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

Global E-invoicing & Digital Reporting Tracker

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

Overview of Indirect Tax Developments from KPMG International Member Firms

- **KPMG Australia** published a report discussing the increased luxury car tax threshold. According to the Australian Taxation Office (ATO), the luxury car tax threshold for FY 2022-23 is AUD 84,916 ($57,682) (a 6.6 percent increase) and AUD 71,849 ($48,806) (a 3.9 percent increase) for fuel-efficient vehicles and other vehicles respectively. The luxury car tax threshold is indexed on July 1, each year and is based on any increases in the motor vehicle purchase sub-group of the consumer price index (CPI). According to the ATO, a fuel-efficient vehicle is a vehicle that has a combined fuel consumption rating that does not exceed seven liters per 100 kilometers.
- **KPMG Australia** published a report discussing land tax measures in the South Australia state budget for 2022-2023. The land tax threshold increased by approximately 11 percent in 2022-23, and adjustments to land tax rates and thresholds that were legislated in July 2020 commenced from July 1, 2022. This includes an increase in the top land tax rate threshold from AUD 1.35 million ($883,073) to AUD 2 million ($1,35,574) and a reduction in the 1.25 percent marginal tax rate to 1 percent (for site values of AUD 858,001($582,829) to AUD 1,249,000($848,429)). Further, a land tax reduction for eligible build-to-rent projects on South Australian land for construction commenced on or after July 1, 2021 will continue to apply. The relief will apply as a 50 percent reduction in the land value of relevant parcels when the land is being used as an eligible build-to-rent project.
- **KPMG Bangladesh** published a report discussing tax measures in the Finance Bill for 2022. Changes to the VAT rules include measures concerning the withholding of VAT on the sale of goods, extending the VAT exemption for certain manufacturers; the time for making deposits of withholding tax; expanding the deemed export regime so that foreign contracts in foreign currency will qualify; changes in the VAT rates for certain goods and services, including a new 1.5 percent rate for wholesale businesses; and new penalty and interest rules.
- **KPMG Belgium** published a report discussing a new government guidance in the form of FAQs on the amended scope of the exception to the VAT exemption for the provision of furnished accommodations, effective from July 1, 2022. Under Belgian law, the renting of immovable property is generally VAT-exempt. However, the provision of furnished accommodations is subject to VAT when such accommodations are provided for a period of less than three months in hotels and motels, as well as similar establishments that commonly provide such accommodations, unless such establishments do not provide any of the following closely related services: reception, weekly renewal of bed linen, or daily breakfast. The FAQ includes clarifications, including examples, regarding the calculation of the three-month period and the interpretation of the concept of "related services." KPMG Belgium further published a report on Royal decrees temporarily extending the application of the reduced VAT rate of 6 percent for face masks and hydroalcoholic gels; electricity, gas and heat; and solar panels and heaters.
- **KPMG Bolivia** published a report (in Spanish) discussing a new tax authority guidance modifying earlier guidance regarding invoices, fiscal notes, and similar documents. Under the new guidance, effective July 1, 2022, invoices that do not comply with certain requirements will be subject to increased penalties (up to 5,000 *Unidad de Fomento de Vivienda* (UFV) per tax period).

- **KPMG Cambodia** published a report discussing General Department of Taxation (GDT) Instruction No. 10362 that prescribes the official exchange rates to be used by VAT registered taxpayers from June 2022 onwards. Prior to this guidance, taxpayers applied the average exchange rate issued by the National Bank of Cambodia for their monthly and annual tax declaration. Under this new guidance, taxpayers are to apply the GDT's official exchange rate issued on the last day of the month or the year in computing their monthly or annual tax declaration.
- **KPMG in the Czech Republic** published a report discussing a proposed increase of the VAT registration threshold from CZK 1 million ($41,151) to CZK 2 million ($82,303) and an increase in the annual income limit for the application of the lump-sum tax regime to CZK 2 million a year. The bill further contains some other points, such as the modification of penalties for the failure to file a VAT ledger statement.
- **KPMG in the Czech Republic** published a report discussing the Czech Directorate-General for Finance clarifying that compensation for the early termination of energy services (heat, electricity, gas, etc.) or the failure to deliver an agreed quantity is considered the provision of a service and therefore subject to VAT.
- **KPMG in the Czech Republic** published report discussing a Czech Supreme Administrative Court (SAC) decision, in which the SAC concluded that a company that organized a promotional event was not entitled to the refund of VAT incurred on subcontracted transactions. According to the SAC, the services provided by the taxpayer constitute travel services subject to the margin mechanism, which does not allow for the recovery of VAT incurred on expenditures.
- **KPMG in the Czech Republic** published a report discussing a recent ECJ judgment on whether a reduced VAT rate can apply to renovation and repairs of elevators in residential buildings. In the case, the ECJ concluded that a reduced VAT rate can only be applied to renovations or repairs of elevators in immovable properties intended exclusively for private housing. For regular elevator maintenance services, the standard VAT rate is always to be applied. For immovable properties when both units for private housing and units intended for other purposes are located, the VAT rate for renovations and repairs of elevators are to be allocated proportionately.
- **KPMG Denmark** published a report discussing new VAT rules regarding the VAT treatment of shipping services. In line with recent ECJ case law, effective July 1, 2022, subcontracting services for shipping goods outside the EU are no longer zero-rated. The VAT exemption thus only applies when the services are provided directly to the exporter, importer, or recipient of the goods. Subcontractors that do not directly invoice the buyer of the shipping services will generally have to apply VAT. In addition, companies will have to pay an "interest surcharge" if they owe VAT to the Danish tax agency. If the subcontractor continues to apply the VAT exemption in violation of the new practice, the Danish tax agency will be able to impose interest at a rate of approximately 8 percent per annum on the amount of VAT that should have been charged.
- **KPMG Hungary** published a report discussing changes to various tax regimes in 2022 and 2023. Effective July 1, 2022, Hungary imposes (1) a 0.3 percent financial transaction tax on certain purchases of financial instruments by investment companies, the cross-border provision of payment services, credit and loan provision, currency exchange and mediated currency exchange services; and (2) a new contribution on air transportation activities payable by the ground handling company based on the number of departing passengers (excluding passengers in transit). The changes also include tax rate increases in 2022 and

2023 of the following taxes: the company car tax, the pharmaceutical tax, the "Robin Hood" tax, the public health product tax, the telecom tax, the insurance tax, the excise duties, the retail tax, and the mining tax.

- **KPMG India** published a report discussing a recent guidance issued by the Central Board of Indirect Taxes and Customs (CBIC) concerning different practices being followed by various adjudicating officers regarding refunds, specifically GST refunds. The guidance provides for uniform treatment of refund claims.
- **KPMG Malaysia** published a report discussing recent tax developments for the second quarter of 2022. Among other developments, the report includes clarifications on stamp duty remission on contract notes for the sale of listed shares or stock, stamp duty exemption for the Sabah development corridor and the East Coast economic region, the remission of tax and stamp duty on Islamic medium-term notes programs, and the remission of tax and stamp duty on the term "financing-i facility."
- **KPMG Malaysia** published a report discussing a recent guidance issued by the Ministry of Finance regarding the temporary sales tax exemption on the purchase of passenger cars between June 15, 2022 and June 30, 2022. According to the guidance, the sales tax exemption applies to 100 percent of the purchase price on domestically assembled passenger cars and 50 percent on imported passenger cars. Purchasers who "book" a vehicle purchase by June 30, 2022, can still benefit from the sales tax exemption, and the registration date with the Road Transport Department of Malaysia for the vehicle is extended through March 31, 2023.
- **KPMG In the Netherlands** published a report discussing two recent court decisions holding that the transfer of a property which was leased out for a short term by a developer qualified as a transfer of a going concern for VAT purposes. In both cases, the property had been leased on a VAT-exempt basis before the leased buildings were sold. In both cases, the court held that the property can be used to carry on an independent economic activity (i.e., leasing the building). Therefore, the sale of the building does not qualify simply as the sale of an asset, such as the sale of an inventory of products, but rather as a transfer of a going concern.
- **KPMG Panama** published a report (in Spanish) discussing a new law that provides a temporary selective consumption tax exemption for electric vehicles until December 31, 2030, and other non-tax related incentives for electric vehicles.
- **KPMG Poland** published a report discussing a recent decision of the Supreme Administrative Court (SAC) on the applicable exchange rate for corrective VAT invoices. In the case, the SAC held that amounts expressed in a foreign currency in collective corrective VAT invoices issued or received by a taxpayer must be converted—for purposes of correcting both the revenue and the cost for corporate income tax purposes—at the average National Bank of Poland (NBP) exchange rate as of the last business day preceding the date of issuance of the collective corrective invoice.
- **KPMG Poland** published a report discussing extension of the implementation of the mandatory e-invoicing system. On June 17, 2022, the European Council approved Poland's request to change the date that mandatory e-invoicing would start to apply. Initially, this requirement was to be implemented in the second quarter of 2023. However, it will not take effect earlier than January 1, 2024. Accordingly, effective January 1, 2022, taxpayers may issue structured invoices (e-invoices) on a voluntary basis, using Poland's e-invoicing system (*Krajowy System e-Faktur*—KseF). Electronic invoices issued via the KSeF system will have the same value as electronic and paper invoices.

