Inside Indirect Tax

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About this Newsletter

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

KPMG Publications

KPMG *TaxNewsFlash* Newsletter on COVID-19 Measures

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

Developments Summary of the Taxation of the Digitalized Economy

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

Global E-invoicing & Digital Reporting Tracker

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

Overview of Indirect Tax Developments from KPMG International Member Firms

- **KPMG in Australia** published a report discussing Revenue Ruling (DA 19.2) issued by the tax authority of West Australia regarding the connected entities exemption (corporate reconstruction relief) that provides stamp duty relief on certain transactions between tightly controlled corporations and unit trust schemes that qualify as a family. This revenue ruling replaces a revenue ruling DA 19.1. DA 19.2, and applies a narrow view as to when a "notifiable event" will affect the grant and revocation of duty relief as it relates to post-transaction exemption applications (as compared to pre-transaction exemption applications). Going forward, when the tax authority is determining a post-transaction exemption application, it will not consider the influence of a proposed event (that may be a notifiable event that could trigger a revocation of the exemption) if the event has not occurred (i.e., completed) at the time of the decision.
- **KPMG in Australia** published a report discussing a draft update on the GST treatment of financial transactions issued by the Australian Tax Office (ATO) on August 10, 2022. The ATO issued the draft update to reflect changes in the GST law such as changes to the GST rules applicable to cross-border sales and digital currency. The draft includes new references relating to financial transactions and contains some proposed changes to modernize certain parts of existing guidance. It further includes a new "buy-now, pay-later" example that applies the ATO's longstanding view on interest-free loans as well as a number of updates clarifying when certain foreign currency-denominated products and overseas payment products are GST-free.
- **KPMG in Australia** published a report discussing a recent court decision on whether the Australian Federal Court had jurisdiction to hear disputes regarding notional GST paid by government entities. The Australian constitution prohibits the imposition of any tax (including GST) on property of any kind owned by a state (including property owned by local councils). Nonetheless, at the time of the implementation of GST, each state agreed to contribute voluntarily to the federal government the amount of the GST that would have been payable if the state were bound by the GST law in relation to its property ("notional GST"). Subsequently, local governments were also required to pay notional GST to gain access to local government financial assistance. In the case, *Landcom v. Commissioner of Taxation*, the taxpayer, a state-owned corporation, is the New South Wales (NSW) government's land and property development vehicle. In 2020, the ATO issued an unfavorable private ruling relating to GST to the taxpayer. The taxpayer objected, the ATO rejected the objection, and the taxpayer appealed to the Federal Court. The ATO argued that the Federal Court did not have jurisdiction to hear the appeal because the dispute related to notional GST payable and that the ruling was merely a courtesy to provide guidance to the taxpayer that did not have the status of a private ruling. The court found that it did have jurisdiction to hear the taxpayer's appeal because the voluntary inclusion by the taxpayer of notional GST in a GST return will result in an assessment that gives rise to a debt to the ATO, enforceable by the ATO. Regardless of whether there can be an assessment of notional GST, a taxpayer dissatisfied with an objection decision has a substantive right to seek relief from the court.

- **KPMG in Australia** published a report on the "Review of the Tax Treatment of Digital Assets and Transactions" consultation guide published by the Australian Board of Taxation. The consultation guide provides an overview of crypto assets along with the current taxation treatment in Australia. It also poses questions for interested parties to consider when formulating input to the review. According to a release, the Board of Taxation will conduct targeted consultation with stakeholders in the business community, academia, and government.
- **KPMG in Bahrain** published a report providing an overview of recent audits conducted by the Bahraini tax authority and the Ministry of Industry, Commerce, and Tourism. The report notes that the tax authority conducted audits of 80 commercial establishments and, as a result, detected 35 violations of VAT rules.
- **KPMG in Bahrain** published a report in which it noted that the Bahraini National Bureau for Revenue released infographics on its social media channels on the correct way to display the VAT registration certificate and the issuance of compliant simplified tax invoices.
- **KPMG in Indonesia** published a report discussing Government Regulation No. 15 Year 2022, which provides guidance regarding the tax treatment applicable to the coal mining sector, holders of mining business licenses (Izin Usaha Pertambangan), and special mining business licenses (Izin Usaha Pertambangan Khusus), including those that are a continuation of coal contract of work (Perjanjian Karya Pengusahaan Pertambangan Batu Bara) operations. The guidance addresses VAT, stamp duties, excise and customs duties, carbon tax and other taxes.
- **KPMG International** published a report discussing the implications of the EU's proposed carbon border adjustment mechanism (CBAM). The European Commission proposed that a carbon border adjustment mechanism be gradually implemented, during a three-year transitional phase commencing January 1, 2023. Effective January 2026, importers would be required to purchase CBAM certificates, with the number of certificates being equal to the total emissions embedded in the goods imported, reduced to account for carbon prices already paid in the country of origin and adjusted to reflect any free allowances still allocated under the EU emission trading system. Full implementation would only be achieved in 2035 when free allowances would be phased out.
- **KPMG in Luxembourg** published a report in which it notes that the Luxembourg tax authority has started imposing fixed penalties of EUR 10,000 ($10,120) on taxpayers who have not fulfilled their reporting obligations relating to the real estate levy. For KPMG's previous discussion of this obligation, please click here.
- **KPMG in Malaysia** published a report discussing an amendment to the Sales Tax Act imposing sales tax on the cross-border sale of low-value goods effective January 1, 2023. According to the amendment, online sellers are required to register for and charge sales tax on goods with an intrinsic value of not more than MYR 500 ($110.996) sold online (whether directly via the seller's own platform or third-party platform) and brought into Malaysia in the prescribed manner if they make sales up to MYR 500,000 ($111,325) in a 12-month period. The sale value excludes any tax, fees or other charges imposed on the low-value goods. The sales tax chargeable will be due at the time when the goods are sold by the taxpayer. Low-value goods will not be released from customs or excise control until the sales tax has been paid in full.

- **KPMG in Malaysia** published a report summarizing recent tax developments in Malaysia. The report notes that on August 1, 2022, the Malaysian tax authority published a Service Tax Policy in which it provided a service tax exemption on the provision of digital payment services by local non-bank providers. Subject to meeting conditions, local non-bank service providers are exempted from charging service tax on the provision of digital payment services from August 1, 2022 through July 31, 2025. The exemption however does not apply to nonresident digital payment services providers which remain subject to tax if the services qualify as digital services for service tax purposes.
- **KPMG in Mexico** published a report on a temporary waiver of penalties for non-compliance with the e-invoicing requirements. On August 22, 2022, the Mexican tax authority announced that penalties and sanctions will not apply until December 31, 2022, if e-invoices with a consignment note complement are issued without complying with all applicable requirements. The objective is for the transport sector to adapt to the use of the invoice, in addition to continuing to encourage economic reactivation.
- **KPMG in the Philippines** published a report discussing guidelines issued on May 18, 2022, regarding the special discount and VAT exemption applicable to certain online purchases made by senior citizens and persons with disabilities.
- **KPMG in Poland** published a report discussing recent indirect tax developments in Poland. First, the Polish Ministry of Finance presented a draft bill implementing the simple, local, and modern (SLIM) VAT 3 package proposed to be effective from January 1, 2023. The package would, among other things, broaden the number of taxpayers allowed to use quarterly settlements and the cash accounting method. (The gross sales threshold for a small taxpayer would be increased from EUR 1.2 million to 2 million); introduce a voluntary correction of the deductible VAT with a difference of less than 2 percent between the initial and final amount; and allow taxpayers to allocate funds accumulated on the VAT account to pay other taxes such as the tax on extraction of certain minerals, retail sales tax, foodstuffs tax ("sugar tax"), tax on small-volume alcohol bottles, and tonnage tax. In addition, the Polish government recently published proposed new supplementary obligations imposed on payment service providers, effective January 1, 2024. Further, a court in Warsaw recently held that "first occupation" for VAT purposes means the commencement of utilization of a building or parts thereof in a manner corresponding to normal, typical use. Therefore, a seller who bought real property in 2017 that remained unused until 2020 could not sell such property on a VAT-exempt basis before 2022 (two years after the first occupation in 2020). Finally, the government published an updated draft bill to implement the EU single-use plastics directive. The most important changes include introduction of a definition of a meal and drink and setting of additional rates for various charges.
- **KPMG in South Africa** published a report in which it noted that the South African Revenue Service (SARS) started issuing letters to nonresident digital services providers notifying them to register for VAT or provide an explanation as to why they should not be registered. In its annual performance plan for 2022-2023, the SARS noted that in its mission to broaden the tax base and ensure optimal compliance with tax legislation, VAT on e-commerce is one of the "key must-win battles."
- **KPMG in South Korea** published a report discussing tax reform proposals for 2022 announced by the Ministry of Economy on July 21, 2022. The proposed measures include amending the conditions to issue revised import VAT invoices and the introduction of purchaser-issued VAT invoices.

