Treatment Of Electric Vehicles,(Jan. 14, 2022); United Kingdom – United Kingdom Reviews VAT Recovery Rules on Cost of Charging Electric Vehicles, (January 10, 2022), News IBFD; United Kingdom – United Kingdom Eases Time Limitations for VAT Repayment to Overseas Businesses, (January 10, 2022), News IBFD; United Kingdom – United Kingdom Publishes Guidance Concerning VAT Margin Scheme, (January 10, 2022), News IBFD; United Kingdom Tax Agency Announces Registration Deadline for Mandatory VAT Making Tax Digital Program, Bloomberg Law News (January 12, 2022); CCH, Global VAT News & Features, UK Delays Overhaul To Tax Non-Compliance Penalties,(Jan. 17, 2022);Orbitax, UK Delays New Penalty Regime to 2023 for VAT Taxpayers, January 19, 2022; Global VAT News & Features, HMRC Seeks Input On Uncertain Tax Positions Guidance,(Jan. 19, 2022).

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Asia Pacific (ASPAC)

Philippines: Amendments to VAT Law

On December 3, 2021, the Philippines issued Revenue Regulations (RR) No.21-2021, which implements provisions of the Philippines Internal Revenue code pursuant to the new Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act effective December 10, 2021 and covers transactions entered into the third quarter of the taxable year 2021. The regulations provide that the VAT exemption on import and VAT zero-rating on local purchases under the CREATE Act shall apply only to goods and services directly and exclusively used in the registered project or activity of a registered export enterprise, for a maximum period of 17 years from the date of registration, unless otherwise extended under the Strategic Investments Priority Plan (SIPP). The direct and exclusive use for the registered project or activity refers to the raw materials, inventories, equipment, goods, packaging materials, services, including provision of basic infrastructure, utilities, and maintenance, repair and overhaul of equipment, and other expenditures directly attributable to the registered project or activity without which the registered project or activity cannot be carried out. In addition, the VAT zero-rating on local purchases shall be granted on the endorsement of the concerned Investment Promotion Agency (IPA), in addition to the documentary requirements of the Bureau of Internal Revenue (BIR).

As a consequence, the following sales of goods may be zero-rated : (1) export sales as defined by the regulations; (2) sales to persons or entities whose exemption from direct and indirect taxes under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate; and (3) sales of raw materials, inventories, equipment, packaging materials, and goods to a registered export enterprise, to be used directly and exclusively in its registered project or activity for a maximum period of 17 years from the date of registration, unless otherwise extended under the SIPP. Further, the above-described sales to existing registered export enterprises located inside ecozones and freeport zones also qualify for the VAT zero-rating until the expiration of the transition period. In addition, the following services may be zero-rated: (1) services other than processing, manufacturing or repacking of goods rendered to a person engaged in business conducted outside the Philippines, the consideration for which is paid for in acceptable foreign currency and accounted for according to the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP); (2) sales rendered to persons or entities whose exemption from direct and indirect taxes under special laws or international agreements to which the Philippines is a signatory; (3) sales of services, including the provision of basic infrastructure, utilities, and maintenance, repair and overhaul of equipment, to a registered export enterprise, to be used directly and exclusively in its registered project or activity for a maximum period of 17 years from the date of registration, unless otherwise extended by the SIPP; (4) services rendered to persons engaged in international shipping or air transport operations, including leases or property for the use thereof, provided that these services shall be exclusively for international shipping or air transport operations; (5) transport of passengers and cargos by domestic air or sea vessels from the Philippines to another country; and (6) sales of power or fuel generated through renewable sources of energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels.

The term "registered export enterprise" is defined as an export enterprise that is also a registered business enterprise. An export enterprise refers to any individual, partnership, corporation, branch of a foreign corporation, or other entity organized and existing under Philippines law and registered with an IPA to engage in the manufacturing, assembling or processing activity, services such as information technology (IT) activities, or business process outsourcing (BPO), resulting in the direct exportation or indirect export of at least seventy percent (70 percent) of its total production or output. A registered business enterprise refers to any individual, partnership, corporation, branch of a foreign corporation, or other entity organized and existing under Philippine laws and registered with an IPA excluding service enterprises such as those engaged in customs brokerage, trucking and forwarding services, janitorial services, security services, insurance, banking, and other financial services, consumers' cooperatives, credit unions, consultancy services, retail enterprises, restaurants, or such other similar services, as may be determined by the Philippines Fiscal Incentives Review Board (FIRB).

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Trade & Customs (T&C)

Argentina: Overview of Recent Trade and Customs Developments

On December 31, 2021, Argentina published Decree 901/2021 to extend the application of a "statistical charge" at a rate of 3 percent through December 31, 2024. This charge was anticipated by article 762 of the customs law, and article 49 of Law 27,541 established the rate at 3 percent through December 31, 2021. This statistical charge is applicable to the import of goods, with the exception of certain imports eligible for preferential tariff treatment including merchandise originating from the Mercosur regional trade association.

On December 31, 2021, Argentina published Decree 908/2021, which extends an export customs duty rate of 8 percent for certain merchandise for the mining sector through 2023. However, for other goods or merchandise, the export customs duty rates are not affected, and the export customs duties as in effect December 31, 2021 continue for these goods—for instance, a 33 percent rate for soybeans and a 12 percent rate for wheat. According to the executive administration, these rates remain in effect until such time that new regulations are issued. To read a report prepared by the KPMG International member firm, please here.