- **KPMG Poland:** published a report discussing the extension of anti-inflation measures, referred to as the "Anti-inflation Shield" from July 31, 2022 to October 31, 2022. The anti-inflation measures include (1) reduced VAT rates on fuels (8 percent instead 23 percent, 5 percent VAT rate on heating and electricity, and VAT exemption on gas); (2) a VAT exemption on basic foods and fertilizers; (3) reduced excise duties on electricity, an excise duties exemption on electricity sold to households, and reductions in excise duty on selected motor fuels and light fuel oil; and (4) a temporary exemption from retail sales tax on fuel sales.
- **KPMG Malaysia** published a report discussing updated sales tax, excise duties, and customs orders, effective June 1, 2022. The report also notes that the Royal Malaysian Customs Department issued a "frequently asked question" (FAQ) relating to the Customs Duties Order 2022.
- **KPMG Mexico** published a report discussing recent changes introduced to the e-invoicing regime. The report notes that the deadline for canceling electronic invoices (CFDI) issued before fiscal year 2022 has been extended to December 31, 2022. Previously, the deadline was September 30, 2022, and only CFDIs from years prior to 2021 were considered.
- **KPMG Mexico** published a report on an announcement by the Mexican authority to postpone implementation of the new e-invoice 4.0 version (CFDI 4.0) to January 1, 2023, to enable taxpayers make the necessary transition. Taxpayers may, for now, continue to use the current CFDI 3.3 version.
- **KPMG Saudi Arabia** published a report discussing the relaunch of the Saudi Arabian amnesty program. The program will apply to all taxes, including VAT, for 6 months from June 1, 2022, to November 30, 2022. The initiative includes all penalties pertaining to late registration with the Saudi tax authority (ZATCA) for all taxes, late payment of all taxes, late filing of returns, and field penalties related to e-invoicing. To benefit from the initiative, taxpayers must report and pay the principal amount of tax. However, fines for tax evasion and fines paid before the launch of the initiative will not be covered. The initiative allows taxpayers to apply for an installment plan, which will be subject to certain conditions and formal approval of ZATCA.
- **KPMG Serbia** published a report to remind taxpayers of the deadline for certain e-invoicing obligations. The deadlines are as follows:
  - the requirement to issue e-invoices to public sector entities, effective May 1, 2022;
  - the requirement to receive and keep e-invoices issued by either a public sector entity or a private sector entity, effective July 1, 2022; and
  - the requirement to issue and keep e-invoices to private sector entities, effective January 1, 2023.
- **KPMG Singapore** published a report discussing transitional issues arising from the GST rate increase from 7 percent to 8 percent on January 1, 2023. These issues include the application of the correct GST rate on invoices issued after January 1, 2023, when no goods or services, or only part of them, have been provided; invoices issued after January 1, 2023, when the goods or services have been provided in full or in part before January 1, 2023; advance payments made before January 1, 2023; and the VAT self-assessment mechanism on imported services.
- **KPMG Singapore** published a report discussing a recent decision of a Singaporean High Court in which it dismissed an appeal against a decision of the GST Board of Review granting GST zero-rating treatment for exports of goods that were "hand-carried" by

motor vehicle to customers in Malaysia. In the case, the taxpayer sold goods to Malaysian customers who collected them from the taxpayer's Singapore place of business and hand-carried the goods to Malaysia by motor vehicles. The Inland Revenue Authority of Singapore (IRAS) refused to treat these transactions as zero-rated transactions on the basis that export permits were not properly maintained regarding the declaration form and carrier's vehicle number—documents required pursuant to an IRAS guidance. The taxpayer asserted that zero-rating was available for the disputed transactions because export documents objectively proved that the goods were exported from Singapore and that the guide's requirements had materially been complied with. They further argued the guide had been superseded by specific instructions from the tax authority, which the trader had complied with. The Board had ruled in favor of the taxpayer, ruling that the taxpayer had provided evidence supporting the actual export of the goods. The IRAS needed to take necessary steps to examine whether such exports had occurred, and not merely insist on the two missing documents. It concluded that the IRAS had not taken such steps and thus it could not conclude that there had been no export of the goods.

- **KPMG Singapore** published a report discussing the IRAS's decision to defer the removal of the GST administrative concession on the recovery of overseas brokerage fees and related costs on shares traded on overseas exchanges from April 1, 2022 (originally October 1, 2021) to January 1, 2023. The IRAS decided to defer the removal of the GST administrative concession in view of the feedback from affected parties who were unable to effect this change by April 2022. The IRAS has indicated that this extension is final.
- **KPMG Sweden** published a report discussing an initiative to evaluate the property tax (*fastighetsskatton*) rules regarding certain types of industrial properties. Under the current valuation rules, property tax is paid for both land and industrial buildings. In certain circumstances, property tax is also paid for mechanical equipment located on the industrial property when such mechanical equipment is considered to constitute building accessories. The investigation initiative has been tasked to: (1) map the collection of property tax on mechanical equipment that constitutes building accessories; (2) analyze whether there is a reason to exempt such building accessories from property tax; (3) consider whether the application of the current rules results in an unequal and unfair basis for property tax for industrial buildings and whether the rules reduce incentives for new investments; and (4) analyze whether there are reasons to exempt certain equipment from property tax.
- **KPMG Switzerland** published a report discussing proposed changes to the Swiss VAT law, which would require marketplaces to collect VAT by deeming them as the direct sellers of products to customers. In this case, the seller would be deemed to have sold the product to the marketplace who would then deemed to sell the product to the customer. At the current stage of the proposal, this will not apply to digital services, but only to goods. The proposal would further apply VAT on emissions trading in compliance with a 2019 decision of the Federal Supreme court. In this regard, the transfer of emission rights, certificates, and attestations for emission reductions, guarantees of origin for electricity and similar rights would become subject to acquisition tax in Switzerland regardless of whether the sale is made by a domestic or a foreign company. Finally, the proposal would (1) introduce an import VAT deferral regime; (2) exempt from VAT services provided by hospitals, centers for medical treatment and diagnostic centers, patient clinics and day clinics and services of coordinated care including purely administrative services; and (3) apply a reduced VAT rate of 2.5 percent for menstrual hygiene products.
- **KPMG in the United Arab Emirates** published a report discussing a recent tax authority guidance clarifying the VAT treatment of fees received for the crafting of items of gold by

jewelers. According to the guidance, vendors of gold items must apply VAT on the service of making an item of jewelry if a separate fee for the service is identified and charged by the jeweler. This rule applies only to gold and products consisting mostly of gold (referred to as "gold items") that are subject to VAT under a special VAT self-assessment mechanism. The clarification confirms that when the seller charges a single price for the gold item, the sale can be construed as a single composite sale of a gold item subject to VAT under the VAT self-assessment mechanism. However, when the charge for the crafting service is reflected separately, the vendor will be regarded as making multiple sales and will be required to apply the correct VAT treatment to each separate component.

- **KPMG in the United Kingdom** published two reports (one on the proposed legislation and one after the bill was adopted) discussing the new Energy Profits Levy, which received Royal Assent on July 14, 2022. The Levy is a 25 percent surcharge on profits realized by UK oil and gas companies. This levy would be in addition to ring fence corporation tax (RFCT) at 30 percent and the supplementary charge to corporation tax (SCT) of 10 percent, bringing the headline tax rate for oil and gas exploration and extraction activities in the UK and UK Continental Shelf to 65 percent.

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Global Rate Changes

- **Barbados**:[i] The Barbados Revenue Authority recently updated the list of items that are zero-rated. These include personal care items like sanitary towels, diapers, antiperspirants, and items used in the control of diabetes like protein shakes.
- **Bulgaria:** Effective July 1, 2023, Bulgaria zero-rates the sale of bread and flour. In addition, Bulgaria applies the reduced VAT rate of 9 percent to the sale of central heating and natural gas until July 1, 2023. To read a report prepared by the KPMG International member firm in Bulgaria, click here.
- **Brazil**:[ii] The Brazilian Chamber of Deputies has approved a bill that establishes a maximum 17 percent state VAT (ICMS) rate on certain goods and services considered essential for consumers. They include fuel, electricity, communications, natural gas, and public transport. The draft law is currently before the Senate.
- **Greece**:[iii] Greece extended, until December 31, 2022, the application of the reduced VAT rate of 13 percent on certain goods and services, such as non-alcoholic drinks, catering services, transportation of passengers and their luggage, gymnasiums, dance schools, cinemas, and zoo tickets. In addition, the application of the super-reduced VAT rate of 6 percent is extended until December 31, 2022 for products destined to be used for personal hygiene and protection (e.g. protective gloves and masks for medicinal use, soap, etc.), and hemodialysis, hemofiltration, hemodiafiltration and plasmapheresis filters.
- **Jamaica**:[iv] Effective June 13, 2022, Jamaica exempts from General Consumption Tax (GCT) lithium-ion batteries imported for use in solar applications.
- **Moldova**:[v] On April 21, 2022, the Moldovan Parliament passed a decree further extending for another 60 days the reduced VAT rates on hotels and restaurant services effective April 25, 2022.

- **Montenegro**:[vi] Effective June 21, 2022, Montenegro introduced a 7 percent reduced VAT rate for salt. Bread, flour and sunflower oil will be subject to zero rate instead of 7 percent rate. The reduced rates will apply through December 31, 2022.
- **North Macedonia**:[vii] Effective June 1, 2022, the standard VAT rate of 18 percent applies for gasoline, diesel, liquefied petroleum, and other related products. A 10 percent reduced VAT rate previously applied to these items from March 12, 2022, until May 31, 2022. Further, a 5 percent reduced rate will also apply to basic food products such as bread, sugar, flour type 400, sunflower oil, milk with 2.8 percent, 3.2 percent and 3.5 percent fat, fresh meat, rice, and eggs. A VAT exemption previously applied to these items from March 17, 2022, to May 31, 2022.
- **Paraguay**:[viii] On June 20, 2022, in response to rising fuel prices, the Paraguayan Ministry of Finance announced a proposal to reduce by 50 percent the VAT rate applicable to the transportation sector, including land freight shipment, public transport unions, taxi drivers, ride-sharing services, and school transportation. The government further recently extended until August 31, 2022, the special VAT regime for hotels, restaurants, and other tourism businesses allowing them to apply VAT only on 50 percent of the taxable base. In addition, Paraguay applies the same treatment to qualifying transport services from July 12, 2022 to September 30, 2022.
- **Peru:** The Peruvian congress has approved a new law that would reduce to 8 percent the VAT rate applicable to small and micro-sized businesses whose main activity is to provide lodging, restaurant, and tourist accommodation services. The reduced rate would apply until December 31, 2024. The President of the country still may veto the project before it becomes effective.
- **Spain**:[ix] On June 27, 2022, Spain reduced the VAT rate on electricity from 10 percent to 5 percent between July 1, 2022 to December 31, 2022.
- **Sri Lanka**:[x] On May 31, 2022, Sri Lanka announced changes to its VAT rate structure effective June 1, 2022. Sri Lanka increased the standard VAT rate from 8 percent to 12 percent and introduced a zero VAT rate applicable to the importation of specified fabrics. It also clarified that the 12 percent VAT rate increase also applied to services provided by hotels, guest houses, restaurants, and other similar businesses, which were previously zero-rated. The increased VAT rate of 18 percent continues to apply to the provision of financial services, which is effective January 1, 2022. Finally, Sri Lanka increased the telecommunications levy rate from 11.25 percent to 15 percent. This change has yet to be legislated.
- **Turkey**:[xi] Effective May 28, 2022, Turkey introduced a VAT exemption for the research and development (R&D), manufacturing, and tourism industries. This VAT exemption applies to the sale of goods and services related to construction projects in the manufacturing and tourism industries through December 31, 2025; and to R&D activities of electric motor vehicle manufacturers through December 31, 2023.
- **Ukraine**:[xii] Effective June 17, 2022, Ukraine granted a VAT exemption for the sale of spoken audio books. The exemption applies to the sale, preparation (literary, scientific, and technical editing, proofreading, etc.), production, and distribution of audio books voiced in Ukrainian, except for publications of an erotic nature. This provision also extends to electronic copies and the provision of digital access to audio books voiced in Ukrainian.