- **KPMG in Vietnam** published a report discussing a recent tax authority guidance on VAT measures relating to real estate transfers, power plants, and investment projects. The new guidance supplements and amends earlier guidance, including (1) amendments on the deductible land price used in VAT calculations in cases of real estate transfer, (2) amendments on the tax base to allocate VAT payable for certain dependent-accounting power plants, and (3) amendments on the VAT refund for investment projects.

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Global Rate Changes

- **Azerbaijan:**[i] Azerbaijan recently introduced a VAT exemption for certain animal feed products and veterinary services provided by businesses.
- **Barbados:**[ii] On July 31, 2022, the Barbadian Revenue Authority issued Policy Note No. 006/2022, which temporarily reduces the VAT rate for electricity. Effective August 1, 2022, through July 31, 2023, the VAT rate on electricity is reduced from 17.5 percent to 7.5 percent on the first 250-kilowatt hours used by households. The 17.5 percent standard VAT rate applies to usage exceeding 250-kilowatt hours. The reduced VAT rate does not apply to electricity sold to large power, secondary voltage power, time of use, streetlight, and general service tariff consumers. In addition, Barbados recently extended the VAT cap for petrol and diesel through the end of January 2023. The measure was introduced on March 16 and caps the VAT payable to 47 cents per liter for petrol and to 37 cents per liter for diesel.
- **Bulgaria:**[iii] On July 26, 2022, Bulgaria published a regulation for the implementation of the VAT Act which specifies the VAT exemption related to the provision of medical products for clinical trials and the performance of clinical trials for medical products aimed at the prevention, diagnosis, and treatment of diseases for which therapeutic options are limited or non-existent and from which significant therapeutic and public health benefits are expected. The regulation includes various adjustments/clarifications to the procedures and rules regarding VAT deductions, VAT refunds, and adjustments following the entry into force of a tax audit assessment notice, for evidencing the export of goods, and for applying the zero percent VAT rate for sales to EU institutions, international organizations, as well as adjustments to various forms.
- **China:**[iv] China recently introduced a VAT exemption for the provision of legal aid services. The measure is effective retroactively to January 1, 2022. VAT collected since the beginning of 2022 will be refunded.
- **Costa Rica:**[v] Effective September 1, 2022, Costa Rica applies a reduced VAT rate of 8 percent for construction-related services loaned to registered projects by the Federated College of Engineers and Architects of Costa Rica, regardless of the date of registration until August 31, 2023. The standard rate of 13 percent will apply from September 1, 2023. Costa Rica previously applied a VAT exemption for these services in 2020 which expired on August 31, 2021, and a 4 percent reduced VAT rate that applied from September 1st, 2021, till August 31st, 2022.

- **Germany:**[vi] On August 18, 2022, Germany announced that it plans to temporarily reduce the VAT rate applicable to natural gas from 19 percent to 7 percent to ease the burden of soaring energy prices. The reduced VAT rate shall apply from October 1, 2022 through March 31, 2024.
- **Lithuania:**[vii] On August 19, 2022, Lithuania proposed to reduce the VAT rate applicable to gas sold to household consumers from 21 percent to 5 percent effective November 1, 2022. The reduced VAT rate would apply to natural gas, and liquefied petroleum gas in cylinders and in other pressure vessels sold for heating purposes.
- **Paraguay:**[viii] On August 28, 2022, Paraguay published Decree No. 7689, in which it extended the application of the reduced VAT rate for the transport sector through December 31, 2022. The 10 percent reduced VAT rate applies to 50 percent of the amount for the services provided. The regime applies to national medium and long-distance passenger transport which are not already VAT exempt, public transport provided through taxis, school transport, national and international cargo transport, and other similar services.
- **Poland:**[ix] On August 23, 2022, the Polish government announced that it will further extend the following reduced rates: 0 percent on foodstuffs, fertilizers, and natural gas; 5 percent on heat energy and electricity; and 8 percent on fuel through December 31, 2022.
- **Uruguay:**[x] On August 23, 2022, Uruguay announced that purchases by foreign tourists of gastronomy, event catering services, and vehicle rentals are subject to a zero VAT rate between September 1, 2022, and April 30, 2023.
- **Uzbekistan:**[xi] On August 22, 2022, Uzbekistan announced plans to lower its standard VAT rate from 15 percent to 12 percent, effective January 1, 2023.

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Indirect Tax Developments and News from Around the World

The Americas

United States: Minnesota Department of Revenue Issues Guidance on Taxability of NFTs

The Minnesota Department of Revenue recently published a revised Sales Tax Fact Sheet 177, which added information on non-fungible tokens (NFT's) under the scope of digital products. The revised guidance provides that NFTs are subject to sales and use tax when the underlying product (goods or services) is taxable in Minnesota. NFT's may entitle purchasers to receive products or services including but not limited to digital products such as music, audio visual works, or video games; admissions to sporting events or concerts; prepared food and beverages; and tangible personal property such as collectibles or memorabilia.

As a reminder, Minnesota imposes sales and use tax on specified digital products, certain other digital products, and digital codes. Specified digital products include (1) digital audio works such as live or recorded music, songs, speeches, audio books, ring tones, or other sound recordings, (2) digital audiovisual works such as movies, music videos, news, and entertainment, or live or recorded events, except for digital photos, and (3) digital books such as novels, biographies, or dictionaries, not including periodicals, magazines, newspapers, blogs, or other news and information products. Other digital products include e-greeting cards and online video or computer gaming. Examples of non-taxable digital products include access to digital news articles, charts and graphs, digital photos and drawings, and logos and designs. At times taxable and non-taxable digital products are bundled and sold for one lump-sum. The guidance reminds taxpayers that bundled transactions are generally taxable unless the price of the taxable item or service is de minimis. It also notes that sales of digital products are sourced to the address of the customer for purposes of determining the applicable tax rate. For more information, click here.

Colombia: Tax Reform Proposal

On August 8, 2022, the Colombian Ministry of Finance submitted a drat tax reform bill to the parliament. The bill, titled "Tax Reform Law for Equality and Social Justice," includes several indirect tax measures. It proposes to eliminate the zero VAT rate that applies for 3 days per year on the sale of items of clothing, appliances, sports items, toys and games, school supplies and farming supplies, and eliminate the VAT exemption applicable to the distribution of gasoline and diesel fuel in border zones. The bill would further expand the VAT exemption on the urgent delivery of goods up to $200 if they were produced in a country that has a free trade agreement in place with Colombia that provides the VAT exemption (currently, the VAT exemption applies depending on the country where the goods are dispatched from).

In addition, the bill would introduce a carbon tax that would apply to the content of equivalent carbon (CO2eq) of all fossil fuels, including fuels derived from petroleum and all types of fossil gas used for combustion. The taxable event of the carbon tax would be the sale of fuels in Colombia, the withdrawal of fuels for self-use, as well as the import of fuels for self-use or for sale. Coal from coking plants would not be subject to the tax. The taxpayer would be the buyer of the fossil fuels. Producers or importers would be taxpayers when they withdraw the product for self-use. The producer or the importer would be the person responsible for collecting the tax. Taxpayers who certify to be carbon neutral would not be subject to the tax. The applicable carbon tax rate would depend on the emission of greenhouse gases of each type of fuel and its volume or weight. The rate would be adjusted each year according to the consumer price index of the previous year plus one point until it is equivalent to three Tax Value Units (TVUs) per ton of equivalent carbon. The tax would be reported and paid bi-monthly and it would be deductible for income tax purposes.

Moreover, the bill also proposes to introduce a 10 percent tax on exports of petroleum, coal, and gold. The tax would apply on the export of several items identified according to the customs tariffs (e.g., pea coal, lignite, turf, coke and semi-coke of pea coal, lignite or turf, and gold). The taxpayer would be the exporter, and the taxable base would be a percentage of the total Free-on-Board value in USD of the export of petroleum, coal and gold executed each month. The percentage would be determined according to a set formula based on the international prices of the relevant item.