China: Comprehensive Bonded Areas and Standardized Management System

On January 1, 2022, the General Administration of Customs issued Order No. 256 as the first formal management method for comprehensive bonded areas. The order provides a more standardized and specific management system to meet increased use of comprehensive bonded areas. The measures have an effective date of April 1, 2022. Earlier policies and regulations applicable to special customs supervision areas have been integrated. Specifically, the special customs supervision areas have been optimized and integrated, and 155 comprehensive bonded areas have been formed. The original management rules for bonded port areas and bonded logistics parks are integrated, comprehensive bonded zone management methods are defined, and new regulations are provided for comprehensive bonded zones. For more information, click here.

India: Clarification of Customs Treatment of Automobile Parts

On January 5, 2022, the Central Board of Indirect Taxes and Customs issued Instruction 1/2022 to clarify the treatment of "automobile parts" for customs tariff purposes. A judgment by the Indian Supreme Court in a case, *Westinghouse Saxby Farmer Ltd.*, resulted in divergent practices regarding the customs treatment of automobile parts. Over the past eight months, many customs and GST authorities have sought to classify automobile parts under Chapter 87 citing the *Westinghouse* judgement, thereby causing delays in clearances, and increasing costs in the supply chain. The guidance clarifies that the classification of parts of goods falling under section XVII (which includes automobiles) is to be decided after taking into account all facts, details, and judicial decisions on the subject, including references to relevant section or chapter notes and explanatory notes to the Harmonized System of Nomenclature (HS notes). To read a report prepared by the KPMG International member firm in India, click here.

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In Brief

- **Algeria:**[viii] On December 31, 2021, Algeria published the 2022 Finance Act, which includes several VAT measures, including: (1) imposing VAT on transactions involving the exercise of a self-employment profession irrespective of their nature; (2) introducing a VAT exemption for the transfer and import of art, antiques or manuscripts of national heritage to museums, public libraries and manuscript and archive services; (3) repealing the VAT exemption relating to sugar sales transactions and taxing them at the reduced rate of 9 percent VAT; (4) reducing the tax rate on ticket sales to film venues; and (5) extending application of the reduced VAT rate for services related to tourism, hotel, spas, classified tourist restaurants, travel and rental of tourist transport vehicles until December 31, 2024.
- **Azerbaijan:**[ix] On January 14, 2022, Azerbaijan expanded the scope of when cash registers can be used and clarified the application of its VAT refund mechanism. It provides that services provided by hotels and other hotel-type facilities, medical facilities, barbershops, beauty salons, and cosmetology centers can have money settlements through a cash register. Further, the VAT refund mechanism applies to medical services payments and to the sale of cars in a specialized manner, including through commissions and trade organizations, payments for more than AZN 500 ($294) per transaction on medical services provided by medical institutions, and payments over AZN 4,000($2,354) within a single transaction for the sale of goods may only be made in non-cash manners, beginning January 1, 2022. The VAT refund mechanism will not apply to the purchase of cars, alcoholic beverages, and tobacco products.
- **Bangladesh:**[x] On December 30, 2021, the Bangladeshi National Board of Revenue (NBR) announced that effective January 1, 2022, electronic VAT payments are mandatory for amounts exceeding BDT 5 million ($58,302).

The NBR explained that VAT payments made under a single treasury invoice are deposited through the NBR's modern electronic payment method or the A-invoicing system.

- **Belarus:**[xi] On January 4, 2021, the Belarusian Ministry of Taxes and Duties clarified new VAT measures in the Tax Code that took effect from January 1, 2022. The clarification provides that gratuitous transfers of business property, which do not increase the authorized capital and change shareholders' nominal value of shares, are not subject to VAT. Further, it provides (1) a BYN 500,000 ($193,254) property lease VAT threshold for individual entrepreneurs; (2) the sourcing rules for services related to real estate; (3) the application of VAT on self-produced goods; (4) the application of the reduced VAT rate of 10 percent on the import of specific medicinal products; (5) increasing the VAT rate applicable to products unrelated to baking from 10 percent to 20 percent.
- **Belarus:**[xii] Effective July 1, 2022, Belarus will require nonresident taxpayers who sell goods to customers in Belarus to register and collect VAT. Taxpayers are required to register when their sales in the relevant calendar year exceed the threshold of EUR 10,000 (without VAT). According to the Tax Code, electronic distance sales of goods in scope of these new rules are those where the order for the goods and payment are made by the buyer through the services available on the electronic trading platform and the delivery of goods to the buyer is carried out by an organization or an individual entrepreneur which sells goods through an electronic trading platform.
- **Belgium:**[xiii] On January 14, 2022, the Belgian Federal Public Service Finance released new answers (in French) to frequently asked questions (FAQs) regarding various tax-related obligations for online platforms. The tax authority explained that platforms are required, at the conclusion of each agreement via the platform, to provide complete information on the tax and social obligations incumbent on business users of the platform. The platforms are also required to provide users with an electronic link to the sites of the relevant tax authority as well as send users and the tax authority, every year, electronically, a document with the gross amount of the transactions carried out through their platform.
- **Belgium:**[xiv] On January 18, 2022, the EU extended the authorization granted to Belgium to continue its increased VAT registration threshold of EUR 25,000 ($28,567) from January 1, 2022 through December 31, 2024. This special measure is optional for taxpayers and seeks to reduce VAT compliance costs for small businesses, distortions of competition at domestic and EU levels, and the negative impact of transitioning from exempt to taxed under VAT rules (the threshold effect). The decision also notes that with effect from January 1, 2025, all EU member states are authorized to implement a VAT registration threshold of up to EUR 85,000 ($97,127); therefore, Belgium's EUR 25,000 ($28,567) threshold will no longer need special authorization.
- **Botswana:**[xv] Botswana recently extended its amnesty program through June 30, 2022. The program was set to run from July 1, 2021 through December 31, 2021, allowing taxpayers who settle their outstanding tax obligations to obtain penalty and interest waivers. For VAT, the amnesty

applies to tax periods prior to July 1, 2021.