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Indirect Tax Developments and News from Around the World

The Americas

United States: Comprehensive Interim Guidance Issued in Washington State on Taxability of NFTs

The Washington State Department of Revenue recently issued an "interim" statement on the tax treatment of non-fungible tokens or NFTs. At this point, the Washington guidance is the most comprehensive document issued by any state taxing authority addressing the tax issues associated with NFTs. Its coverage includes, but not limited to, determining the taxability, and selling price of NFTs and the sourcing rules that apply to retail sales of NFTs, confirming that marketplace facilitators will be required to remit taxes on sales of NFTs, and providing guidance on the B&O tax treatment of income from sales of NFTs.

After first explaining what NFTs are, the document generally describes terms used by industry participants. The guidance describes an NFT as a "unique digital identifier that cannot be copied, substituted, or subdivided, that is recorded in a blockchain, and that is used to certify authenticity and ownership of a specific type of product." NFTs are distinguishable from cryptocurrency, which is fungible, based in part on the unique nature of NFTs.

With respect to the tax treatment of NFTs, the Department notes that it is critical to consider: (1) whether the transaction is comprised of multiple components or merely a digital code which grants the owner access to a digital good, (2) the taxability of each underlying component, and (3) the identity of the parties to the transaction (e.g., is the purchaser a consumer or reseller?). Generally, the selling price of an NFT is measured by the consideration received by the seller, whether from the purchaser or a third party. The Department anticipates that, in some cases, consideration will be received in the form of cryptocurrency. If a seller receives cryptocurrency in exchange for an NFT, the value of the cryptocurrency tendered must be converted to U.S. dollars as of the time of the sale.

The guidance sets forth certain types of arrangements involving NFTs, including one situation in which the object of the purchase is a standalone digital product (i.e., the NFT itself). Other examples include digital artwork, photographs, video clips, autographs, etc. The Department notes that with respect to this type of transaction, the sale of a digital product is generally subject to Washington State retail sales tax, and the seller will also be subject to retailing B&O tax measured by the gross proceeds of the sale.

The Department anticipates that sales of NFTs may entitle the purchaser to a digital product (i.e., the NFT itself) and one or more other products or services. In these situations, the seller must determine the taxability of each good or service included in the sale. When considering transactions that involve the sale of products that both do and do not constitute a "retail sale," for one nonitemized price, the "bundled transaction" statutes control whether the entire sale price is subject to retail sales tax or whether each item provided is taxed separately.

With respect to the sourcing of sales of NFTs for sales tax purposes, the guidance reminds taxpayers of the sourcing rules for retail sales of digital products and addresses how income from sales of NFTs will be sourced for B&O purposes. The document includes four examples of sales transactions involving NFTs.

Finally, the guidance indicates that persons meeting the definition of marketplace facilitator under Washington law will be required to collect retail sales tax on taxable transactions involving NFTs. Further, marketplaces taking a commission from retail sales of NFTs sourced to Washington are subject to B&O tax under the service and other activities category.

The Department notes that the statement is not intended to be comprehensive, and that it anticipates conducting future stakeholder efforts with the goal of developing more permanent and comprehensive guidance. For taxpayers that require binding guidance, the Department encourages requests for binding letter rulings on the topics addressed in the interim guidance. For more information click here.

Anguilla: Goods and Services Tax Introduced Effective July 1, 2022

Anguilla's new GST regime became effective from July 1, 2022. Under the regime, taxpayers are required to register if at the end of any period of 12 or fewer months, their total sales equal XCD 300,000 ($110,280) or more or expect their total sales to do so in the following 12-month period. The standard VAT rate is 13 percent, with a zero-rate applicable to exports of goods and services; goods imported or sold for the purpose of fishing or farming; goods used during manufacture in Anguilla, as provided for in regulations; essential foods or other goods, sales of contraceptives and sanitary products; and electricity provided to domestic users up to 130kWh per month. Anguilla further exempts education services, financial services, international air transportation services, daycare services, medical services and prescription drugs, and the sale or lease of a residential dwelling or vacant land, subject to conditions.

Ahead of the implementation date, the Anguillan tax authority (IRD) issued a new GST return form and published a guide to completing the return. In addition to step-by-step instructions, the guide provides that all amounts declared on the return must be in Eastern Caribbean Dollars (XCD). Taxpayers are required to submit a nil return if no transactions are conducted during a tax period. The GST return is due on or before the 20th of every month or on the next working day if the 20th falls on a weekend or public holiday. Taxpayers can register on the IRD web portal to manage accounts and file and pay GST online. In addition, the IRD announced that it will allow specified retailers to temporarily display prices exclusive of GST for three months on request. These specified retailers are supermarkets, grocery stores and convenience stores; beauty stores; pharmacies; restaurants and bars; hardware stores; boutiques; and stationeries and bookstores. To take advantage of this concession, these retailers were required to apply in writing to the IRD by June 30, 2022. The impact of this temporary measure will be closely monitored during post-GST implementation before a definitive determination on the display of prices for GST purposes. In addition, the IRD launched a Taxpayer Advisory Program to provide registered taxpayers with guidance on implementation of the new regime. The program aims to provide ongoing taxpayer education and awareness and promote voluntary compliance. Tax officers from the IRD will visit GST-registered businesses to advise, assist and answer any questions related to GST.

Finally, to mitigate the impact of inflation and ease implementation of the new GST regime, the Anguillan government released a financial package that includes the following: an XCD 6 million ($2,205,600) direct assistance program for all domestic consumers of electricity who will have their electricity accounts credited with two equal instalments totaling up to XCD 1,000 ($367.60); an XCD 500 ($183.80) worth of food vouchers for all citizens over the age of 70 years; and an exemption from the interim goods tax (IGT) and GST for all fuel imports for 12-months; and exemption from all duties and taxes for essential food items. These measures are also effective from July 1, 2022.

Source: Orbitax, Anguilla Publishes Return Form and Guide for New GST, June 28, 2022; CCH, Global VAT News & Features, Anguilla To Introduce GST Next Week,(Jun. 24, 2022); Anguilla – Anguilla to Allow Some Retailers to Display Prices Exclusive of Newly Introduced GST, (June 21, 2022),News IBFD; Anguilla – Anguilla Introduces Goods and Services Taxpayer Advisory Programme, (June 17, 2022), News IBFD; Anguilla – Anguilla Announces Financial Package to Mitigate Impact of Inflation and Introduction of GST, (June 27, 2022), News IBFD.

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Europe, Middle East, Africa (EMA)

Denmark: Overview of Recent Indirect Tax Developments

The Danish government recently obtained support from lawmakers to introduce a tax on video streaming services. As previously discussed, the Danish government proposed that streaming platforms would be required to pay a levy of up to five percent on revenues derived from the provision of streaming services to Danish consumers. Initially, the Government had said the levy would feature a progressive scale, with a lesser levy applying to those streaming platforms that invest considerably in Danish content. However, the proposal, as submitted, now simply features a six percent rate.

On June 24, 2022, the Danish government published a proposed new agreement among the members of the parliament that is intended to set the basis for a new green tax reform replacing the current energy tax and CO2 tax applicable (mainly) to businesses. (For KPMG's previous discussion of the Danish green tax reform, please click here.) The green tax reform aims to support Denmark's goals to reduce greenhouse gas (GHG) emissions by 70 percent by 2030 and would affect energy taxes for industrial processes, taxes on fuels for energy production, and petrol and diesel taxes (fuel taxes). In addition, the agreement addresses reducing the tax on electricity consumed by non-VAT registered professions and energy-intensive companies in the horticultural and food industries by rolling back the temporary energy tax increase and terminating the current standard deduction of the CO2 tax as of 2025. In 2025, Denmark would withdraw from the cooperation on the existing period-based toll for trucks (*Eurovignetten*), and only the new CO2-based road tax would be applicable. The tax would apply to road transport vehicles weighing over 12 tons GVW (gross vehicle weight). In principle, the tax would apply to the same taxpayers as the current period-based road tax. However, as of 2027, the tax would also apply to vehicles from 3.5 to 12 tons. In addition, the agreement entails a change in the national rules on weight and dimensioning of trucks in road freight transport in 2025, so that longer trucks can be utilized to make the shipment of goods more efficient. Finally, several initiatives to improve the conditions for rail freight in Denmark would be implemented.

On June 21, 2022, the Danish Tax Council issued a binding answer, in which it ruled that a real estate investment trust is not entitled to deduct VAT on the advertising, administration, and distribution costs it incurred to facilitate the VAT-exempt sale of its subsidiaries' stock. In the case, a trust (not identified in the decision) fully-owned and managed an intermediate real estate holding subsidiary and an operating subsidiary, treating all their income, deductions, and tax credits as its own. The trust also controlled an alternative investment fund representing the subsidiaries' ongoing operations. The company spearheaded the planning, creation, and distribution of materials to facilitate the sale of stock in the real estate holdings, charging the subsidiaries DKK 100,000 ($14,000) per year for those services. The council agreed with the Danish Tax Agency that, because the services provided by the company to its subsidiaries are linked to a tax-exempt transaction or transactions, which do not fall within the scope of VAT, the company cannot recover the VAT incurred on expenditures. The company's costs should be considered included in the sales price of the stock.

Source: Denmark – Denmark Agrees on New CO2 Tax for Businesses as Part of Green Tax Reform, (June 27, 2022), News IBFD; Taxnotes, No VAT Deduction for Advertising Costs, Danish Council Says; Denmark – Denmark Agrees on New CO2 Tax for Businesses as Part of Green Tax Reform, June 27, 2022, News IBFD; Denmark – Denmark Agrees on CO2-based Road Tax for Transportation, (June 27, 2022), News IBFD.

European Union: Working Papers from Recent VAT Expert Group Meeting

On June 10, 2022, the EU's VAT Expert Group (VEG) held its 31st meeting, following which it published several working papers. The VEG assists and advises the European Commission on VAT matters and is composed of individuals appointed in a personal capacity with the requisite expertise in VAT and organizations representing businesses and tax practitioners that can assist in the development and implementation of VAT policies.