In addition, the bill also proposes to introduce an excise tax on single-use plastics and ultra-processed sweetened beverages. If enacted, the tax on single use plastics will apply to the sale, withdrawal for self-use, or the import for self-use of single-use plastic products for packing goods, except for medicines or hazardous waste at 0.00005 Tax Value Units (TVUs) per gram of the container or packaging. The tax on sweetened beverages would apply to the production and first sale or import of the following ultra-processed sugary beverages according to their customs tariff: fruit-based beverages, juices, sweetened fruit juices, powder blends, sugary drinks, energy drinks, flavored drinks, any drink containing added sugar or sweeteners, sodas, soft drinks, malt-based drinks, as well as syrups and powders that after blending or dilution produce sugary, and energy or flavored drinks. Non-caloric sweeteners would not be considered added sugar.

Finally, the Tax Reform would also introduce measures to prevent tax evasion by amending the definition of "place of effective management" and introducing the concept of a "significant economic presence" (SEP). Businesses that surpass certain thresholds of sales to local customers during the fiscal year would be considered to have a SEP in Colombia and therefore may be required to pay income tax on revenues sourced in Colombia. It is unclear whether the SEP would also impact the VAT obligations of nonresidents.

Source: Colombia – Tax Reform Bill Seeks to Impose Environmental Taxes, (Aug. 19, 2022), News IBFD; Colombia – Tax Reform Bill Seeks to Impose Environmental Taxes, (Aug. 19, 2022); CCH, Global VAT News & Features, Colombia Unveils Tax Reform Package (Aug. 23, 2022).

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Denmark: Overview of Recent Indirect Tax Developments

On August 5, 2022, the Danish tax authority updated Guide E No. 41 on the VAT treatment applicable to transactions performed in the European Union (EU). The guide covers: reporting obligations and procedures for sales made in the EU, registration obligations relating to intra-EU transactions, clarifications on transactions made by VAT-registered companies in the EU and in non-EU countries, VAT accounting procedures and invoicing requirements, and VAT refunds.

On August 15, 2022, Denmark launched a public consultation on a draft bill to implement an annual "cultural contribution" levy of 6 percent on the gross receipts of digital streaming services in Denmark. The annual "cultural contribution" (*kulturbidrag*) would be calculated based on the streaming service providers' statements of gross receipts for the last financial year in Denmark. One-half of the net proceeds of the cultural contribution would go to a public service pool, and the remaining 50 percent would be used to support the production of Danish-language films. The Danish government considers that the proposed cultural contribution is not contrary to the OECD's Two-Pillar Agreement or the intentions it sets out in relation to the negotiations of the multilateral convention. As the negotiations at the OECD are ongoing, the precise wording and scope of the commitment have not yet been finalized. The Danish government states that the proposed cultural contribution should follow the precise wording of the OECD agreement and the precise wording of the commitment in the multilateral convention, and that the proposed cultural contribution would be adjusted in the light of this if necessary.

On August 16, 2022, the Danish tax authority issued SKM2022.392.SKTST clarifying the new criteria for motor vehicles and aircrafts to qualify as collectors' items under the second-hand VAT margin regime. Under the regime, VAT applies only to the difference between the purchase price of an item and the resale price, rather than the full selling price. To qualify for the regime, vehicles and aircrafts must be in original, historically correct condition without significant structural changes and no longer be produced. In addition, vehicles must be at least 30 years old and aircrafts must be at least 50 years old. However, vehicles and aircrafts evidenced as used in a historical event or designed and used exclusively for racing and having achieved significant results at prestigious national or international events do not need to meet the age requirement. Modernized or rebuilt motor vehicles and aircrafts are excluded from the regime.

On August 25, 2022, the Danish tax authority published National Tax Court Decision No. SKM2022.401.LSR, explaining the VAT obligation on income from unredeemed gift cards. In the case, a Danish company sold gift cards at a fixed price redeemable at taxpayer's business partners, with VAT applied at the time of redemption. The gift cards expired if not redeemed within three years, after which the company recognized income from the unredeemed cards as VAT-free revenue. The tax authority assessed the taxpayer for additional VAT on the unredeemed cards, and the taxpayer appealed. The court upheld the tax authority's decision. According to the court, the taxpayer sold the gift cards to its customers for goods and services subject to VAT. The VAT liability for such sales begins when the company recognizes the consideration for the expired card as income and the VAT liability must be calculated on the total amount of all the unredeemed multi-purpose gift cards.

On September 9, 2022, the Danish tax authority published Tax Board Binding Answer No. SKM2022.429.SR, clarifying the sourcing rules for intra-EU remote sales of goods to final consumers (commonly referred to as distance sales). In the case, a German company sold energy products and sought clarification on the sourcing for its sales to Danish private customers that were picked up outside of Denmark. According to the tax council, the reference to potential carriers on the taxpayer's website does not imply that the business must be seen as being indirectly involved in the delivery of products to its private customers. Therefore, the taxpayer's sales to Danish private customers were not sourced to Denmark and were not subject to VAT in Denmark. The tax council further clarified that the taxpayer would be considered indirectly involved in the shipment of goods, and distance sale rules would apply, if it referred private customers to possible carriers by telephone. Such sales would be sourced to Denmark, and Danish would apply. Danish VAT would similarly apply if the taxpayer informed the carrier that a private customer hired it.

Source: Denmark Tax Agency Updates Guide on EU VAT Transactions, Bloomberg Law News, August 11, 2022, Denmark - Denmark to Move Forward With 6% Digital Streaming Services Levy, (August 23, 2022), News IBFD; Denmark Tax Agency Explains New VAT Collector's Item Criteria for Vehicles, Aircraft, Bloomberg Law News, August 19, 2022; Denmark Tax Agency Explains VAT Obligation on Income From Unredeemed Gift Cards, Bloomberg Law News (August 8, 30); Denmark Tax Agency Clarifies Place of Supply Rules for Distance Sales, Bloomberg Law News (September 14, 2022).

Norway: Overview of Recent Indirect Tax Developments

On April 5, 2022, the Norwegian tax authority published Tax Appeals Board Decision No. SKNS 1-2022-16, clarifying when a company is allowed to claim a VAT refund even though the vendor did not remit the VAT to the tax authority. In the case, a taxpayer hired its sister company to renovate a rental property. The sister company did not remit the VAT and subsequently filed for bankruptcy. The taxpayer was denied the VAT deduction even through it paid into the sister company's bankruptcy estate, including a portion of the VAT amount due. The taxpayer sought a refund for double payment based on the deduction denial and the settlement payment; the tax authority rejected the claim. The board partly upheld the taxpayer's appeal, increasing the refund amount to what the VAT deduction would have been if the taxpayer had been allowed to deduct at the right time, rather than the amount that the taxpayer paid in settlement to the bankruptcy estate.

On May 25, 2022, the Norwegian tax authority published Tax Appeals Board Decision No. SKNA1-2022-11, which clarifies the VAT treatment of subcontracted fund management services. In the case, the taxpayer was a Norwegian fund management company that purchased subcontracted services, such as analysis, daily indexing, and trade matching, from a nonresident seller. The taxpayer had not reported VAT according to the self-assessment mechanism. At issue was whether the subcontracted services were exempt from VAT as "management of mutual funds." The board clarified that the subcontracted services must constitute a separate whole and be specific and essential to the management of investment funds for the exemption to apply. Here, the exemption did not apply because the services were not essential to the mutual funds, and the exemption does not extend to digital services of a technical nature.

On July 5, 2022, the Norwegian tax authority published guidance in which it clarified the MOF statement on VAT compensation for construction and operation of municipal swimming facilities. The guidance clarifies the conditional VAT exemption for a municipality's remuneration from the public, the non-application of the VAT compensation mechanism where the municipality carries out economic activities that may be in competition with businesses that are not entitled to compensation, the definition and scope of economic activity, the eligibility for VAT deductions for businesses that rent out a swimming facility to a municipality, and the residual capacity assessment application procedure.

On July 25, 2022, the Norwegian tax authority published Tax Appeals Board Decision No. SKNS1-2022-32, in which it clarified the application of the 20 percent additional tax for incorrect VAT reporting. In the case, the taxpayer was a VAT-registered construction company. Due to the coronavirus pandemic and sick leave, the taxpayer had alternate personnel fulfill accounting duties. The taxpayer submitted various VAT returns for 2021 and used an incorrect VAT code, leading some returns to incorrectly reflect tax-free sales. The tax authority audited the taxpayer and found customers mistakenly invoiced without VAT. The tax authority imposed additional tax given the reporting of taxable sales as tax-free gross receipts. The taxpayer appealed, citing excusable circumstances under the Tax Administration Act. The board held that an exception to additional tax did not apply because there were no obvious calculation or writing errors in the returns, and the conditions for imposing additional tax were met.