- **Brazil:**[xvi] On December 31, 2021, Brazil reinstated the additional 1 percent rate of the federal social contribution (COFINS) levied on the import of certain products from April 1, 2022 to December 31, 2023. The tariff codes of the affected products remain unchanged and include shoes, fur and leather, gloves, vehicles, and parachutes.
- **Bulgaria:**[xvii] On January 4, 2022, Bulgaria amended rules regarding the assignment of VAT numbers to registered natural persons. According to the amendments, individuals entered in the *Bulstat* Register (Bulgaria's companies register) will now be assigned a new nine-digit VAT number, rather than a 10-digit one. The new number (ex. BG123456789) replaces the existing 10-digit number that featured individual's personal taxpayer number (PIN). The change is intended to protect the personal data. The change affects a range of individuals, including those exercising a "free profession or craft activity" and insurers. Other taxpayers that have already been assigned a VAT number under the previous rules will retain such but may request a change to the new format. Regulations are to be proposed by the tax authority that would uniformly apply the rules to all taxpayers in future.
- **Cabo Verde:**[xviii] On October 6, 2021, the Cabo Verdean Ministry of Finance published the 2022 state budget, which proposes to: (1) apply a reduced VAT rate of 10 percent for the tourism sector and restaurants; (2) reduce the VAT rate for electricity and water consumption from 15 percent to 8 percent; (3) provide a VAT exemption on imported machinery and equipment; (4) provide exemptions from VAT and the special consumption tax (ICE) on the import of electric vehicles; (5) introduce special VAT provisions aimed at nonresident e-commerce vendors of digital services and low value goods; (7) increase tobacco taxes and incentivize solar energy production; and (8) strengthen tax administration through digitalization and electronic invoicing.
- **Canada:**[xix] On January 24, 2022, the Canadian Revenue Agency (CRA) published updated guidance on GST/HST for nonresident businesses. The updated topics include: (1) FAQs on the deferral of GST/HST payments; (2) online filing of returns for authorized representatives; (3) reducing the threshold beyond which certain information returns are required to be filed electronically from50 to 5 returns, beginning January 1, 2022; (4) clarifying GST/HST changes for businesses in the digital economy, including remote sellers of services, that took effect July 1, 2021; and (5) the new nonresident business number and account registration web form.
- **China:**[xx] Effective January 1, 2022, China has introduced temporary VAT exemptions for insuring certain goods for exports. The VAT exemption applies for four years through December 31, 2025. It covers product liability insurance and product quality assurance insurance that is purchased by domestic entities and individuals for exported goods. However, the exemption does not cover existing policies and any relevant taxes paid already will not be refunded.
- **Colombia:**[xxi] On December 4, 2021, the Colombian government expanded its "simplified tax regime" to include more businesses. The regime is an

optional tax regime that was introduced in 2019 with rates ranging from 1.8 percent to 14.5 percent (depending on sector or gross receipts). It was intended to improve compliance rates among small businesses by replacing income taxes, withholding taxes, municipal taxes, and federal consumption taxes with a single levy. The regime is now available to taxpayers with gross income of up to 100,000 tax value units (UVT), up from 80,000. Taxpayers already registered in the Single Tax Registry (RUT) may apply to be liable to tax under the regime by the last business day of February 2022.

— **Costa Rica:**[xxii] Costa Rica recently launched a consultation on a draft resolution regarding the computation of VAT on sales by companies that engage in direct sales, catalogue sales, as a commissionaire, multi-level marketing or any similar business models. According to the draft resolution, VAT would be calculated at the manufacturer or wholesale level. The taxable event would be the sale of goods to the direct client (i.e., before the intermediary sells the goods to a third party). The taxable amount would be based on the price of the sale to the final consumer. The draft resolution further proposes that taxpayers that acquire goods from factories, wholesalers, or customs (e.g., an intermediary) are not entitled to deduct the VAT that was charged to them upon re-sale of the goods. Intermediaries that have the sale of goods under these modalities as their sole business activity, would not be required to file a return or pay VAT.

— **Cote d'Ivoire:**[xxiii] On December 21, 2021, the Ivorian Ministry of Economy and Finance published an annexure to its 2022 Finance law, Law No. 2021-899. The law includes: (1) a new 5 percent new tax on sales, commission, and brokerage from games of chance; (2) a new XAF 20,000 ($34.64) per hour audiovisual communication tax on advertising through television or radio channels of nonresident companies; and (3) a VAT registration obligation on nonresident vendors of online sales, online services, and operators of e-commerce platforms (owners of digital platforms connecting customers and sellers). The tax measures are effective January 4, 2022. The tax authority has yet to publish further guidance on how nonresident digital services providers are to register and comply with the regime.