In VEG No. 105, the VEG discussed the single VAT registration (SVR) concept for intra-EU transfers of own goods. The discussion focused on the alternatives presented to include the transfers of own goods between EU Member States within the scope of the SVR, the purpose of which is to limit the number of mandatory VAT identifications required EU Member States. The options proposed include (1) consider the transfer as no longer a taxable event, thus, no longer requiring VAT identification or (2) extend the one-stop shop mechanism (OSS) to include the transfers of own goods. Under this option there are two possibilities: (a) still consider the transfer an intra-EU sale in the EU Member State of departure and an intra-EU acquisition in the EU Member State of arrival, or (b) consider that the transfer does not constitute a taxable event but would still have to be declared in a special module of the OSS. Alternatively, the VEG provides a third option which would be to extend the deemed seller regime to cover the transfers of own goods with two possibilities: (a) continue to consider the transfer a taxable event or, (b) consider the transfer not to constitute a taxable event that must be declared in the OSS. A presentation on this topic was also made by the VEG, and is available here.

In VEG No. 106, the VEG discussed e-invoicing and the need for EU standards and interoperability. According to the VEG, the implementation of the Digital Reporting Requirements (DRR) can be made through a partial or total harmonization across the EU. The difference between them is that with partial harmonization, implementation would be voluntary whereas with total harmonization, it would be compulsory. Implementation of a reporting system based on e-invoicing presents different challenges. Some topics will be further discussed, such as separation between e-invoicing and e-reporting, use of an e-invoicing standard and tools used for transmission of electronic invoices.

In VEG No. 107, the VEG discussed VAT and the platform economy, focusing mainly on various elements of the VAT treatment of platforms such as the deemed seller regime and the implications of the new special mechanism for small enterprises that will come into effect in January 2025. The paper further discusses the consequences of the platform becoming the deemed seller such as identifying the customer (the person receiving the underlying service), knowing whether the customer is a taxpayer, and the applicability of a gross receipts threshold to platforms, attributing platforms sales to the seller's gross receipts threshold, the platform, or both. Finally, the paper addresses the special mechanism for travel agents and its relationship to the deemed seller model, the VAT exemption of short-term accommodation rental, and the relationship between the deemed seller model and record-keeping obligations.

VEG No. 108 discusses certain practical implications of the existence of a fixed establishment (FE), including FE "intervention" rules, the VAT treatment applicable to transactions between two or more FEs, impacts of FEs on VAT grouping and cost-sharing arrangements, the impact of Fes on different VAT regimes such as triangulation, the FE concept and the e-mobility sector, and the interaction between VAT and customs rules on the concept of an FE.

Finally, the VEG gave a presentation evaluating the VAT e-commerce package after the first 6 months of its implementation. The presentation showed figures related to the number of registrations made to the OSS mechanisms (EU and non-EU), the import one-stop-shop (IOSS) mechanism and of intermediaries; and the total of VAT collected via those mechanisms (via Member States of identification and via Member States of consumption). The results of the evaluation show an overall success in reshaping and modernizing the European VAT system and some popularity of the e-commerce simplifications among traders, but also some areas for improvement.

Source: European Union – 31st VAT Expert Group Meeting: Single VAT Registration, E-Invoicing, the Platform Economy and Fixed Establishments, (June 16, 2022), News IBFD.

European Union: Working Papers from Recent VAT Expert Group Meeting

Following the publication of the VAT revenue figures from the implementation of the EU VAT e-commerce package in May by the Directorate-General for the Taxation and Customs Union of the European Commission, the European Commission has noted the successful implementation the package, stating that the newly released revenue statistics point to a successful implementation of the changes. For KPMG's previous discussion of the figures from the implementation for the VAT e-commerce package, please click here.

On June 14, 2022, the EU Commission launched a consultation on a draft proposal to implement rules to improve the administrative cooperation for taxation and tax transparency between EU members of digital platform operators (DAC 7). Under DAC7, digital platform operators will be required to report income earned by sellers on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023. The recent proposal includes measures that would include data from digital platform operators in the mandatory automatic exchange of information (AEOI) between EU Member States; establish a list of the statistical data to be provided by EU Member States for the evaluation; and provide the standard format for the individual identification number, communication of the information, and retention period concerning the deleted information for digital platform operators. The EU Commission further issued the following for consultation: (1) the computerized format to be used for the mandatory automatic exchange of information, (2) the required statistical data for the mandatory automatic exchange of information, (3) standard forms for the communication of information on excluded platform operators and foreign platform operators to the central register, (4) the format of the individual identification number for foreign platform operators, and (5) the retention period for information deleted from the central register.

The EU Commission is considering measures to introduce a VAT exemption for cross-border rail travel. The measure was proposed in a recently released report that considers potential future measures that would support the EU's environmental goals. The report was drawn up by the Commission for the EU Council, EU Parliament, the European Economic and Social Committee, and the Committee of the Regions.

On June 22, 2022, the European Parliament agreed on its position relating to proposals for reforming the Carbon Border Adjustment Mechanism (CBAM) and the European Emissions Trading System (EU ETS). With this, the EU parliament is now ready to negotiate the legislative proposals with the EU Member States. These reforms are part of the "Fit for 55" package, which is the set of EU proposals to revise and update EU legislation with targets for reducing greenhouse gas emissions by 2030. The parliament agreed on proposing changes to the CBAM to broaden its scope. While the European Commission had proposed that the CBAM should encompass the production of iron and steel, refined oil products, cement, and organic basic chemicals and fertilizers, members of parliament (MEPs) wish to extend coverage also to cover organic chemicals, plastics, hydrogen, and ammonia. The parliament also wishes to extend the CBAM to indirect emissions (i.e., emissions deriving from electricity used by manufacturers). The parliament proposed to have one centralized EU CBAM authority (instead of 27 competent authorities in each EU Member State), which it views as more efficient and transparent. The MEPs added that the European Union should support the least developed countries in decarbonizing their manufacturing industries. Regarding the EU ETS, the parliament proposes that any free allowances granted to EU industries to be fully phased out by 2032. The MEPs also decided, at least temporarily, not to retain the Commission proposal to extend the EU ETS to private buildings and road transport, leaving it applicable only to commercial transportation, buildings, and process heating.

Source: CCH, Global VAT News & Features, EU Welcomes Success Of Recent E-Commerce VAT Reforms,(Jun. 2, 2022); European Commission Seeks Comments on Administrative Cooperation Rules for Digital Platform Operators, Bloomberg Law News, June 23, 2022; EU Mulls VAT Exemption for Cross-Border Rail Travel, Bloomberg Law News, June 24, 2022; CCH, Global VAT News & Features, EU Mulling VAT Exemption For Cross-Border Rail Journeys,(Jun. 22, 2022); European Union – European Parliament Adopts Position on Reform of ETS and CBAM, (June 27, 2022), News IBFD.

Italy: Overview of Recent Indirect Tax Developments

The Italian tax authority (ITA) recently clarified in Ruling Answer No 169/2022 the VAT treatment of transfer of a going concern from a permanent establishment (PE) to a head office. In the case, a banking institution established in another EU Member State and had a PE in Italy providing services such as bank accounts, bank deposits, financing, and financial leasing. The banking group decided to close the Italian PE and transfer the related going concern to the EU head office. The ITA clarified that the transfer of a going concern from an Italian PE to its EU head office is not relevant for VAT purposes in Italy. Per the Court of Justice of the European Union (ECJ) in *FCE*, Case C-210/04 (March 23, 2006) and a decision of the Italian Supreme Court in 2013, the head office and the permanent establishment are not separate entities. The sole exception to this principle relates to the transfer of movable tangible goods from Italy to the EU Member State where the head office is seated, which qualifies as deemed intra-EU acquisition of goods.

The ITA recently clarified in Ruling Answer No. 174/2022 the VAT rate applicable for the fueling and provisioning of seagoing vessels. Such transactions are zero-rated only if the purchaser is a shipowner. Therefore, the transactions fall outside the scope of the zero-rate (and are thus subject to VAT at the standard rate) if made to intermediaries per the ECJ decision in *Velker International Oil Company Ltd NV, Case C-185/89* (June 26, 1990). However, if the transaction qualifies as an export sale or intra-EU sale of goods, the VAT zero-rate regime should apply.

The ITA recently clarified in Ruling Answer No. 188/2022 the VAT rate applicable to sale of photographs taken during ceremonial occasions such as baptisms, confirmations, weddings, and similar events. In the case, the ITA cited the ECJ decision in *Regards Photographiques*, Case C-145/18 (September 5, 2019), and clarified that the 10 percent reduced rate applies to sales of photographs only when "they have been taken by their creator, printed by him or under his supervision, signed and numbered and limited to 30 copies." Conversely, the standard rate of 22 percent applies when the seller provides a complex service including, by way of example, videos, and photographs taken by others.

The ITA recently clarified in Ruling Answer No. 212/2022 that a settlement agreement, under which one party agrees not to start a controversy procedure against the other party and receives an amount of money as consideration may qualify as a generic provision of services for VAT purposes. In this regard, the ITA cited the ECJ decision in *Macdonald Resorts*, Case C-270/09 (December 16, 2010), in which the ECJ ruled that the basis of assessment for a provision of services is everything that makes up the consideration for the service provided, and a provision of services is taxable only if there is a direct link between the service provided and the consideration received by the vendor. It concluded that such a link exists in the case and that the transaction is subject to VAT at the standard rate of 22 percent.

The ITA recently clarified in Ruling Answer No. 231/2022 the time of sale and the VAT rate applicable to sale of foods and beverage in company canteens. According to the ITA, it is possible to identify four different contractual relationships: between the employer and the company providing the canteen service; between the employer and the company issuing the vouchers to pay for meals; between the company issuing the vouchers and the company providing the canteen service; and between the employees and the company providing the canteen service. If employees pay exclusively in cash for the meal, the transaction qualifies as sale of food and beverage in a company canteen and is subject to the reduced rate of 4 percent. The time of sale is when the employee pays the consideration. Conversely, if employees pay for their meals exclusively with vouchers, the transaction qualifies as generic sale of food and beverage and is subject to the reduced rate of 10 percent. The time of sale is when the company providing the canteen services issues an invoice to the company issuing the vouchers. Finally, if employees pay partially in cash and partially with vouchers, the meal is subject to the two stated VAT treatments in proportion to the payment method.

The ITA recently clarified in Ruling Answer No. 318/2022 the VAT treatment on the transfer of functions and personnel between a parent company and a PE, and between two PEs. In the case, a foreign registered company owned a PE in Italy. The parent had three divisions located in different territories, based on the products and services offered. The parent undertook a corporate restructuring under transfer pricing guidelines. The company sought clarification as to whether the restructuring would be excluded from VAT taxation. The ITA clarified that the restructuring is not subject to VAT.