On August 10, 2022, the Norwegian tax authority published Tax Appeals Board Decision No. SKNS1- 2022-43, which clarifies the VAT treatment of home seller insurance and the associated condition report. In the case, company A, a Norwegian branch of a foreign group (company B), offered insurance services to sellers of residential and leisure properties based on risk assessments conducted by building inspectors on behalf of company B. The companies claimed that the insurance service plus the report was a single VAT-exempt insurance benefit. The board held that the insurance service and the report constituted two separate transactions because the report constituted an independent aim and cannot be regarded as a mere input factor for the insurance service. Therefore, the insurance service should be VAT exempt while the report should be subject to VAT.

On August 17, 2022, the Norwegian tax authority announced plans to introduce a reporting obligation for cryptocurrency exchanges. Under the proposal, providers of exchanges and storage services for crypto assets would be required to provide the Norwegian tax authority with information concerning crypto asset transactions on their platforms and those engaged in such transactions. The long-term goal would be for the tax authority to be able to use the information provided to complete the tax return for cryptocurrency customers in advance.

The Norwegian tax authority recently published a VAT handbook for 2022. It discusses: (1) the scope of the VAT regime; (2) relevant definitions; (3) VAT registration requirements, including the simplified VAT registration regime; (4) computation of the VAT tax base; (5) rates and exemptions for specific goods and services; (6) VAT deduction and refund rules; (7) reporting and payment deadlines; (8) invoicing rules; and (9) documentation and record keeping requirements.

Source: Norway Tax Agency Posts Board Ruling on VAT Treatment of Home Seller Insurance, Condition Report, Bloomberg Law News, August 19, 2022; Norway Tax Agency Publishes Guidance Clarifying VAT Compensation for Swimming Facilities, Bloomberg Law News, August 16, 2022; Norway Tax Agency Posts Board Ruling on VAT Treatment of Services Subcontracted From Foreign Sellers, Bloomberg Law News, August 19, 2022; CCH, Global VAT News & Features, Norway To Compel Cryptocurrency Exchanges To Disclose Info,(Aug. 23, 2022); Norway Tax Agency Posts Board Ruling on Refund of Excessive VAT Paid, Bloomberg Law News, August 19, 2022; Norway Tax Agency Issues 2022 VAT Handbook, Bloomberg Law News (September 12, 2022).

Tanzania: New VAT and DST Regulations for Nonresident Digital Services Providers

On July 1, 2022, the Tanzanian government issued a regulation on a new VAT registration mechanism for nonresident sellers of digital services to final consumers in Tanzania. The regulation defines digital services as services provided or delivered through the internet or any other electronic means, including: (1) websites, web-hosting or remote programs and equipment: (i) search engines and automated helpdesk services; (ii) customizable search engine services; and (iii) downloadable digital content including downloadable mobile applications, e-books, and films; (2) for software and updating thereof: (i) application software; (ii) system software (iii) drivers; (iv) filters and firewalls; and (v) plugins; (3) images, texts or information: (i) desktop themes; (ii) photographic images; (iii) pictorial images; (iv) screensavers; and (v) any right to view any item listed under this paragraph above; (4) access to data: (i) subscription media (i.e., news, magazines, journals, periodicals and publications, blogs, databases, information system services, games, internet based auction services, social networking services, webcasts, webinars, websites, web applications); (ii) electronic data management (i.e., online data warehousing, file sharing and cloud storage services); (iii) sharing and gig economic services including transport hailing services or platforms; and (iv) electronic booking or electronic ticketing services; (5) self-education packages: (i) distance teaching programs; (ii) educational webcasts; (iii) internet-based courses; (iv) internet-based education programs; (v) webinars; and (vi) digitized content of any book or electronic publication; (6) music, film and games including gaming activities: (i) audio clips; (ii) broadcasts not simultaneously broadcast over any conventional radio network; (iii) jingles; (iv) live streaming performances; (v) ringtones; (vi) songs; (vii) broadcasts not simultaneously broadcast over any conventional television network in Mainland Tanzania; (viii) documentaries; (ix) home-made videos; (x) streaming services; (xi) movies; (xii) music videos; (xiii) programs; (xiv) television series; (xv) video clips; (xvi) sound effects; and (xvii) games and games of chance; and (xviii) political, cultural, artistic, sporting, scientific and other broadcasts and events including broadcast television.

In addition, the regulation provides that digital services are sourced to Tanzania when provided to an unregistered person if the payment proxy including credit or debit card information and bank account details of the recipient of the electronic services is in Tanzania; or the resident proxy including the billing or home address or access proxy including internet address, mobile country code of the SIM card of the recipient is in Tanzania. Nonresident digital services providers are required to register for VAT effective July 1, 2022 from their first taxable sale sourced to Tanzania. Registered taxpayers are required to file returns online accompanied by the tax payable on or before the seventh day of the month following the month to which the return relates. Taxpayers shall pay tax to a bank account designated by the tax authority in Tanzanian shilling or its equivalent convertible currency at the Bank of Tanzania's prevailing exchange rate on the date of payment. Nonresident sellers of digital services are not required to acquire and use an electronic fiscal device. The regulation further clarifies that a nonresident person who provides digital services in Tanzania prior to the coming into effect of the regulation should, within six months from the date of coming into effect of the regulation, register for VAT purposes. Nonresidents should register online. Registered nonresident taxpayers are not eligible to claim input tax credits. Finally, Tanzania also introduced a 2 percent digital services tax (DST) with scope similar to the VAT digital services rules. Nonresident digital services providers registered for VAT would thus also have to comply with the DST rules.

Source: Tanzania - Tanzania Issues Regulations on Registration of nonresident Sellers of Electronic Services for VAT, (August 4, 2022), News IBFD.

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Asia Pacific (ASPAC)

Singapore: Overview of Recent Indirect Tax Developments

On August 1, 2022, the Inland Revenue Authority of Singapore (IRAS) updated the e-tax guide on GST for property developers. The updated guidance includes conditions for taxpayers to apply the GST self-assessment mechanism on all the purchases of imported low value goods (LVGs), including LVGs purchased from local and overseas sellers, electronic marketplace operators, and re-deliverers, regardless of their GST registration, effective January 1, 2023. It further explains the requirement to include the value of imported LVGs in determining the liability to register for GST under the self-assessment mechanism, the conditions for deducting the corresponding GST, the requirement to register effective January 1, 2023 for GST purposes for taxpayers that import services and LVGs exceeding SGD 1 million ($724,960) in a 12-month period and that are not entitled to full GST credits, and the exclusion of the LVGs sales value from the numerator and denominator of the ratio formula.

On August 3, 2022, the IRAS updated the e-tax guide on GST self-assessments. The update includes amendments to zero-rated provisions and transition rules for GST self-assessment transactions on imported services from January 1, 2020 and imported LVGs from January 1, 2023, amendments to the scope of the LVG rules, and several GST self-assessment scenarios that cover the imported services and LVGs.

On August 3, 2022, the IRAS updated its GST e-tax guide and FAQs on the attribution of input tax. The updated guide reflects the application of GST to imported LVGs purchased by consumers in Singapore from GST-registered sellers effective January 2023 and includes updated FAQs clarifying when GST on termination expenses (expenses incurred for closing a business) can be claimed in full, and the GST treatment of termination and non-termination expenses.

On August 3, 2022, the IRAS updated its GST e-tax guide on transfer pricing adjustments. The updated guidance reflects changes arising from the self-assessment regime to include imported LVGs and clarifies when to make GST adjustments if no invoice is issued, and no payment is made or received for a transfer pricing adjustment.

On August 3, 2022, the IRAS updated its e-tax guide on the GST treatment of payment tokens. The updates align the definitions in the GST guide with the definitions in the Income Tax e-Tax Guide on digital payment tokens and clarify that if a digital payment token is listed on an exchange, the IRAS will consider the token as a medium of exchange.

On August 3, 2022, the IRAS updated its e-tax guide on the GST treatment of transactions involving the transfer of business as a going concern and other excluded transactions. The updates mainly reflect that from January 1, 2023, GST will also apply to business-to-business imported LVGs via self-assessment mechanism and business-to-consumer imported non-digital services and LVGs purchased via the Overseas Vendor Registration regime.

On August 3, 2022, the IRAS updated its e-tax guide on the GST time of supply (sale) rules. The updates mainly reflect the extension of the Overseas Vendor Registration mechanism to imported non-digital services and LVGs effective January 1, 2023 as well as the related extension of the self-assessment requirement.