— **Croatia:**[xxiv] Croatia Recently increased its Intrastat reporting thresholds for 2022. The exemption threshold was set in 2021 at HRK2.5m ($375,500) for arrivals, and HRK1.3m ($195,300) for dispatches. These thresholds have been raised to HRK2.6m ($394,324) and HRK1.5m ($227,495), respectively, for 2022.

— **Cyprus:**[xxv] On December 9, 2021, the Cypriot Ministry of Finance presented its 2022 budget in which it proposes to temporarily reduce the VAT rate on electricity from 19 percent to 5 percent for 6 months for vulnerable households, and to 9 percent for three months for domestic use from November 1, 2021. Further, it proposes to introduce a carbon tax with gradually increased taxes on fossil fuels and adjust VAT rates for public health and online services.

— **Denmark:**[xxvi] Denmark implemented changes to its Intrastat reporting requirements. Effective January 1, 2022, taxpayers whose total intra-EU exports in 2021 are above DKK10M ($1,535,240) must include the following additional information: the country of origin and the partner VAT number. In addition, beginning January 2022, companies must submit Intrastat arrival reports in 2022 if their intra-EU imports were worth DKK13M ($1,995,812) or more in 2021.

- **Denmark:**[xxvii] Effective January 1, 2024, Denmark will require taxpayers within certain industries with a gross sale of less than DKK10M ($1.5m) to implement electronic fiscal devices (EFDs). The selected industries are cafes, pubs, discos, pizzerias, grill bars, ice cream parlors, grocery stores, and 24-hour kiosks, as well as restaurants.
- **Ecuador:**[xxviii] On January 12, 2021, Ecuador published Resolution No. NAC-DGERCGC22-00000002, which amends VAT provisions for tourist accommodation services and the acquisition of goods due to the coronavirus pandemic. The resolution includes measures refunding the VAT imposed on services and goods purchased by foreign tourists; and temporarily taxing registered tourist and accommodation services at a zero percent VAT rate from December 2021.
- **European Union:**[xxix] On January 13, 2022, the EU commission adopted a proposal introducing two new VAT exemption certificates. The certificates would be used to exempt the sale of goods and services related to measures taken at EU level in response to the COVID-19 pandemic, with retroactive effect from January 1, 2021, as well as the sale of goods and services that are used in defense activities carried out by the armed forces of one Member State in another Member State under the Common Security and Defense Policy (CSDP), with effect from July 1, 2022.
- **European Union:** [xxx] On December 20, 2021, the EU parliament published a report on reducing the EU VAT gap. The report suggests that to meet the challenges of the globalized, digital, and mobile economy, the EU needs a simpler, more transparent, more efficient, improved, and modernized VAT system that can maintain its competitiveness, be adapted to the internal market, and be fraud-proof. The report highlights the importance of moving toward a definitive VAT system based on the principle of taxation in the country of destination. It also advocates working toward a uniform VAT rate and decreasing the number of exemptions and reduced rates in the European Union, since the diversification of VAT rates fragments the internal market and distorts competition among Member States, and the reduced rates only have a slight and temporary effect on prices, with a limited achievement of the social and environmental goals. The report points out the tax costs for businesses, particularly for small and medium-sized enterprises (SMEs), and considers the context of the economic recovery to curb the socio-economic crisis following the COVID-19 pandemic.
- **European Union:** On December 20, 2021, the EU Commission published its decision to register the citizens' initiative to reduce VAT rates for green products and services called "Green VAT – An EU Green VAT to stimulate sustainable and eco-friendly products and services". For KPMG's previous discussion of the initiative, please click here.
- **European Union:**[xxxi] The EU Commission launched a call for evidence for an impact assessment on its VAT in the Digital Age initiative and a

public consultation on whether current VAT rules are adapted to the digital age and how digital technology can be used to help fight VAT fraud and benefit businesses. The objective of the initiative is to ensure the proper functioning of the EU single market, reduce compliance costs for businesses, and protect the financial and economic interests of the EU and its Member States by combating VAT fraud and ensuring tax equality and neutrality. This will involve making compliance with VAT rules easier for EU businesses, particularly those working in the digital economy and those carrying out cross-border trade; laying down a framework helping tax administrations to fight VAT fraud, especially Missing Trader intra-EU fraud; preventing regulatory failure and market fragmentation; and ensuring fairer treatment of both traditional and platform economies. The call for evidence notes three areas of concern for solving the VAT gap: (1) update VAT reporting obligations and facilitate e-invoicing, (2) update VAT rules for the platform economy, and (3) move to having a single VAT registration process in the EU.

- **France:**[xxxii] The EU Commission has authorized France to introduce mandatory e-invoicing for business-to-business transactions. The obligation to issue electronic invoices will be phased in. It is to apply in 2024 to large enterprises, in 2025 to enterprises with 250 to 4,999 employees and with gross receipts below EUR 1.5 billion ($1.7 billion), and in 2026 to small and medium-sized enterprises, including taxpayers benefitting from the exemption for small enterprises. To read more about France's e-invoicing regime, please click here.

- **Germany:**[xxxiii] On January 20, 2021 the German Ministry of Finance posted Letter No. 2022/0065050, in which it announced the extension of VAT relief measures for restaurant and catering services due to the coronavirus pandemic. The letter extends the reduced VAT rate through December 31, 2022 and lists types of businesses that are eligible for the reduced VAT rate.