Source: Italy – Tax Authorities Clarify VAT Treatment of Transfer of Going Concern from PE to Head Office, (June 15, 2022) News IBFD; Italy – Supplies of Photos Are Subject to Reduced VAT Rate Only if Taken by the Artist, (June 15, 2022), News IBFD; Italy – Tax

Authorities Clarify VAT Rate on Supplies of Seagoing Vessels to Intermediaries, (June 15, 2022), News IBFD; Italy – Settlement Agreements May Qualify as Supply of Services for VAT Purposes, (June 16, 2022), News IBFD; Italy Tax Agency Clarifies VAT Treatment on Corporate Restructuring of Group Companies, June 3, 2022.

Saudi Arabia Overview of Recent Indirect Tax Developments

The Zakat, Tax and Customs Authority (ZATCA) recently published a guide in which it clarified the VAT treatment of employee benefits. The guideline provides details on various important definitions (e.g., basic wages, employment contract, employee, and employer); the VAT treatment of salaries and wages; cash benefits and allowances; secondment; provision of services by third parties or agencies; and the treatment and calculation of VAT on assumed sales. According to the guide, the following transactions without consideration are assumed as a sale for VAT purposes: the assignment of goods for purposes other than economic activity with or without consideration; the sale of goods as samples or gifts if their value exceeds the value limit specified by law; and the provision of services for no consideration. The guide further clarifies the VAT recovery for certain types of employee benefits, such as vehicles provided to employees, maintenance and fuel expenses, catering, staff accommodation and housing allowances. Finally, the guide clarifies the VAT compliance obligations of employers, such as: registration; computation; payment of the tax on the due dates; keeping all documents and records necessary for the calculation of VAT, such as invoices, contracts, and bank statements; filing VAT returns within the required deadlines correcting previous returns; fines; penalties; and procedure for requesting a ruling.

On May 23, 2022, the ZATCA launched a public consultation on the second phase of e-invoicing implementation in Saudi Arabia. The public consultation document covers the following: control of electronic invoicing; technical requirements and specifications for electronic invoicing; method of implementation of electronic invoicing; and data dictionary and standards for security features.

According to news reports, the Saudi Finance Minister has confirmed that VAT rate increase imposed in 2020 is temporary. In response to falling oil prices, Saudi Arabia increased its VAT rate from five percent to 15 percent effective July 1, 2020.

Source: Saudi Arabia; GCC – ZATCA Clarifies VAT on Employee Benefits, (June 16, 2022), News IBFD; Saudi Arabia; GCC – Tax and Customs Authority Publishes Public Consultation Document for Second Phase of Electronic Invoicing Implementation, (June 7, 2022), News IBFD; CCH, Global VAT News & Features, Saudi Arabia Announces New Tax Amnesty Scheme, (Jun. 2, 2022); CCH, Global VAT News & Features, Saudi Arabia Hints VAT Cut Will Occur Later, (Jun. 3, 2022).

Switzerland: Guidance on VAT Refunds for Nonresident Companies

On June 21, 2022, the Swiss Federal Tax Administration (FTA) published a guidance in the form of Q&As clarifying the VAT refund procedure for nonresident companies. The guidance provides that to be entitled to a refund, a nonresident company must document its business character (entrepreneurial status) in the state of their domicile and their place of business to the FTA. The proof of entrepreneurial status issued by the foreign tax authority must be valid for the refund period (calendar year). When a reciprocal right exists and the foreign country has a VAT system, the proof of entrepreneurial status must also confirm that the applicant is registered for VAT during the period for which the VAT refund is claimed or indicate the date on which the applicant became VAT registered. If a reciprocal right exists and the country does not have a VAT regime, the proof of entrepreneurial status must confirm the entrepreneurial status during the period for which the VAT refund is claimed or indicate the date on which the applicant obtained entrepreneurial status.

A reciprocal right is granted if (1) companies with their domicile or effective place of business in Switzerland have the right to claim VAT refunds paid on transactions acquired from the foreign jurisdiction; (2) a tax comparable with the Swiss VAT is not levied by the foreign jurisdiction; or (3) a different type of sales tax is imposed in the foreign jurisdiction and such tax affects companies with their domicile or effective place of business in the foreign state in the same manner as enterprises with their domicile or effective place of business in Switzerland. The FTA provides a list of states with which a reciprocal right declaration has been exchanged. If a state is not listed, the applicant may prove otherwise that the requirements are met.

To file a refund claim, the following material requirements must all be met: (1) the place of residence, business or permanent establishment must be abroad; (2) the applicant should not be registered for VAT purposes in Switzerland or Liechtenstein; (3) the applicant does not sell in Switzerland; (4) the applicant provides proof of entrepreneurial status (business status) in the state of residence or business domicile; (5) the invoices submitted to substantiate the refund claim must meet the formal criteria set in the Swiss VAT law and must correspond with the refund period; (6) the state of residence or place of business or of the permanent establishment of the applicant must grant a corresponding reciprocal right of refund; (7) only one application can be submitted per year; and (8) the VAT refund may not total less than CHF 500 ($512).

In addition, the application for a VAT refund must be submitted with Federal Tax Administration Forms No. 1222 and 1223. Non-official forms will not be accepted. The applicant must appoint a representative with a place of residence or business in Switzerland. For applications submitted in Liechtenstein, a representative must be appointed with place of residence or business in Liechtenstein. The power of attorney must be given for each application submitted by filling in Form No. 1222. The application for VAT refund can be submitted from January 1 to June 30 of the following calendar year in which the VAT was incurred. The June 30 cannot be extended (date of postmark). As VAT charged by vendors in Switzerland or Liechtenstein will be refunded by the respective state, a separate application must be submitted to the competent authority in Switzerland and Liechtenstein. However, since import VAT is levied by the Swiss Customs Authority, the VAT refund on imports will administered only by the FTA.

Source: Orbitax, Swiss Tax Administration Provides Guidance on VAT Refunds for Foreign Companies, June 23, 2022.

Tanzania: Proposal to Require Nonresident Digital Services Providers to Collect VAT

Tanzania recently passed the Finance Act 2022/23, which provides that nonresident persons will have an to be registered directly for VAT, when it is not practicable to appoint a tax representative due to the business circumstances. The Finance Minister has already issued regulations prescribing the registration procedures for the targeted nonresidents.

Further, the Finance Act introduces a digital services tax (DST) of 2 percent on Tanzanian gross receipts (i.e., payments, excluding VAT) related to services rendered through a digital marketplace (defined to mean a platform which enables direct interaction between buyers and sellers of goods and services through electronic means).

Finally, the Finance Act introduces a number of exemption from VAT including; double refined edible oil from locally grown seeds by a local manufacturer for a period of one year from July 1, 2022 to June 30, 2023, moisture meters, pH meters, tissue culture equipment, and tensiometers, refrigerated trucks and cold rooms for perishable agricultural products; raw materials and machinery solely and directly used in the manufacture of fertilizers by an approved manufacturer; floats for fishing nets, fishing hooks, and fishing lines, and a withdrawal of VAT exemptions on smartphones, tablets, and modems; and air charter services (effective from December 31, 2022).

Source: Orbitax, Tanzania Budget Speech for 2022/23 Delivered Including a New Digital Services Tax, June 17, 2022; KPMG international member firm in Tanzania.

United Kingdom: Overview of Recent Indirect Tax Developments

The EU has informed the UK to reject a proposal to unilaterally alter the Northern Ireland Protocol (Protocol). The UK left the EU on January 31, 2020, and the transition period ended on December 31, 2020. As part of a solution to prevent a hard border emerging on the island of Ireland, Northern Ireland continues to be covered by the EU's VAT rules with respect to sales of goods. Full customs controls were introduced for goods moving between the rest of the EU and Great Britain (England, Scotland, and Wales, but not Northern Ireland), and for goods exported from Great Britain to Ireland. Pre-existing arrangements were maintained between Northern Ireland and Ireland. The UK is now proposing to alter the protocol by removing checks on goods entering Northern Ireland from Great Britain if they will not be further transported to the EU and are dispatched by trusted businesses. Existing checks would remain in place for imports from Great Britain to Northern Ireland for further export to the EU. The UK further wants to unlock the ability to expand the coverage of tax breaks to Northern Ireland.

On May 18, 2022, the UK tax authority (HMRC) published a policy paper, VAT domestic reverse charge for mobile phones and computer chips, in which it announced that effective July 1, 2022, VAT registered taxpayers will no longer need to report information about sales of mobile phones or computer chips via what is known as the "Reverse Charge Sales (VAT self-assessment) list." However, this does not remove the requirement for businesses to follow the domestic VAT self-assessment mechanism. The paper explains that a domestic VAT self-assessment means that the UK customer receiving sales of mobile phones or computer chips must account for the VAT due on these transactions on their VAT return rather than the UK seller. The customer can deduct the VAT due on the sales as creditable VAT, meaning no net tax is payable to HMRC, subject to the normal rules for reclaiming VAT. The domestic VAT self-assessment for mobile phones and computer chips was introduced in June 2007 and was the only one with a requirement to complete a VAT self-assessment list. The policy paper explains that for taxpayers submitting monthly VAT returns, a final VAT self-assessment list will need to be submitted with the June 2022 VAT return; for quarterly filers, a final list will need to be submitted with either the June, July, or August 2022 VAT return. The online service for submitting the list will not be available after October 17, 2022.

On June 1, 2022, HMRC published Revenue and Customs Brief 10 (2022) in which it announced changes to the manner in which HMRC will determine if an activity is a business activity for VAT purposes. Historically, HMRC has used the "business test" to determine whether an activity is business or economic activity for VAT purposes; the test is based on these criteria from established case-law: (1) is the activity a serious undertaking earnestly pursued; (2) is the activity an occupation or function that is actively pursued with reasonable or recognizable continuity; (3) does the activity have a certain measure of substance in terms of the quarterly or annual value of taxable sales made; (4) is the activity conducted in a regular manner and on sound and recognized business principles; (5) is the activity predominately concerned with the making of taxable sales for a consideration;

(6) are the taxable sales that are being made of a kind which, subject to differences of detail, are commonly made by those who seek to profit from them.