On August 3, 2022, the IRAS updated its e-tax guide on 'Directly in Connection With' and 'Directly Benefit'". The e-Tax guide provides guidance on the interpretation and application of the two expressions, "directly in connection with" and "directly benefit" used in certain provisions on the zero-rating of services. "Directly in connection with" is used for services which have direct effect on goods or land. "Directly benefit" is used in the context of person(s) who derive direct benefits from the services. The updates clarify the example on marketing services and reflect amendments to the zero-rating provisions relating to media sales effective January 1, 2022.

On August 3, 2022, the IRAS updated its e-tax guide on determining the belonging status of the seller and customer. The e-Tax Guide aims to help businesses that provide services to or in Singapore determine whether they are considered as belonging in or outside Singapore and whether their customers belong in or outside Singapore. Determining where a person belongs depends on where the person has his business establishment or fixed establishment, or if he has no such establishment, where his usual place of residence is. If the person has such an establishment only in Singapore, he will be treated as belonging in Singapore. If the person has such establishments both in Singapore and outside Singapore, as a seller of services, the person would be treated as belonging in Singapore if the establishment in Singapore is most directly concerned with the sale. If the person is a recipient of services, he will be treated as belonging in Singapore, if his establishment in Singapore is the establishment at which the services are most directly used or to be used. The updates mainly reflect the changes to imported non-digital services and LVGs effective January 1, 2023.

On August 5, 2022, the IRAS updated the FAQs for GST-registered businesses on the 2023 GST rate change. The FAQs cover the incremental increase to 8 percent (from 7 percent) on January 1, 2023, and to 9 percent on January 1, 2024, announced in the Budget 2022. Topics covered include application of the rate change to scenarios such as trade-ins, installment payments, real estate commissions, imports, and warranty replacements; price display requirements; invoice requirements; customer returns; record keeping requirements; administrative concessions related to General Interbank Recurring Order (GIRO) and check payments; and bad debt relief claims. The FAQs are intended to supplement an e-Tax guide on the same topic.

On August 15, 2022, the IRAS updated its e-tax guide on the GST concession for Singapore real estate investment trusts (S-REITS) and their special purpose vehicles, and Singapore-registered business trusts (S-RBTs), effective January 1, 2023. The updates include that S-REITs or qualifying S-RBTs must include the value of LVGs to establish whether they are liable for GST registration under the self-assessment mechanism and that the value of imported LVGs should be excluded from both the numerator and denominator of the residual GST credit apportionment formula.

On August 15, 2022, the IRAS updated the e-tax guide on GST exemptions for business entities investing in precious metals and the GST e-tax guide on VAT self-assessment rules for the insurance industry. The updates clarify the requirement to self-assess GST on imported LVGs.

On August 15, 2022, the IRAS updated its guide on the partial exemption and input tax recovery rules. The updates reflect changes arising from the self-assessment regime to include imported LVGs and provide an illustration of longer period adjustments involving time-barred periods.

On August 15, 2022, the IRAS updated its guidance on conditions for claiming GST on expenses for qualifying funds under the enhanced administrative concession. The updated guidance clarifies the GST concession available to financial funds to claim GST incurred on their expenses until December 31, 2024, provided they meet certain conditions. Funds can claim the GST incurred in their first year of the grant of income tax concession, if they meet the conditions for that specific concession at the end of the first year. If a fund cannot meet the minimum spending requirement in year one, but is able to do so in the second year, the fund can claim the GST incurred during the second year, but the GST incurred in the first year remains unclaimable.

Source: Singapore Tax Agency Updates e-Tax Guide on GST Concession for S-REITs, S-RBTs, Bloomberg Law News, August 17, 2022; Singapore Tax Agency Updates e-Tax Guide on GST Exemption for Investment Precious Metals, Bloomberg Law News, August 17, 2022; Singapore Tax Agency Updates e-Tax Guide on GST for Property Developers, Bloomberg Law News, August 4, 2022; Singapore Tax Agency Updates e-Tax Guide on GST Reverse, Bloomberg Law News, August 5, 2022; Singapore Tax Agency Updates FAQs on 2023 GST Rate Change, Bloomberg Law News, August 9, 2022; Singapore Tax Agency Updates GST E-Tax Guide for Insurance Industry, Bloomberg Law News, August 17, 2022; Singapore Tax Agency Updates Guide on Partial Exemption, Input Tax Recovery Rules, Bloomberg Law News, August 17, 2022; Singapore Tax Agency Updates Tax Guide on Attribution of Input Tax, Bloomberg Law News, August 5, 2022; Singapore Tax Agency Updates Tax Guide on Transfer Pricing Adjustments, Bloomberg Law News, August 5, 2022; Orbitax, Singapore Updates Several GST e-TAX Guides, August 8, 2022.

Uzbekistan: Overview of Recent Indirect Tax Developments

On August 1, 2022, the Uzbek Ministry of Finance (MoF) clarified the application of VAT on imports and sales of goods purchased with loans from international or foreign government financial institutions. Based on recent amendments to the VAT law, a VAT exemption applies to imports and sales of goods or services purchased by legal entities under projects that were approved before July 1, 2020, implemented in Uzbekistan, and wholly or partially funded by loans extended by international financial institutions or foreign government financial organizations. The VAT exemption applies to project participants, the project initiator (client), project implementation group or executing agency, and legal entities that are contractors, subcontractors, and vendors, until the scheduled full implementation of the project. If the implementation of the project is extended, the period of application of the VAT exemption is extended as well. On April 8, 2022, Uzbekistan issued a presidential decree which abolishes from May 1, 2022, these tax and customs benefits. The MoF clarified that this provision applies to goods or services purchased under loan agreements (regardless of their form) concluded on or after May 1, 2022, and that the VAT exemption still applies to loan agreements that were approved before July 1, 2020. Consequently, legal entities that acquire goods or services for projects approved on or after July 1, 2020, using loans from international financial institutions or foreign government financial organizations must pay the VAT due from their own funds and can offset the VAT paid against their VAT liabilities.

On August 11, 2022, the Uzbek State Tax Committee (STC) issued a guidance letter clarifying that a taxpayer has the right to claim a VAT refund if the VAT paid on expenditures exceeds the VAT collected on sales. Any claimed VAT refund is first used to pay off any outstanding tax debts. It can then be offset against the taxpayer's future VAT liabilities or paid to the taxpayer's bank account. Taxpayers can request a refund in their VAT returns by indicating the requested amount and whether the general or accelerated VAT refund procedure should be applied. If the tax authority decides to grant a full or partial refund, the relevant amount must be refunded within 60 days after submission of the request. Some taxpayers may take advantage of the accelerated VAT refund procedure, including large taxpayers, exporters, foreign diplomats, and equivalent participants. An accelerated VAT refund must occur within seven days from the date a refund request is submitted.

On August 17, 2022, the STC clarified that a legal entity that purchases movable property can reduce its VAT liabilities by deducting the VAT that it paid on that transaction if the following conditions are met: a VAT invoice was issued to document the sales transaction; the asset is duly registered in the taxpayer's accounts based on the relevant primary documents; and the asset is used in transactions that are subject to VAT. In addition, the taxpayer must have documentary evidence that the acquired asset was used in its business activities.

On August 18, 2022, the STC clarified that a VAT zero-rate applies to the following transactions: export sales of goods; exports of goods (or products resulting from their processing) that were earlier imported for processing in the Uzbek customs territory; exports of fuel and lubricants necessary to ensure the normal operation of aircraft; services directly related to shipping foreign goods in transit; and other services directly related to international transportation. To apply a zero-rate VAT to an export transaction, the taxpayer must provide the following documents: the original or a duly certified copy of a contract for the sale or movement of goods across the border; a customs declaration with a note from customs authorities authorizing the release of the goods for export from the Uzbek customs territory; and shipping documents with a note from customs authorities confirming the dispatch of goods to the country of destination, an agency, commission, or another similar contract (or its copy) if the goods are sold through a contracted agent.

Source: Taxnotes, Uzbekistan Clarifies Application of New Tax Legislation, August 11, 2022; Taxnotes, Uzbekistan Issues Three VAT Guidance Letters, August 22, 2022.