- **Ghana:**[xxxiv] On December 31, 2021, Ghana published the Value Added Tax (Amendment) Act 2021 and the Penalty and Interest Waiver (Amendment) Act 2021, which are effective January 1, 2022. The amendments to the VAT Act set the VAT flat rate at 3 percent for retailers with annual gross receipts between GHC 200,000 ($32,407) and GHC 500,000 ($80,839); and extend the VAT zero-rate on African textile prints to December 31, 2023 for local textile manufacturers. (For KPMG's previous discussion of the provisions of the new VAT Act, please click here). The Penalty and Interest Waiver Act includes measures to extend the deadline for taxpayers to benefit from the tax amnesty regime through June 30, 2022. The regime grants qualifying taxpayers penalty and interest waivers on accumulated tax arrears up to December 31, 2020. Further, the budget proposal introducing an "Electronic Transaction Levy" at a rate of 1.75 percent on electronic transactions covering mobile money payments, bank transfers, merchant payments, and inward remittances was rejected.

- **Indonesia:**[xxxv] On January 7, 2021, the Directorate General of Taxation of Indonesia published Notice No. SP-2/2022, which lists new companies that meet the criteria for collecting VAT on digital goods and services sold to customers in Indonesia. Effective December 31, 2021, there are a total of 94 nonresidents appointed as VAT collectors in Indonesia.

— **Kyrgyzstan:**[xxxvi] On January 18, 2022**,** Kyrgyzstan published its new Tax Code. The new Code introduces two main regimes for taxpayers: a general tax regime, which is mandatory, including mandatory VAT registration, for large businesses with gross receipts of at least KGS 30 million ($354,000). There is a simplified tax regime for smaller businesses with gross receipts below KGS 30 million, which replaces corporate income tax, sales tax, and VAT. The Tax Code further introduces a simplified VAT refund mechanism for export companies that export at least 50 percent of their manufactured products over a six-month period. These companies will receive a VAT refund within 30 days after their tax audits. Export companies are no longer required to be on a special government-approved list to apply for and receive VAT refunds. Moreover, the Tax Code requires nonresident taxpayers who provide digital services to customers in Kyrgyzstan to register and collect VAT. In addition, the Tax Code clarifies the VAT exemptions for imports of fixed assets required for jewelry manufacturing activities, temporary import of aircraft engines and spare parts, and the manufacture and sale of electric buses. Moreover, the Tax Code introduces a VAT self-assessment requirement according to which Kyrgyz taxpayers are required to withhold VAT as a tax agent when purchasing services from a nonresident when services are sourced to Kyrgyzstan. Such services include consulting, legal, accounting, advertising, design, marketing, insurance etc. Finally, the new Tax Code introduces a 2 percent tax rate on activities in the field of e-commerce and a new tax amnesty program.

— **Laos:**[xxxvii] Effective January 1, 2022, Laos introduced a number of changes to its VAT law, including: (1) imposing VAT on sale of goods outside special economic zones (SEZs) by SEZ companies (previously, only services provided outside SEZs by SEZ companies were subject to VAT.); and (2) requiring that the payment for the relevant sale must be made through a bank in Laos to allow the purchaser to deduct VAT.

— **Latvia:**[xxxviii] On January 18, 2022, the EU extended the authorization granted to Latvia to apply the VAT self-assessment mechanism to domestic sale of timber through December 31, 2024.

— **Lithuania:**[xxxix] Lithuania recently proposed to reduce the VAT rate applicable to food products, food used for special medical purposes and electricity. If approved, a reduced rate of 9 percent will apply to food products and electricity sold to household customers, and a reduced rate of 5 percent will apply to food used for special medical purposes when the purchase of the food is fully or partially compensated from the state budget. Food used for special medical purposes includes food specially processed or formulated and intended for the dietary management of patients, including infants, to be used under medical supervision.

— **Lithuania:**[xl] On December 21, 2021, the Lithuanian parliament amended the Law on Lottery and Gambling Tax by changing the tax calculation mechanism and tax rates applicable to gambling games and lottery tickets. Effective July 1, 2022, a uniform tax base will be introduced for all types of gambling, waiving the flat-rate lottery and gambling tax currently applicable to every gaming device included in the gaming license. Consequently, the lottery and gambling tax will be levied on the gross gambling revenue (i.e., the difference between the amounts betted by players and the winnings actually paid out). The lotteries and gambling companies organizing such gambling games will be taxed at a 20 percent rate. Effective, January 1, 2023, a tax rate of 18 percent will be applied to the nominal value of the distributed lottery tickets.