According to HMRC, more recent judgments have helped to clarify that the six criteria are only indicators, and they cannot replace the principles set out by the courts in determining what constitutes a business. As outlined in these cases, the correct test for determining whether an activity is a business activity is whether there is a direct link between the services or goods sold and the payment received by the seller. When an organization is involved in a range of activities, it is appropriate to look at each activity separately and identify those which amount to business activity and those which do not. It is not appropriate to settle on just one aspect of the activities as the predominant concern or predominant activity. It is the nature of the activity that is to be considered and not whether the activity is predominant or not. However, simply because a payment is received for a service provided does not itself mean that the activity is economic. For an activity to be regarded as economic, it must be carried out for the purpose of obtaining income (remuneration) even if the charge is below cost.

Considering the recent cases, the guidance states that HMRC will no longer apply the business test based on the six indicators in determining whether an activity is business. Going forward the tax authority will use a two-stage test: (1) does the activity result in a sale of goods or services for consideration and (2) is the sale made for the purpose of obtaining income therefrom (remuneration). VAT registered businesses can no longer rely on the old 'business test' to decide whether an activity is business or not, but it can be used as a set of tools designed to help identify those factors which should be considered.

On June 16, 2022, the Bank of England Monetary Policy Committee voted to increase the Bank of England base rate to 1.25 percent. As HMRC's interest rates are linked to the Bank of England base rate, HMRC interest rates for late payment increased effective on June 27, 2022 for quarterly instalment payments, and July 5, 2022 for non-quarterly instalments payments. The repayment interest rate remains at 0.5 percent. The repayment rate is set at Bank Rate minus one percent, with a 0.5 percent lower limit. Late payment interest is set at base rate plus 2.5 percent, meaning the late payment rate increased to 3.75 percent.

The UK is considering whether it should replace its heavy goods vehicle (HGV) levy with a new tax that rewards trucks that emit less carbon. Under the proposal, to figure out the HGV levy, taxpayers would use the weight of the vehicle as a stand-in for carbon dioxide the engine produces, instead of a multistage calculation. The UK suspended its HGV levy in 2020 as part of its pandemic stimulus measures and later extended it to August 2023. The new tax would replace the HGV levy when the suspension ends. The proposed tax would reduce the 22 bands of HGV vehicles under current law to just six.

Source: CCH, Global VAT News & Features, EU Opposes UK Changes To Northern Ireland Protocol,(Jun. 15, 2022), July 17, 2022; CCH, Global VAT News & Features, HMRC To Abolish Reverse Charge Sales List Obligation,(Jun. 6, 2022); CCH, Global VAT News & Features, HMRC Overhauls Policy On Identifying Supplies Subject To VAT,(Jun. 3, 2022); CCH, Global VAT News & Features, HMRC To Again Raise Interest Charges On Late Tax Payments,(Jun. 21, 2022); UK Mulls Tax on Heavy Goods Vehicles Linked to Carbon Emission, Bloomberg Law News, June 20, 2022.

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Singapore: Consultation on Proposed GST Amendments

On June 13, 2022, the Singaporean Ministry of Finance launched consultation on a draft GST amendment bill to implement the 2022 budget measures announced on February 18, 2022. It also includes other measures to improve GST administration and the clarity of existing legislation, which arose from the periodic review of the GST system. The proposed amendments include a GST rate increase from 7 percent to 9 percent. The rate increase will be phased in over two years: from 7 percent to 8 percent for calendar year 2023, and from 8 percent to 9 percent from January 1, 2024 forward. The bill would also clarify the GST transitional rules by adding a new definition of "specified change," which includes tax rate and other changes not related to the tax rate which affects the GST payable on sales (i.e., a change in the description of zero-rated and exempt sales, a change in the type of sales, etc.) and adding a new section, which addresses the application of GST transitional rules to sales spanning one or more specified GST changes.

The bill would further amend the GST treatment of services that comprise the arranging of international transport of passengers and related insurance and the arranging or facilitating of booking of accommodation to be based on the "place of belonging rule," such that zero-rating applies only if such services (1) are contractually sold to a person outside Singapore and (2) directly benefit persons either outside Singapore or GST registered in Singapore.

In addition, the bill would clarify the GST rules to provide tax certainty and ease the compliance burden for taxing imported low-value goods (LVG) and imported services through the VAT self-assessment mechanism and overseas vendor registration (OVR) regimes, ahead of their effective date of January 1, 2023. The bill would clarify that sale of LVG and remote services, which have already been taxed (either incorrectly by the OVR Vendor or upon importation), would be included for the purposes of determining the GST registration liability of businesses required to self-assess GST under the reverse charge mechanism. It would also allow Pay-only OVR Vendors to elect not to charge GST on the sale of remote services to the extent that the sale has been taxed in Singapore, thus preventing double taxation of a given sale. Moreover, the bill would provide that a sale that is both an LVG sale and a sale made in Singapore would be treated as a sale made in Singapore, thus preventing goods that are treated as sold domestically under current GST rules from being caught under the OVR regime.

Finally, the bill would introduce a new section in the GST law to provide for offences involving missing trader fraud (MTF) schemes. MTF is a fraud scheme in which the seller absconds with GST he collected on his sales without paying the GST over to the tax authority, while businesses further down the MTF chain continue to claim refunds on input GST paid on their purchases from the Inland Revenue Authority of Singapore. To deter such schemes, criminal sanctions based on a 2-tiered approach will be introduced from January 1, 2023. Tier 1 offences apply to MTF masterminds, co-conspirators and syndicate members who participate in MTF schemes (i.e., those more culpable). Tier 2 offences apply to current or former sole-proprietors, partners or directors of business entities that are eventually used in MTF schemes. These persons typically incorporated entities which are then used by syndicates for fraudulent purposes.

Source: Singapore – Singapore Launches Public Consultation on Proposed Amendments to Goods and Services Tax Act, (June 16, 2022), News IBFD; Orbitax, Singapore Launches Public Consultation on GST (Amendment) Bill 2022, June 15, 2022.

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Costa Rica: Amendment to the General Customs Law Enacted

On June 29, 2022, Costa Rica published an amendment to the general customs law, which became effective immediately, except for the provisions which require promulgation of regulations for which six months is allowed. The law introduces new trade facilitation tools, such as deferred payment, advance rulings, and accumulated declaration, as well as various provisions in the import regime. The regime of authorized economic operator is also incorporated. The law further reinforces customs methodologies to better exercise control and inspection of trade, especially to eliminate the smuggling of goods. Among the new provisions are registration in the tax registry, provision of tax significant information, and the obligation to have non-intrusive inspection equipment in the case of customs public function auxiliaries. Finally, there are changes in terms of sanctions and fines. For example, a new fine of $4,000 is introduced, fine reductions are simplified, and the possibility of closing businesses is introduced. To read a report prepared by the KPMG International member firm in Costa Rica, please click here.

European Union: Trade Agreement with New Zealand

On June 30, 2022, officials from the EU and New Zealand concluded negotiations for a trade agreement. The trade agreement would provide new export opportunities for businesses; eliminate tariffs on EU exports such as "pigmeat," wine and sparkling wine, chocolate, sugar confectionary and biscuits; protect the full list of EU wines and spirits; and integrate the EU's new approach to trade and sustainable development. The negotiated draft texts are scheduled to be published shortly. These texts will go through legal revision ("legal scrubbing") and will be translated into all official EU languages. Following that, the European Commission will submit the agreement for signature and conclusion to the European Council. Once adopted by the Council, the EU and New Zealand can sign the agreement. Following the signature, the text will be transmitted to the European Parliament for consent. After the consent by the Parliament, and once New Zealand also ratifies it, the agreement can enter into force. For more information, click here.

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In Brief

- **Bulgaria:**[xiii] The Bulgarian Ministry of Finance recently published draft legislation, subject to approval by the legislature, that would exempt electricity, liquefied petroleum, and natural gas from excise duties; apply the reduced VAT of 9 percent to district heating and natural gas sales, and zero-rate sales of bread from July 1, 2022. The legislation would further increase excise duties on cigarettes, smoking tobacco, cigars and cigarillos, heated tobacco products and hookahs, and introduce excise duties on liquids in electronic cigarettes.
- **Bulgaria:**[xiv] The Bulgarian Ministry of Finance recently launched a public consultation on proposed amendments to the VAT regulations. They include new requirements for evidencing certain zero-rated sales; clarifications concerning the new VAT rules for e-commerce transactions applicable effective July 1, 2021; and new details regarding the rules for adjustments of incorrectly issued invoices even when a tax audit assessment notice has entered into force.

- **Chile:**[xv] On June 16, 2022, the Chilean tax authority (SII) issued Letter No. 1918, clarifying the manner in which a Chilean travel company that operates exclusively as an intermediary of tourism services between the service providers and the beneficiaries, should pay the applicable VAT for its services. The taxpayer sought clarification as to whether VAT should be paid on the company's gross income, or commissions earned. The tax agency clarified that a taxpayer providing intermediary services on behalf of its principals must issue corresponding invoices to its beneficiaries. The intermediary must issue at least one settlement to the principal for the total services provided and the VAT recharged for the applicable tax period. In this respect, the intermediary is only responsible to pay VAT chargeable to its commissions.
- **Chile:**[xvi] On June 28, 2022, the SII issued Resolution 57-2022 that defines the taxpayers those that will be subject to VAT withholding and those that will be required to act as withholding agents. Based on regulation 42-2018, the SII includes will require that all taxpayers that have been found delinquent in complying with the VAT will bel subject to VAT withholding from July 1 to December 31, 2022. After that date, they may be excluded from withholding provided they have resolved the reasons they were included.
- **China:**[xvii] On June 7, 2022, the Ministry of Finance and the State Administration of Taxation published Announcement No. 21 [2022] expanding the VAT refund program to certain industries. The monthly VAT credit refund policy was originally targeted to manufacturing and other industries but is being expanded to the tax credits generated by wholesale and retail industries; agriculture, forestry, animal husbandry and fisheries; accommodation and catering; resident services, repairs, and other services; education; health and social work; and culture, sports, and recreation. Those newly eligible may apply to the competent tax authority for refund of incremental tax credits beginning with the tax filing period for July 2022.
- **Congo (Democratic Republic):**[xviii] On April 15, 2022, the Ministry of Finance of the Democratic Republic of Congo issued several Ministerial Orders clarifying VAT issues. Ministerial Order No. 13 provides a 12-month VAT exemption on imports and domestic sales of raw materials for cement, including certain additives, gypsum, packing bags, etc., as well as an exemption for sales of cement produced domestically. The order also provides a VAT exemption on the sale of new buildings by property developers, including buildings no older than three years from the date of completion of their construction. In addition, Ministerial Order No. 14 provides a 6-month VAT exemption on imports and domestic sales of certain food products and basic necessities as listed in the annex to the order. Listed products include beef, pork, offal products, certain fish, milk powder, cooking oil, salt, soaps, and disinfectants. Finally, Ministerial Order No. 15 provides the computation and payment mechanism for VAT applicable on imports made by operating mining companies.
- **Croatia:**[xix] On May 17, 2022, the Croatian Tax Administration clarified that the 5 percent reduced VAT rate for natural gas sales and distribution services applies to taxpayers that sell natural gas and charge fees for the transportation and distribution of natural gas between April 1, 2022 and March 31, 2023. Taxpayers that do not sell natural gas, but provide gas transportation and distribution services, remain subject to the 25 percent VAT rate. On May 31, 2022, the Croatian Tax Administration clarified that sales of liquified petroleum gas (LPG) is subject to the standard VAT rate of 25 percent.
- **Croatia:**[xx] On June 7, 2022, the Croatian Tax Administration clarified the VAT treatment applicable to automated teller machine (ATM) services. In the case, taxpayer was the manager of an independent ATM network that charged participating banks a fee for ATM transaction services. The tax administration clarified that the transactions do not qualify for the VAT exemption for payment and related brokerage services under national law or the EU common VAT system.