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United Arab Emirates: New Service for Voluntary Disclosure of Errors on Customs Declarations

On August 12, 2022, the Dubai customs authority introduced a new service that enables companies and individuals to apply for voluntary disclosures for all errors and omissions that occurred during the drafting and submittal of customs declarations. The new service—"submit self-audit findings"—is available to registered companies and individuals, can be applied any time after the clearance of goods, and allows for re-submission after completing all requirements. However, submission will not be accepted if the company is under customs audit, or a customs audit notice is received by the Dubai customs authority. The findings in a self-audit could be related to the use of a wrong Harmonized System (HS) code, the wrong description of goods, and understatement or overstatement of customs value. By submitting self-audit findings, not only will errors be corrected, but the company will be relieved from penalties applicable under a customs audit. To read a report prepared by the KPMG International member firm in the United Arab Emirates, please click here.

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In Brief

- **Algeria:**[xii] On August 4, 2022, Algeria published Ordinance No. 22-01 implementing the 2022 supplementary finance law, which, among other things, establishes a 9 percent reduced VAT rate for specific products and services and clarifies the tax filing procedures and penalties for noncompliance.
- **Andorra:**[xiii] On July 20, 2022, Andorra published Law No. 24/2022 which provides a broad framework for the taxation of crypto assets and blockchain technology. Among other things, the law provides that cryptocurrency mining activities will not be subject to the Indirect General Tax (VAT)subject to certain conditions, including that there should be no legal relationship between the person who performs the service and its recipient.
- **Aruba:**[xiv] On August 8, 2022, Aruba postponed the implementation of its proposed VAT regime from January 1, 2023, to January 1, 2024.
- **Australia:**[xv] The Australian government recently tabled in the House of Representatives the Treasury Laws Amendment (2022 Measures No. 2) Bill 2022. The proposed measure would require Australian electronic platform operators to provide information on transactions made through the platform to the ATO. The reports would apply to transactions related to the provision of taxi travel and short-term accommodations from July 1, 2023, and from July 1, 2024, for all other transactions. The requirement will not apply if the transaction relates only to a sale of goods if ownership of the goods is permanently changed, title to real property is transferred, or the transaction is a financial service. The requirement will also not apply if the transaction occurs between entities that are members within the same consolidated group. Platforms will also not be required to report transactions subject to a withholding obligation under Division 12.
- **Australia:**[xvi] On August 15, 2022, the ATO launched a consultation on Draft Legislative Instrument No. LI 2022/D11 on adjustment note information requirements under the GST Act 1999. The draft instrument includes a list of information requirements that must be specified in a credit note, and a recipient-created credit note, an alternative method to identify the adjusted amount to the payable GST, and requirements for multiple adjustments.
- **Austria:**[xvii] On August 1, 2022, the Austrian Ministry of Finance published a court decision clarifying the VAT deduction rules for nonresident telecommunications companies. In the case, the taxpayer was a Thai mobile company that applied for VAT deduction for roaming charges billed by Austrian telecommunications companies. The taxpayer was initially granted the deduction. However, the tax authority opened a retrial on the taxpayer for the previously claimed VAT deductions stating that the taxpayer had made domestic sales and that the taxpayer was granted a discount by the Austrian mobile phone companies. Upon appeal, the court held that the tax authority was correct in opening a retrial because the taxpayer and its customers used the roaming services in Austria; this does not constitute new facts, and the disclosure of the discount amount could change the VAT assessment amount because the taxpayers are fundamentally entitled to the VAT deduction.
- **Austria:**[xviii] On August 23, 2022, the Austrian Ministry of Finance published a court decision clarifying the correct period for claiming a VAT deduction. In the case, the tax authority

requested invoices from the taxpayer to support deductible VAT and ultimately issued a notice for additional tax based on a reduction of the deductible VAT. The tax authority found the VAT incurred on expenditures could only be deducted in the assessment period in which all deduction conditions were met, and there was no option to claim a deduction in other periods. The taxpayer argued that it should be entitled to deduct VAT on invoices received after the turn of the year and explained that certain vendors backdated invoices for services rendered in the old year. On review, the court held that the VAT deduction must be exercised for the assessment period when the right to it arose, and the recipient of the services is in possession of an invoice. If receipt of the services and the invoice do not fall in the same period, the deduction is allowed only in the period in which both requirements are fulfilled.

- **Bangladesh:**[xix] On August 7, 2022, the Bangladeshi National Board of Revenue published the 2022 VAT audit manual. The manual covers the purpose and scope of VAT audits, types of audits, selection criteria for VAT audits, audit inquiries, pre-audit preparations, audit information processing, procedures for identifying tax evasion, audit procedures, audit report reviews, and tax assessments based on audit reports.
- **Brazil:**[xx] On August 11, 2022, Brazil published RFB Ordinance No. 208 in which it announced a new tax amnesty program. Under the program, taxpayers who are in dispute with the tax authorities may elect to pay tax debts over a period of up to 120 months. Certain categories of taxpayers, including individuals and micro and small businesses, are allowed to pay tax debts over a period of up to 145 months. The Ordinance further allows the Federal Revenue to negotiate reductions in interest and penalties of up to 70 percent.
- **Bulgaria:**[xxi] On August 23, 2022, the Bulgarian Ministry of Finance launched a consultation to implement the DAC7 requirements. DAC7 allows the tax authorities of EU Member States to collect and automatically exchange information on income earned by sellers on digital platforms effective January 1, 2023. The consultation closed on September 6, 2022. For KPMG's previous discussion of the DAC 7 requirements, please click here.
- **Chile:**[xxii] On August 4, 2022, the Chilean tax authority published Ruling 2361 in which it clarified that certain services rendered by a company resident in the United States through an application software that allows investing in dollars by providing financial advice and investment services should not qualify as digital services for VAT purposes.
- **Chile:**[xxiii] On August 4, 2022, the Chilean tax authority issued Ruling 2360, in which it clarified the tax treatment of payments made under a carbon emissions contract. In the matter, the taxpayer requested clarification on the tax treatment of such payments to a Chilean company by a Canadian company, as well as regarding the obligation to issue documentation for tax purposes. The query referred to a business collaboration agreement concluded by both companies for the development of a forest carbon project under which both companies would share the profit obtained from the sale of carbon credits generated by the project. In accordance with the business collaboration agreement, once the Canadian company sells all the carbon credits generated by the project, the Chilean entity would be entitled to receive 50 percent of the profit obtained from the project. The tax authority clarified that the sale of carbon credits corresponds to the sale of intangible assets, and is not subject to VAT. Consequently, the Chilean company is not required to issue documentation for tax purposes regarding the sale of carbon credits. Moreover, considering that there is no sale of goods or services between the Canadian company and the Chilean entity, the latter is not obliged to issue tax documentation regarding the profit or income received from the former, but it may issue any kind of document stating the receipt of such

profit.

- **Chile:**[xxiv] On August 19, 2022, the Chilean tax authority issued Letter No. 2500 in which it clarified the VAT documentation and declaration requirements for sales of telephone recharges and prepayments through an intermediary or directly to final consumers. The authority clarified that telecommunications services are subject to VAT and to the general rules on documentation. If the intermediary sold the services, the company would be required to include on the invoices the VAT related to the added values or marketing margins the intermediary would obtain in selling to final consumers. The intermediary would not be required to issue invoices when selling to final consumers if the telecommunication company withheld the VAT in advance.
- **China:**[xxv] On July 14, 2022, the Chinese State Administration of Taxation (SAT) announced measures to strengthen the export VAT refund rules for foreign trade enterprises. The announcement explains measures allowing the amount of export VAT refunded to be taken as VAT deduction, treating the export credit insurance claims that foreign trade enterprises obtain as foreign exchange receipts and permitting a tax refund, expanding the scope of the departure tax refund regime, strengthening inter-departmental data sharing, simplifying the documentation required for tax refunds, reducing the average refund time from seven to six working days, and making the entire declaration, review, and feedback process electronic.
- **Croatia:**[xxvi] On August 3, 2022, the Croatian tax authority clarified the VAT sourcing rules for charging electric cars in EU member countries and in third countries. According to the tax authority, charging electric vehicles should be sourced to the country in which the consumer uses the goods, i.e., the place of the charging station. Therefore, Croatian VAT at the reduced rate of 13 percent should apply on the provision of electricity to consumers if the charging point is located in Croatia. A reseller should contact the tax authority of the respective EU Member State for VAT calculations if the charging point is in another Member State.
- **Dominican Republic:**[xxvii] On August 3, 2022, the Directorate General of Internal Revenue (DGII) of the Dominican Republic launched a web forum for a public discussion on the draft rule regarding the refund or compensation of VAT for exporters. The draft rule includes requirements to apply for such refund or compensation, the procedure to apply for the benefits as an exporter, and the possibility for local sellers of raw materials, packaging material, and goods to exporters to issue invoices without VAT under certain conditions.
- **Egypt:**[xxviii] The Egyptian tax authority recently clarified the tax treatment of online content creators. The tax authority defined the concepts of content making and content creators, provided a list of the types of revenue that might be realized by online creators, and clarified the conditions to be eligible for SME and micro-enterprise status. The tax authority further clarified when content creators are subject to VAT, when they should register for VAT, and what expenses may be deducted or accepted.
- **Egypt:**[xxix] The Egyptian Ministry of Finance recently announced that effective July 1, 2022, paper invoices will no longer be accepted for VAT deductions or refunds; only e-invoices are accepted, unless the paper invoices were issued by companies or institutions before being required to apply the e-invoicing system. It further provides that taxpayers are required to provide refund documents certified by a legal tax accountant registered with the public accountants and auditor’s association.
- **El Salvador:**[xxx] On August 22, 2022, the El Salvador National Assembly approved a new tax amnesty program. The program applies to outstanding taxes due on or before July 31, 2022

and applies through November 1 2022. Taxpayers who make voluntary payments and filing may obtain penalties and interest waiver on taxes that have been defaulted.