- **Lithuania:**[xli] On December 30, 2021, the Lithuanian State Inspectorate launched a consultation on amendments to the VAT law for the tourism industry. The proposal includes measures that would clarify that the tour operator margin mechanism should be determined excluding VAT, clarify that VAT paid on purchases made from tourism services are not eligible for VAT deductions, establish a zero percent VAT rate on transactions outside the EU, clarify that VAT rates and amounts are not required to be indicated on invoices, and provide calculation procedures, with examples.
- **Moldova:**[xlii] On December 24, 2021, the Moldovan State Tax Service (STS) clarified the VAT treatment applicable to commissions for online property rentals. Commissions charged by a nonresident company to Moldovan residents for granting access to an online platform for renting immovable and movable property situated in Moldova are subject to VAT. According to the Moldovan VAT law, the VAT treatment of services provided by nonresidents to a resident of Moldova is determined according to the place of provision of services. The place of provision of IT services is considered to be the head office of the beneficiary, or the domicile or residence of the beneficiary of services in the absence of a head office. Therefore, services provided by a nonresident company will be regarded as imported services and the commission charged will be subject to VAT at a rate of 20 percent at the date of importing the services.
- **Moldova:**[xliii] On January 26, 2022, the STS clarified the VAT rules for nonresident electronic services provided under the 1995 double tax agreement with Ukraine. The explanation was issued in English, Russian, and Romanian and included the VAT registration procedures, the types of electronic services covered by the rules, the tax base calculation rules, the tax period, and the VAT return filing and payment procedures, including deadlines.
- **Morocco:**[xliv] On December 20, 2021, Morocco published its Finance Law 2022, which includes the following indirect tax measures: (1) setting an internal consumption tax on specific electronic products; (2) exempting from VAT products and materials used in the manufacturing of photovoltaic panels; (3) setting a 10 percent reduced VAT rate for accommodation operators and photovoltaic panels; and (4) reducing the investment threshold eligible for a special VAT exemption from MAD 100 million ($10,595,200) to MAD 50 million ($5,297,600) when an investment agreement is signed with the Moroccan government.
- **Morocco:**[xlv] On December 30, 2021, Morocco issued a decree simplifying its VAT refund procedure. According to the decree, exporters are no longer required to provide export custom notices and are required to provide only the following documents for proving the export of goods: a sales statement related to exports complying with the template issued by the tax administration. To prove the export of services taxpayers must provide the following documents:

copies of sales invoices issued in the name of foreign clients and which payment in foreign currency is justified with documents approved by the competent authorities or with any documents serving as such.

- **Nigeria:**[xlvi] Nigeria recently introduced a new e-evaluator and e-invoice system for import and export businesses. Effective February 1, 2022, all import and export operations will require the submission of an e-invoice authenticated by authorized dealer banks as part of the payment documentation on the Nigeria Single Window Portal – Trade Monitoring System (TRMS). The system operates on a global price verification mechanism guided by a benchmark price, which is the actual spot market price obtainable at the time of invoicing in the market where the goods are traded. Imports and exports with unit prices that exceed the verified global price will be queried and will not be allowed to successfully complete. No importer/exporter may make payment to the credit of any foreign seller unless the e-invoice has been authenticated by authorized dealer banks presented together with the relevant documents for payment. The following import and export operations, however, are exempted from the e-invoice submission requirements: (1) all individual invoices with a value of less than $10,000 (or its equivalent in another currency), except when sellers have an annual cumulative invoicing value equal to or above $500,000 (or its equivalent in another currency), in which case they shall submit e-invoices for all their operations, regardless of the value of an individual invoice; (2) import and export transactions made by all security agencies in Nigeria; (3) sales to diplomatic and consular missions and sales to international agencies dependent on the United Nations; (4) donations made by foreign governments or international organizations to foundations, charities, and recognized humanitarian organizations; and (5) goods directly sold by a foreign government.

- **Netherlands:**[xlvii] On December 19, 2021, the Netherlands published several documents clarifying the VAT treatment of cryptocurrencies. According to the documents, services consisting of the exchange of bitcoins for a legal tender at a transaction fee or for a fee corresponding to the margin arising from the exchange transaction qualify for the VAT exemption for financial services. Sales provided by an entrepreneur for payment in bitcoins constitute a transaction for VAT purposes, which may be taxed or be exempt depending on the transaction. However, the transfer of the bitcoins themselves, in the context of a payment transaction, is not subject to VAT. Further, services of wallet providers that consist of making digital wallets available for a fee are exempt from VAT. Finally, the decoding of a block by a miner/delver is not subject to VAT. However, the verification/checking of a transaction by a miner/delver against a transaction fee qualifies as a VAT-exempt transaction.

- **Papua New Guinea:**[xlviii] On December 1, 2021, Papua New Guinea adopted its 2022 Budget, taking effect from January 1, 2022. The budget introduces a new "market concentration levy" that will apply only to taxpayers with a market concentration of over 40 percent. The levy will be imposed at PGK 190 million ($52.8 million) for the banking sector and PGK 95 million ($26.4million) for the telecommunications sector unless the taxpayer is in a loss position for the year. According to news reports, there is currently only one bank and one telecommunications company that meet the market concentration requirement. The levy is deductible for income tax purposes. The budget further implements a new Integrated Tax Administration System (ITAS) and GST monitoring software in 2022. ITAS will allow online management of taxpayer accounts, including filing of returns and case management. The GST software will be required to be installed at all point-of-sale locations and automatically report GST collections to the tax authorities.

— **Pakistan:**[xlix] Pakistan's Federal Board of Revenue recently announced the launch of a new National Sales Tax return. The return is aimed at simplifying and harmonizing tax compliance for taxpayers across the provinces. (For KPMG's previous discussion on this, please click here.)

— **Pakistan:**[l] Pakistan's National Assembly is considering the draft Finance (Supplementary) Bill 2021, which, if approved, would introduce an "advance tax" on foreign TV shows and advertisement. The tax would apply as follows: PKR 1,000,000 ($5,710) per episode for foreign-produced TV drama serials or plays; PKR 3,000,000 (($17,132) for foreign-produced TV plays (single episode); and PKR. 500,000 ($2,855) per second for advertisements starring a foreign actor. Further, the draft bill includes several customs and sales tax amendments, including adjustments in various rates as well as the removal of certain exemptions and zero-ratings.