- **Croatia:**[xxi] On June 9, 2022, the Croatian Tax Administration clarified that the tour operator margin mechanism does not apply to taxpayers that do not have a registered office or permanent establishment (PE) from which services are provided within the EU. Therefore, the general Croatian VAT rules apply to such businesses as they cannot argue that the VAT treatment in the country in which they are established should apply. The tax administration further provided a list of unique travel and tour services, clarified the place of performance of services, and the VAT filing and payment obligations.
- **Ecuador:**[xxii] On May 27, 2022, the Ecuadoran tax authority (SRI) issued NAC-DGERCGC22-00000024, which requires most taxpayers that have not to this point been required to issue e-invoices to comply with this mandate effective November 29, 2022. By the same deadline, the taxpayers will also be required to comply with the issuance of electronic withholding documents using the Simplified Transactional Annex (ATS) version of those documents. Paper invoices will be allowed only in situations of contingency and the total amount of paper invoices during the year cannot surpass one percent of the total number of invoices issued during the previous year.
- **El Salvador:**[xxiii] On May 16, 2022, the Ministry of Finance of El Salvador published Guide Note MH.UVI.DGII/006.04/2022, which clarifies the tax incentives applicable to the construction of penitentiary facilities provided through Legislative Decree 357 of 2022. With respect to VAT, the incentive provided is a full exemption applicable to planning, design, and construction of penitentiary facilities and to the acquisition of local goods or services used for that purpose, including the non- application of VAT proportionality for these sales. To qualify, the taxpayer benefitting, and its vendors should comply with certain conditions regarding documentation related to the project.
- **Finland:**[xxiv] On June 1, 2022, the Finnish tax authority announced that late VAT filing penalties for companies registered in the EU One Stop Shop (OSS) system and serving Finnish customers will be waived from March 1, 2022, to September 30, 2022.
- **Finland:**[xxv] On June 16, 2022, the Finnish Council of Ministers approved Decree No. VM / 2022/97, will require, effective July 1, 2022, that a VAT exemption or a refund for specific products or services provided to the armed forces in another EU Member State, to carry out union activities under the common security and defense policy will require written confirmation.
- **Finland:**[xxvi] On June 17, 2022, the European Council authorized Finland to apply a reduced VAT rate to electricity provided to heat pumps, electric boilers, and recirculating water pumps in geothermal heating plants.
- **France:**[xxvii] On June 3, 2022, France issued Decree No. 851 to provide details on the declaration, liquidation and payment of the new gross receipts tax applicable to operators of digital platforms providing certain transportation services. The deadlines for that purpose will vary depending on whether the taxpayers are under the normal or simplified compliance regime or subject to other variations established in the law and other regulations.
- **Greece:**[xxviii] Effective June 1, 2022, Greece imposes a recycling fee of EUR 0.08 ($0.08) on products containing packaging made with polyvinyl chloride (PVC) at every legal point of sale. Consumers are now required to pay the fee, which is imposed per individual piece of product and is to be indicated distinctly and legibly on sales documents. Companies that sell the products are required to track the fees in their accounting records. The companies are also required to indicate in a place visible to the consumer at the products' points of sale which products are subject to the fee, with an indication of the amount being charged. The recycling fee is reciprocal and the collected revenues are attributed to the Hellenic Recycling

Organization with the sole purpose of financing recycling actions. The Greek tax authorities included the above information in a document, available here.

- **Guatemala:**[xxix] On June 14, 2022, the Guatemalan Superintendency of Tax Administration announced that taxpayers registered under the general VAT regime must issue electronic invoices effective July 1, 2022. Taxpayers can no longer issue paper invoices and paper invoices can no longer be used to claim VAT credits. As a result of the new requirements, taxpayers are no longer required to report the 10 biggest vendors in their period VAT returns.
- **Iceland:**[xxx] On June 19, 2022, the Icelandic Parliament passed Bill No. 1012 amending the VAT treatment of electric cars. The bill increases the number of electric cars that can receive a VAT concession from 15,000 to 20,000 effective January 1, 2023. The bill further reduces the maximum of exempt VAT amount on each electric car from ISK 1,560,000 ($11,944) to ISK 1,320,000 ($10,106) per car in calendar year 2023. Finally, the bill exempts from VAT the resale of electric cars and provides a VAT refund on the import or purchase of vehicles used for the benefit of rescue teams.
- **Indonesia:**[xxxi] The Ministry of Finance recently postponed its plan to implement a carbon tax scheduled to take effect in July 2022. The Ministry states the carbon tax will be implemented in 2022 and first apply to the coal-fired power plant sector with a tax mechanism based on emission limits.
- **Kosovo:**[xxxii] On June 15, 2022, the tax authority of Kosovo announced that, effective June 21, 2022, it will offset VAT credits against outstanding tax debts for taxpayers who have (1) a VAT credit exceeding EUR 3,000 ($3,000) for three consecutive months and (2) outstanding tax debts exceeding EUR 5,000. Once the amount of VAT credits is verified, these will be offset against any outstanding tax debts of the taxpayer. Any remaining credit will be refunded to the taxpayer.
- **Kyrgyzstan:**[xxxiii] On June 10, 2022, the State Tax Service of Kyrgyzstan announced the launch of an online service (vat.salyk.kg) for the VAT registration of foreign providers of digital services. Effective January 1, 2022, nonresidents providing digital services to customers in Kyrgyzstan are required to register for and collect VAT at the standard rate of 12 percent. The online service allows these nonresidents to register as a VAT taxpayer, obtain an identification tax number, and access to their taxpayer account.
- **Latvia:**[xxxiv] On June 22, 2022, the Latvian State Revenue Service published updated information relating to various VAT topics, including: (1) application of a zero-rate VAT on the basis of VAT or excise exemption certificates; (2) VAT treatment of companies that assist individuals in Ukraine; (3) VAT treatment for renting or leasing apartments; (4) VAT treatment of electronic communications, broadcasting, digital services, and e-commerce activities; (5) sourcing rules for real estate services; (6) VAT treatment of sales of goods to ships and aircraft; (7) filing of VAT returns; and (8) FAQs and examples.
- **Lithuania:**[xxxv] On May 25, 2022, the Lithuanian State Tax Inspectorate launched a consultation on a proposal to exempt human organs, blood and its components, breast milk, and dental prostheses sold by dentists and dental technicians. The VAT exemption would not apply to blood plasma products mixed with pharmaceutical products, dental prostheses sold by intermediaries other than dentists and dental technicians, and orthodontic appliances.
- **Lithuania:**[xxxvi] On June 15, 2022, the Lithuanian parliament accepted for consideration Bill No. XIVP-1307, which would zero-rate the sale of food products if enacted.
- **Luxembourg:**[xxxvii] On June 13, 2022, the government of Luxembourg submitted a bill to the parliament to adopt domestic legislation implementing an EU Directive imposing reporting

and exchange of information obligations for activities of certain digital platform operators, effective January 1, 2023 (DAC7).

- **Malaysia:**[xxxviii] The Malaysian Ministry of Finance recently issued the 2023 Pre-Budget Statement. While no detailed proposals, the government intends to phase-in an e-invoicing to enhance the efficiency of the tax administration system.
- **Maldives:**[xxxix] On May 18, 2022, the government submitted the Waste Management Bill. Among other things, the Bill proposes to introduce a plastic bag levy of MVR 2 ($ 0.13) per plastic bag provided to customers by businesses at the point of sale. Businesses that are registered with the Maldives Inland Revenue Authority (MIRA) under the GST Act will be required to declare their plastic bag levy collection on their GST return and pay their collection to the MIRA. Businesses that are not registered for GST will not be required to pay their collection to the MIRA; instead, their collection will be treated in accordance with regulations to be issued by the Environment Ministry. The levy will come into effect after 30 days from the enactment of the Bill by the parliament and ratification by the President.
- **Mauritius:**[xl] Mauritius recently released the 2022-23 Budget, which would limit the refund of VAT on a residential building, house, or apartment to properties with a constructed area of no more than 1,800 square feet. The Budget further proposes that the name of all taxpayers will be published in a quarterly updated list on the tax agency's website, and the tax agency will name those businesses that have failed to submit a VAT return within three months of the due date. It also announces that the tax agency will devise a roadmap to implement e-invoicing requirements by December 2022. Finally, the Budget announces that the Tax Arrears Settlement Scheme (TASS) will be reintroduced. The TASS provides for a full waiver of penalties and interest when tax arrears, outstanding under the Income Tax Act, the Value Added Tax Act, or the Gambling Regulatory Authority Act, are paid in full by March 31, 2023, provided that the taxpayer registers with TASS by December 31, 2022.
- **Moldova:**[xli] On May 23, 2022, the Moldovan State Tax Service (STS) issued guidance letter SFS Order no. 212 clarifying the VAT treatment of consulting, engineering, legal, accounting, marketing (and market research), translation, information, and fixed and mobile phone services provided by nonresidents. According to the STS, these services are sourced to the country in which the recipient is located and are thus subject to VAT at 20 percent if the recipient is in Moldova. The STS also published a FAQ document further explaining the application of the VAT sourcing rules to these services.
- **Moldova:**[xlii] On May 31, 2022, the STS issued guidance letter STS Order No. 237 explaining the procedure for claiming a VAT refund for a capital investment made in connection with the renovation of a leased building. According to the STS, capital investments are expenses incurred by a taxpayer with respect to the overhaul, creation, or acquisition of fixed or intangible assets intended for use in the provision of a work or service if the expenses are not reflected in the results of the current tax period and increase the value of the fixed or intangible assets. Taxpayers making capital investments in industrial buildings for the purpose of producing goods or providing services can claim VAT refunds if the buildings are put into operation and used for their intended purpose. Depreciable fixed assets include fixed assets that are the objects of rental or concession income, gratuitous use, or an operating lease or sublease agreement.
- **New Zealand:**[xliii] The New Zealand Inland Revenue Department recently announced an increase of the tax-related interest rate from 7 percent to 7.28 percent.
- **New Zealand:**[xliv] On June 8, 2022, the New Zealand Inland Revenue Department (IRD) issued QB No. 22/03 and 22/04, and Public Ruling BR No. 22/07, clarifying GST deduction

rules for importers effective July 9, 2022. According to the IRD, the GST paid by customs brokers on behalf of their importer clients cannot be claimed as GST deductions by the customs brokers. Importers may claim GST deductions for GST already paid if the importer is a registered taxpayer. The guidance also clarifies the recordkeeping obligations and required documentation for claiming GST deductions.