- **European Union:**[xxxi] On July 28, 2022, the European Commission published a call for application for members of an informal expert group to provide advice and expertise on certain elements of implementing the Carbon Border Adjustment Mechanism (CBAM). The CBAM is a climate measure establishing a carbon price on certain imports that corresponds to what would have been paid had the goods been produced in the EU. The informal expert group will assist the EU's Directorate General for Taxation and Customs Union to complete methods for the monitoring, reporting, quantification, and verification of embedded emissions of products in the sectors in the scope of the CBAM, and in the early preparation of implementing acts, before submission to the relevant drafting committee.
- **France:**[xxxii] On August 3, 2022, the French General Directorate of Public Finance updated its FAQs on VAT e-invoicing. The updated topics include the scope of e-invoicing, the scope of debit notes and account statements for e-invoicing, e-invoicing obligations for sales or issuance of gift vouchers, gift cards, and purchase vouchers, a separate e-invoicing requirement for commissions or management fees occurring in the marketing chain for specific vouchers, e-invoicing obligations for transactions paid through gift vouchers based on the nature of use, place of delivery or service, and VAT due on these goods or services, the VAT treatment for single and multipurpose vouchers in specified transactions, and the management of gift cards and vouchers.
- **Ghana:**[xxxiii] Ghana recently announced new tax measures in its mid-year 2022 budget. Among other things, the measures include a proposal to amend the VAT law to enable electronic invoicing to be piloted effective October 1, 2022, the extension of the interest and penalties waivers on all taxes outstanding up to 2020 through to December 2022, and a new requirement for importers not registered for VAT to make upfront payments ahead of goods clearance even if bonded warehouse is in use.
- **Greece:**[xxxiv] On August 18, 2022, the Greek tax authority issued Circular No. E. 2059 in which it clarified the tax treatment of subsidies and the right to deduct VAT related to them. The circular explains that subsidies directly connected to the price are included in the taxable base if they constitute total or partial consideration, and if they are paid to the seller of goods or provider of services by a third party. Taxpayers are allowed to deduct VAT incurred to the extent that the goods and services are used to carry out taxable transactions. However, there is no right to deduct the VAT that applies to both transactions exempted without the right to deduct VAT and to transactions outside the scope of VAT.
- **Guatemala:**[xxxv] On May 26, 2022, the Guatemalan tax authority published Government Agreement No. 125/2022, which includes new tax regimes for small taxpayers in the agro-business and electronic regimes. Among other things it specifies the conditions for registration under the electronic regime, including an annual income limit not exceeding GTQ 150,000 ($19,399), and requiring taxpayers to maintain specific records under the electronic regime.
- **Guyana:**[xxxvi] On August 11, 2022, Guyana published Fiscal Enactments (Amendment) Law No.2 which removes VAT credit provisions for exports of Guyanese-manufactured goods for the amount of VAT paid for water and electricity and changes the VAT return deadline to the 21st of the month instead of within 15 days of the end of the period.
- **Iceland:**[xxxvii] Effective September 1, 2022, Iceland began phasing out VAT refunds for

residential property renovations. The refund program was originally scheduled to terminate in 2021 and initially included design, vehicle repairs, leisure-related services, home help, and regular maintenance, among other things. Effective September 2022, homeowners may receive only a 60 percent refund of VAT incurred on home improvements.

- **Ireland:**[xxxviii] On August 15, 2022, the Irish Tax Appeals Commission ruled on an appeal of a tax authority decision on whether a taxpayer providing shuttle services to and from the Dublin Airport could claim VAT refunds for those services under the VAT refund order legislation. In the case, the taxpayer operated a shuttle service under a contract with a license holder of the bus route and provided the buses, drivers, fuel, and maintenance. The license holder sold tickets for the shuttle services and retained all proceeds from the fares. Under the contract, the license holder paid the appellant for each round-trip shuttle route, regardless of the number of passengers on each trip. According to the Commission, the taxpayer would qualify for a VAT refund only if the taxpayer was engaged in the business of transporting tourists by road "under contracts for group transport." From the facts, the Commission agreed with the tax authority that the appellant did not meet the criteria of "contracts for group transport" because of its single contract with the license holder.
- **Ireland:**[xxxix] On August 5, 2022, the Irish Revenue issued Revenue e-Brief No. 158/22 updating the Tax and Duty Manual Part No. 04-06-03 on deductibility rules for digital services tax (DST). The manual explains that when the DSTs of specified countries are incurred wholly and exclusively for trade purposes, the tax authority is prepared to accept that they are deductible expenses in calculating income from the trade. These countries include France, Italy, Turkey, U.K., and the Equalization Levy of India.
- **Israel:**[xl] On August 2, 2022, the Israeli tax authority published FAQs regarding the online invoice reporting rules for VAT. The FAQs clarify (1) the obligation of parties to report invoices online; (2) the manner of registration for mixed inputs and inputs with different dates; (3) information on reference numbers, registration of concentration of sales, customer numbers, registration in the case of dealer unions, and the registration of an export transaction; (4) the reporting process for negative values, refunds, zero payments, and repairs; (5) the procedure for financial institutions to report invoices received from their vendors registered as authorized dealers; and (6) the conditions for VAT deductions.
- **Italy:**[xli] On August 30, 2022, Italy published legislation in the official gazette that converts the Simplification Decree into law. The decree makes multiple legislative amendments, including extension of the requirement for the purchaser to self-assess VAT on certain goods susceptible to fraud, including greenhouse gas emission allowances, tablets, PCs, games consoles, and integrated circuits through December 31, 2026. The Decree further extended the quarterly VAT filing deadline for the second quarter from September 16 to September 30.
- **Italy:**[xlii] On August 22, 2022, the Italian Tax Authority (ITA) issued Letter No. 430/2022 in which it clarified the VAT treatment of app-based replacement services for company canteens. In the case, the taxpayer intended to enter into an agreement with an app-based service to facilitate payments for employee meals at affiliated restaurants. The taxpayer inquired whether the reduced 4 percent VAT rate for company canteen replacement services would apply on payments made through the app. The ITA clarified that agreements with the app, and its own agreements with the affiliated restaurants, did not meet the conditions to qualify as a company canteen replacement service. The app functioned

exclusively as a payment service and did not actually provide substitute canteen services. Therefore, the 10 percent VAT rate applies on the payments to restaurants made through the app.