— **Peru:**[li] On January 1, 2022, the Peruvian National Superintendency of Customs and Tax Administration issued Press Release No. 001, in which it provided updates to the consumption tax on single-use plastic bags and disposable containers delivered to commercial or service establishments (collection agents). According to the press release, Peru increased the tax rate from PEN 0.30 ($0.07) for each bag to PEN 0.40 ($0.10) for 2022, and to PEN 0.50 ($0.12) for 2023 and subsequent years. Compliance with the tax requirements is monthly.

— **Peru:**[lii] On December 28, 2021, the Peruvian tax authority issued a notice in which it clarified the VAT treatment applicable to a company's gratuitous assignment of rights to compensations from a pending legal dispute to its shareholders. According to the tax authority, since the rights are granted free of charge, the transfer reduces the transferor company's taxable income and as such will trigger a transfer pricing adjustment. However, an upward transfer pricing adjustment to the value of the assigned rights will not trigger any additional VAT liability because the value reflects the rights to future income rather than the value of any services performed. The transfer will not cause the shareholders to become taxpayers for VAT purposes.

— **Poland:**[liii] On January 11, 2022, Poland announced a number of relief measures known as the "Anti-inflation Shield 2.0," which were approved by the lower parliament on January 13, 2022 to combat the economic effects of the Covid-19 pandemic. The measures are aimed at stopping price increases caused by external factors. The measures include plans to reduce the VAT rate on fuel from 23 percent to 8 percent, extend the 5 percent VAT rate on electricity until June 31, 2022, further reduce the VAT rate on system heat (heating from radiators) from 8 percent to 5 percent (following the reduction from 23 percent to 8 percent which took place under the earlier package), and put in place a zero percent rate of VAT on fertilizers for agricultural production, basic food products and natural gas. The measures must now be passed by the Senate. It is not anticipated that significant amendments will be made by the upper house.

— **Russia:**[liv] On December 17, 2021, Russia published a guidance letter, in which it clarified the conditions for taxpayers to deduct VAT on digital services purchased from a nonresident provider. The guidance letter states that taxpayers may deduct VAT if: (1) the nonresident provider is registered for VAT in Russia as a digital services provider; (2) the Russian buyer has an agreement or a settlement document that states the amount of VAT due, the tax identification number of the buyer, and the tax registration code of the vendor; and (3) the Russian buyer has documentation confirming payment for the digital services including the VAT.

— **Serbia:**[lv] On December 28, 2021, Serbia further postponed implementation of its mandatory e-invoicing requirements to provide more time for taxpayers. The revised implementation dates are outlined below, based on taxpayer type.

— For public sector entities:

  - May 1, 2022, for issuing e-invoices to other public sector entities;
  - May 1, 2022, for receiving and storing of e-invoices;
  - May 1, 2022, for recording the VAT calculation in the e-invoice system; and
  - July 1, 2022, for issuing e-invoices to private sector entities.

— For private sector entities (i.e., VAT registered taxpayers):

  - May 1, 2022, for issuing e-invoices to public sector entities;
  - July 1, 2022, for receiving and storing e-invoices; and
  - January 1, 2023, for issuing e-invoices to private sector entities and performing other obligations.
  - Furthermore, the list of all users of electronic invoicing systems will be publicly available, and the place of issuing the invoice will not be a mandatory element of an electronic invoice.

— **Sierra Leone:**[lvi] Sierra Leone adopted the Finance Act for 2022, which revises the GST exemption for sales of machinery to provide that the exemption applies for plant, equipment, machinery, apparatus, and appliances designed for use exclusively in (1) agriculture, veterinary, fishing, and horticulture; (2) manufacturing; and (3) mining. Further, the following are exempt from GST when provided for or on behalf of the government: election materials, arms, ammunition, and presidential medals, among others. The measures are effective from January 1, 2022.

— **Singapore:**[lvii] On February 18, 2022, Singapore published the Budget 2022 proposes to increase the GST rate from 7 percent to 8 percent from January 1, 2023 and to 9 percent effective January 1, 2024. The budget further proposes to raise the carbon tax rate from the current rate of

SGD 5 ($3.72) per ton of greenhouse gas emission to SGD 25 ($18.58) per ton by 2024, SGD 45 ($33.44) per ton by 2026, and to between SGD 50 ($37.15) to SGD 80 ($59.44) per ton by 2030. From 2024, affected businesses would be allowed to use high-quality international carbon credits to offset up to 5 percent of their taxable emission (i.e., in lieu of paying carbon tax).

— **Slovakia:**[lviii] Slovakia's tax authorities have published a list of taxpayers' bank accounts that are used for business transactions that are subject to VAT. For KPMG's previous discussion of this notification requirement, please click here.

— **Slovenia:**[lix] On January 7, 2022, Slovenia published a law introducing amendments to its VAT Act effective January 22, 2022. The law includes measures (1) transposing EU VAT e-commerce package into Slovenian law (For KPMG's previous discussion on the e-commerce package, click here); (2) removing the requirement that nonresident taxpayers should register for VAT in Slovenia if they are making sales subject to the VAT self-assessment requirement by a local buyer; (3) abolishing the obligation of delivering paper invoices, unless required by the customer, and implementing several EU Directives. Further, the law includes measures introducing rules for the deduction of VAT on CO2 emission-free vehicles. It provides that taxpayers are entitled to deduct VAT on the purchase and rental of an emission-free vehicle if the value of the vehicle, including VAT and other duties, does not exceed EUR 80,000 ($91,414). The deduction will be limited to that part of the vehicle value which reflects the business use of the vehicle. Additionally, VAT incurred on the purchase of fuels, lubricants, spare parts, and services for these motor vehicles may be deducted. Taxpayers that purchased such vehicles before the law entered into force will be allowed to adjust the initial VAT deduction.