- **New Zealand:**[xlv] On June 15, 2022, the IRD issued Technical Decision Summary No. 22/09, explaining the GST treatment of private recreational pursuits and hobbies. In the case, the taxpayer was a GST registered horse racing syndicate, formed by a company that bred, leased, and sold racehorses. The taxpayer questioned whether it was carrying on a taxable activity. The IRD clarified that the taxpayer was not carrying on a taxable activity because the taxpayer was not formed for the purpose of profit. Its activity was essentially carried on as a private recreational pursuit or hobby, meaning the taxpayer did not fulfill the taxable activity requirements.
- **New Zealand:**[xlvi] On June 16, 20222, the IRD issued QB No. 22/05 clarifying which specified services that airport operators provide to international airline operators are zero-rated GST. The clarification includes a list of services that are not zero-rated, the conditions when services can be zero-rated, and an explanation of the application of the 15 percent standard GST rate on relevant services.
- **Poland:**[xlvii] Poland recently delayed implementation of VAT grouping until January 1, 2023. Initially, the regime was to be introduced in Poland from July 1, 2022. VAT groups allow taxpayers especially multinationals to simplify VAT administration by considering transactions among members of the group as being outside the scope of VAT. Additionally, a VAT group speeds VAT recovery, as input tax credits can immediately be set off against the output tax liability of another group member. On July 13, 2022, the Ministry of Finance released draft guidelines on Polish VAT groups for public consultation. The guidelines are intended to present practical instructions for establishing and operating VAT groups in Poland.
- **Portugal:**[xlviii] On May 27, 2022, Portugal's parliament approved the 2022 State Budget which includes amendments to the VAT law. The Budget exempts goods and services acquired for defense efforts within the EU framework from VAT, as well as those for being used for the performance of legally allocated functions under EU law within the context of combatting COVID-19. The State Budget further expands the list of goods and services subject to the reduced VAT rate of 6 percent (5 percent in Madeira and 4 percent in the Azores) to dairy-free products made from nuts, cereals, fruits, or vegetables; repair services for domestic appliances; and delivery and installation of thermal and photovoltaic solar panels. It also extends certain compliance deadlines for filing and paying the periodic VAT.
- **Romania:**[xlix] On June 17, 2022, Romania extended, until December 31, 2026, application of the self-assessment requirement for businesses purchasing domestically sold cereals; electric energy; green gas emissions; natural gas; and mobile phones, integrated circuit devices not yet incorporated into products destined for end consumers, game consoles, tablets, and laptops when the overall value of such goods listed in an invoice exceeds RON 22,500 ($4,658).
- **Slovenia:**[l] On May 25, 2022, the Slovenian Financial Administration updated its VAT guidance regarding the issuance of VAT invoices in paper or electronic form, the information required for the submission of VAT returns, instructions for completing VAT returns, the procedure and conditions for VAT refunds for passengers traveling overseas.

- **Slovenia:**[li] On May 31, 2022, the Slovenian Financial Administration clarified the VAT treatment applicable to online sales of goods and distance deliveries to other EU Member States, including: (1) when delivery costs are considered a single transaction with goods sold online, or at a distance to taxpayers in the seller's country of residence or another member country; (2) that delivery costs are not considered a separate transaction merely because a customer has a choice in delivery methods; (3) that delivery costs that are ancillary to exempt services are the same as sales and considered exempt; (4) that VAT should be reported and paid by the seller for goods or services transported by the seller, the buyer is liable when goods or services are at the buyer's disposal immediately upon purchase; and (5) a clarification on VAT rates for delivery services when sale of goods is taxed at different rates.
- **Slovenia:**[lii] On June 15, 2022, Slovenia published Rule No. 1943 amending rules to implement the VAT Act effective June 30, 2022. The amendments provide a VAT exemption on goods imported by the European Commission, or an agency or body established under EU law, and clarify the correction of the VAT deduction and refund rules for taxpayers in such transactions. The amendments further clarify the documentation requirements for (1) armed forces claiming a VAT exemption, (2) the VAT identification number for taxpayers, and (3) the license revocation of a taxpayer representing an agricultural household. Finally, the amendments establish the VAT computation procedures for determining deductions on fixed assets.
- **South Africa:**[liii] On June 8, 2022, the South African National Treasury introduced a VAT self-assessment requirement relating to valuable metals in Notice No. 2140, which is effective July 1, 2022. The Notice sets the responsibilities of registered vendors and recipients of precious metals, including the registration, reporting, and invoicing obligations. The Notice further introduces a joint and several liability for vendors and recipients of precious metals for unpaid VAT under the self-assessment requirement. Finally, the Notice clarifies the transitional measures for the new requirement. The implementation of the self-assessment requirement was delayed until August 1, 2022.
- **South Korea:**[liv] On June 7, 2022, the South Korean Ministry of Strategy launched a consultation on Draft Notice No.2022-93, which would exempt simple processed food products such as kimchi and salted fish and imports of coffee and cocoa beans, excluding roasted products, from VAT.
- **Suriname:**[lv] The Suriname Minister of Finance & Planning recently postponed the effective date for implementing the new VAT system from July 1, 2022 to January 1, 2023.
- **Sweden:**[lvi] On May 30, 2022, the Swedish Tax Agency clarified elimination of the demarcation between food and restaurant services for VAT purposes. With legal development regarding the assessment of one or more sales and application of the same tax rate to food and restaurant services, there is no longer any reason for a distinction between the services.
- **Sweden:**[lvii] On June 16, 2022, the Swedish Tax Agency clarified that the VAT liability on imports arises at the same time as the customs debt arises in Sweden or would have arisen if the goods had been subject to customs duties on import. Taxpayers are required to pay VAT even if the customs debt is eliminated because of the confiscation of goods.
- **Sweden:**[lviii] Effective July 1, 2022, Sweden increased its VAT registration threshold from SEK 30,000 ($2,900) to SEK 80,000 ($7,800) of gross receipts realized in the tax year. The threshold applies only to domestic businesses; foreign businesses without operations in Sweden must register for VAT immediately upon making taxable sales to the Swedish market, regardless of value.

- **Tunisia:**[lix] On May 5, 2022, Tunisia issued Common Note No. 14, which clarifies the VAT exemption for commissions on electronic payment through payments terminals, the internet, and mobile phones; exemptions from the fee associated with cash withdrawals; and the list of transactions exempt from VAT. On May 11, 2022, Tunisia further issued Common Note No. 16, which clarifies suspension of VAT on acquisitions of international trade companies and export-oriented service companies; VAT taxable events on acquisitions of foreign trade businesses and service companies; and VAT refund application, procedure, and deadlines.
- **Turkey:**[lx] On May 28, 2022, Turkey published General Communiqué No. 42, which clarifies VAT exemptions applicable to goods delivered and services rendered to taxpayers with investment incentive certificates relating to construction work and engineering services provided to developers and manufacturers of electric motor vehicles. The General Communique also specifies the penalties and other consequences for misuse of the benefits.
- **Turkey:**[lxi] On June 22, 2022, Turkey published Circular No. 69, which clarifies that when applying the optional self-assessment mechanism, the buyer must submit the written contract between buyer and seller to the tax authority, as well as information relating to the seller (e.g., name, tax identification number). If it is not possible to submit the relevant information through the tax authority portal due to technical difficulties, the buyer must send the relevant information by registered mail or physically submit it at the tax office.
- **Uganda:**[lxii] Effective July 1, 2022, Uganda enacted various amendments relating to indirect taxation, including exempting oxygen cylinders or oxygen for medical use, assistive devices for persons with disabilities, and airport user services charged by the Civil Aviation Authority to reduce the cost of transiting through Entebbe Airport. In addition, the amendments zero-rate the sale of educational materials. Moreover, persons who sell goods or services to the government can use the cash basis accounting method. Finally, the Uganda Revenue Authority issued a notice clarifying that nonresident digital services providers are required to register for and collect VAT on sales made to Ugandan customers effective July 1, 2022; the first quarterly return will be due on October 15, 2022.
- **Ukraine:**[lxiii] On May 27, 2022, the State Tax Service of Ukraine (STS) announced that taxpayers that are obliged to submit tax returns in electronic format and were temporarily allowed to submit tax returns in any format for the period of martial law must submit their tax returns in electronic format. It also noted that starting May 27, 2022, the registration of VAT invoices in the Unified State Register of tax invoices would resume. This obligation was suspended, due to the Martial law enacted after the onset of the Russia-Ukraine conflict. On June 21, 2022, the STS released Information Letter No. 3 clarifying the amendments to the tax code and the rules relating to the deadlines for paying and filing of VAT and corporate income tax returns during the martial law. The letter includes information on procedural requirements to obtain VAT credits. Finally, the STS announced that it will resume the tax desk audits, tax factual audits, and unscheduled documentary audits that are carried out at the request of the taxpayer or if the taxpayer is reorganized, dissolves, closes a stand-alone division, initiates bankruptcy proceedings, or claims a VAT refund; and unscheduled documentary audits of taxpayers suspected of violating currency legislation.
- **Vietnam:**[lxiv] On June 15, 2022, the Vietnamese government clarified the temporary VAT rate reduction from 10 percent to 8 percent for certain goods and services between February 1, 2022 to December 31, 2022. The explanation includes a list of goods and services excluded from the reduced rate and the VAT invoicing procedures to reflect the rate change.

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Footnotes

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