— **Switzerland:**[lx] The Swiss government recently launched a consultation on proposed changes to its carbon tax law and other laws. The changes are intended to assist Switzerland in halving its greenhouse gas emissions by 2030 (compared with 1990 levels) and are largely directed to encourage taxpayers to adopt environmentally friendly behaviors and technologies. The revisions would be introduced from 2025 and include (1) redirecting almost half of the revenue from carbon taxes to investment in climate protection measures; (2) abolishing the tax privilege for diesel buses and utilizing the revenue to fund the replacement of existing vehicles with electric or hydrogen vehicles; and (3) requiring providers of aviation fuels to add renewable aviation fuels to kerosene used in aviation. In addition, the consultation proposes that all companies would in future be able to be exempt themselves from the carbon tax if they undertake to reduce their fuel emissions from oil and gas and show how they can reduce them to zero in the longer term. Presently, the exemption is limited to individual industries. The consultation is open through April 4, 2022.

— **Uganda:**[lxi] Uganda's tax authority recently released two new tax guides, on registering a business for tax purposes and on the tax rules for the health and medical sector. The guide on registering a business for tax purposes explains the requirements to register with the Uganda Registration Services

Bureau (URBS), obtain a business or company name, obtain any necessary licenses, and register for tax with the URA to obtain a tax identification number. It briefly covers record-keeping and tax return filing and payment obligations. The guide on tax rules for the health and medical sector covers the necessary registration and licensing requirements for companies engaged in the sector, as well as employer tax and withholding tax obligations. It also discusses the eligibility criteria for medical services to be exempt from VAT, for medical products to be entitled to the VAT zero rate, and the rules for reclaiming input tax, and various tax relief measures.

- **Ukraine:**[lxii] On December 7, 2021, the Ukrainian Ministry of Finance issued a regulation for implementing new registration requirements for nonresident digital services. Nonresidents who are subject to the new rules are required to be registered by March 31, 2022. Taxpayers who do not meet the threshold (i.e., UAH 1 million ($33,500)) may voluntarily register at least 10 calendar days before the beginning of the reporting (tax) period from which such nonresident will be considered a VAT taxpayer. The State Tax Service of Ukraine (STSU) further published an Information letter (in English language), clarifying different questions on new registration requirements for nonresidents supplying digital services to Ukrainian non-business customers. For KPMG's previous discussion on the VAT rules applicable to nonresident digital services providers, click here.
- **Ukraine:**[lxiii] On December 7, 2021, the STSU clarified the VAT treatment of guarantor fees paid by a Ukrainian resident legal entity to its Austrian resident parent company. According to the STSU, while VAT applies to the sale of goods and services in Ukraine, it does not apply to the payment of funds (including commission fees). Therefore, the provision of loan guarantees and bank securities by persons (residents or nonresidents) that provided the relevant loans, guarantees, or securities is not subject to VAT.
- **Ukraine:**[lxiv] On January 11, 2022, the STSU clarified the VAT rules applicable to goods and services purchased from non-VAT-payers and further gratuitously transferred within promotion/marketing campaigns. Given that the goods and services are purchased from non-VAT-payers, the VAT payer is not allowed declare VAT on such purchase. However, the STSU, the gratuitous transfer of goods and services is subject to VAT. The tax base for gratuitous transactions should not be lower than the purchase price. The gratuitous transfer of goods and services does not require declaring additional VAT liabilities if the value of gratuitous goods and services is included in the cost of a taxable transaction and this value is compensated by the customers.
- **United Arab Emirates:**[lxv] The United Arab Emirates extended its tax amnesty program. Under the program taxpayers with outstanding tax obligations on which fines were added before June 28, 2021 may obtain a reduction of up to 70 percent of penalties due. The amnesty will now be open to taxpayers through December 31, 2022.
- **Uzbekistan:**[lxvi] On December 30, 2021, Uzbekistan's Ministry of Finance (MoF) released a guidance letter clarifying amendments to the VAT law that took effect from January 1, 2022. The amendments include (1) expanding

the list of taxpayers that are required to pay VAT regardless of proceeds generated in a VAT period to include tax consulting and auditing companies and nonprofit entities that carry out business activities; (2) reducing the threshold for agricultural manufacturers to pay VAT from 50 hectares of land to about 25 hectares; (3) repealing the VAT exemptions for taxpayers providing exercise and strength training and sports organizations (except for services provided by entities that are financed from the state budget), as well as banking operations with fixed costs; and (4) requiring legal entities providing financial services and insurance services to issue invoices monthly and determine their gross receipts on the last day of the calendar month in which the services were rendered. In addition, the MoF clarified that VAT incurred and initially deducted must be adjusted if the relevant goods are stored on immovable property that is leased or used free of charge based on agreements that are not registered with the tax authorities. In addition, taxpayers may recover the VAT paid on goods or services used in the manufacture of products destined for export, regardless of whether the relevant currency proceeds were transferred to the VAT. A taxpayer must repay the relevant amount of VAT that was previously claimed if, within 180 days of the sale date, the taxpayer fails to deposit in its Uzbek bank account all or part of the foreign currency proceeds generated from the sale of its goods abroad. Finally, the amendments abolish the requirement to file a separate VAT refund request. Taxpayers may file VAT refund claims by simply notifying the tax authorities through their return.

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