- **Italy:**[xliii] On August 24, 2022, the ITA issued Letter No. 432/2022 in which it clarified the right to apply for a VAT refund following a business transfer. In the case, a company, registered in Italy for VAT purposes, erroneously charged and paid VAT on transactions with a purchaser, who was denied a deduction for the VAT paid. The vendor subsequently ceased business operations, and its successor company sought a clarification on who was entitled to claim a refund for the overpaid VAT. The tax authority clarified that the vendor is entitled to claim a reimbursement of erroneously paid VAT, but the vendor must also compensate the purchaser for the amount erroneously charged and collected. The two-year deadline to submit a request for VAT reimbursement starts from the moment the vendor pays that compensation. Finally, the ITA clarified that the vendor's successor in business interest is both entitled to submit the refund request and obligated to pay compensation.
- **Jamaica:**[xliv] On May 16, 2022, the Jamaican Tax Administration issued Advisory Guide No. 051622/01/GCT-TA which clarifies when the general consumption tax (GCT) is due, the determination of the tax point for hire-purchase agreements and progressive and periodical sales, and the impact of the GCT rate reduction (from 16.5 percent to 15 percent effective April 1, 20220) on credit notes as well as the motor vehicle tax credit.
- **Jersey:**[xlv] On September 21, 2022, Jersey's Council of Ministers agreed on a package of tax measures under the mini budget for 2022. The measures postponed the commencement of the VAT on cross-border sales of low value goods from January 1, 2023 to July 1, 2023. Under the earlier announced plans, Jersey will require larger offshore retailers selling to islanders to register for GST and charge GST at the point of sale, if the value of their annual importations is expected to exceed GBP300,000 ($346,000).
- **Jordan:**[xlvi] On August 4, 2022, the Jordanian tax authority announced an initiative to help social media influencers to reconcile their tax status with the agency and avoid fines and legal measures. The announcement explains that these taxpayers should voluntarily file tax returns and pay any income tax and sales tax owed, and voluntarily register for sales tax if they meet the gross receipts threshold.
- **Kenya:**[xlvii] On August 19, 2022, the Kenyan tax authority issued a public notice in which it clarified that the VAT e-invoicing rules do not apply to nonresident vendors of digital services. These vendors are, however, required to issue invoices or receipts indicating the value of the transaction and the amount of tax charged.
- **Latvia:**[xlviii] On July 29, 2022, the Latvian State Revenue Service (SRS) announced a refund mechanism for VAT incurred by Latvian taxpayers in Switzerland. The announcement explained that to receive the refund taxpayers must have carried out economic activity in Latvia and have a permanent residence or a permanent establishment in Latvia. Taxpayers must also submit a certificate issued by the SRS to the Swiss Federal Tax Administration, and the certificate must contain either the date of the taxpayer's SRS registration, or the taxpayer must have registered during the period for which the VAT refund is requested.
- **Latvia:**[xlix] On August 25, 2022, the SRS posted a guide on the Mini One-Stop-Shop (MOSS) regime, which allows businesses to comply with their EU-wide obligations pertaining to certain transactions through a single VAT registration. The guide provides a discussion of the MOSS regime's scope, information on the One-Stop-Shop (OSS) and the import OSS (IOSS) VAT regimes, procedures and rules for special declarations, and examples and scenarios

clarifying the OSS, IOSS, and MOSS regimes.

- **Latvia:**[l] On August 23, 2022, the SRS posted a general VAT guide clarifying VAT registration obligations and the sourcing rules for services, including services relating to real estate and movable property rental, vehicle rental, restaurants, and catering; VAT on electronic communications, broadcasting, digital services; application of a zero rate on goods and passenger transport services including handling and storage of goods; and the new VAT rules applicable to e-commerce activities.
- **Lithuania:**[li] On August 10, 2022, Lithuania proposed to amend its VAT Law related to calculating the VAT registration threshold for related persons. According to the current legislation, if related persons carry out economic activity, their combined income is included when calculating the threshold for VAT registration (regardless of the nature of the economic activity carried out). According to the proposed amendments, when related persons carry out economic activity, they would be given a right to prove that there is no artificial business division and, as a result, they are not required to calculate the threshold based on the total amount of income received. This requires a showing that none of their management bodies and/or individual members of management bodies are the same person, their actual economic activities are not of the same nature, and they do not act for each other's benefit or interests. If approved, the new measures will apply from January 1, 2023.
- **Malaysia:**[lii] On August 12, 2022, the Malaysia published Order No. P.U.(A) 259 and Order No. P.U.(A)260/2022, amending the sales tax and service tax regulations effective August 15, 2022. The first order includes measures requiring electronic submission of certain statements, requiring electronic payment of sales tax as well as surcharges, penalties, fees, or other payable amounts associated with specific statements, and deeming amounts paid by electronic banking as received when credited. The second order includes measures allowing for the omission of certain information from a credit or debit note issued by a nonresident registered person upon their request, and providing no extension when the filing or payment due date for service tax falls on a federal holiday in Malaysia or the country of a registered nonresident taxpayer.
- **Malaysia:**[liii] On August 23, 2022, Malaysia issued a guide on the sales tax exemption for registered manufacturers for purchases of raw materials, components, and packaging materials for use in manufacturing finished taxable goods. The guide covers relevant definitions, application procedures, use of exemption certificates, sales tax evasion and applicable fines, reporting losses from fire, natural disaster, and theft, procedures related to termination of a business, duties of approved registered manufacturers using the exemption, and recovery of sales tax for noncompliance with exemption requirements.
- **Malaysia:**[liv] Malaysia's parliament recently adopted the Service Tax (Amendment) Bill 2022, which provides that the tax authority may withhold a tax refund owed to a foreign registered person to pay off tax debts in the current or future period. The bill further clarifies that for a nonresident registered person who ceases to be liable to be registered, service tax will be deemed to be due on the day the final return is sent to the tax authority. In addition, a nonresident taxpayer who wishes to cease to be liable to register for the service tax must, in addition to establishing to the tax authority that they have ceased to provide any digital services, establish to the satisfaction of the tax authority that the total value of all digital services they provided in that month of application and the eleven months immediately preceding that month does not exceed the registration threshold. These taxpayers are required to notify the tax authority in writing within 30 days from the date

they cease to be liable to be registered.

- **Mauritius:**[lv] On August 2, 2022, Mauritius published Act No. 15, the 2022-23 Finance Act, which includes measures clarifying the VAT e-invoicing system and VAT chargeability for the sale of goods by a principal or agent.
- **Nepal:**[lvi] On June 17, 2022, the tax authority of Nepal posted a notice including a list of additional taxpayers required to issue VAT invoices electronically for the upcoming fiscal year. The notice explains that the requirement newly applies to taxpayers with gross receipts from goods and services exceeding NPR 100 million ($775,343) for income statement and VAT purposes. There are exceptions for financial institutions and all theaters in the box office system, including outside Kathmandu Valley. The requirement continues to apply to specified taxpayers including hotels, restaurants, and internet service providers with gross receipts above NPR 50 million ($387,672), and furniture and flooring stores with gross receipts exceeding NPR 100 million.
- **New Zealand:**[lvii] On August 3, 2022, the New Zealand tax authority issued Technical Decision Summary No. 22/16, in which it clarified the GST registration requirements for nonresident vendors. In the case, a nonresident taxpayer purchased two horses in New Zealand and applied for GST registration. The tax authority declined the application based on not having fulfilled the GST registration requirements. The tax counsel office decided that the taxpayer failed to prove that they were registered for a consumption tax in their country of residence and carrying on a taxable activity in their country of residence at a level that would render them liable to be registered for GST. If they were carrying out a taxable activity in New Zealand, they were not intending to make taxable sales in New Zealand, and were not making or intending to make sales in New Zealand to an unregistered person that would be a taxable sale if they were registered.
- **New Zealand:**[lviii] On August 15, 2022, New Zealand increased its tax-related interest rates effective August 30, 2022. The rate of interest on unpaid tax increased from 7.28 percent to 7.96 percent per year, and rate on overpaid tax increased from 0.0 percent to 1.22 percent per year.
- **Peru:**[lix] On August 12, 2022, Peru published Law No. 31557 which establishes rules for the operation of remote gaming and sports betting through technological platforms. The Tax on Remote Gaming and Remote Sports Betting is imposed at a rate of 12% on monthly net income, less maintenance costs, which are deemed to be equal to 2% of the net income. The net income is equal to the gross bets received in a month (gross income) less the total amount of returns and prizes (payouts) delivered in a month. In addition, the law clarified that VAT applies to remote gaming and sports betting through technological platforms.
- **Philippines:**[lx] On August 18, 2022, the Philippines Bureau of Internal Revenue published Revenue Memorandum Circular (RMC) No. 122-2022, in which it announced plans to launch a new online platform for registration-related tasks and transactions. The proposed platform, the Online Registration and Update System (OURS), will allow taxpayers to register, update, and perform registration-related transactions online. For this purpose, the circular advises taxpayers to update their registration records on the tax authority website to be able to enroll in the system.
- **Romania:**[lxi] Effective August 1, 2022, Romania amended the VAT rules for goods imported

for national defense. The new measures provide that for imported goods subject to customs duties, the chargeable event and the tax point for VAT will take place within 30 days from the date the chargeable event and the tax point arise for the purpose of customs duties. For imported goods not subject to customs duties, the chargeable event and the tax point for VAT will take place within 30 days from the date the chargeable event and the tax point arise for the purpose of European taxes, provided that such goods are subject to such taxes.

- **Romania:**[lxii] On August 11, 2022, Romania published a law providing instructions for zero-rating certain sales to the EU armed forces. The legislation introduces instructions on applying the zero-rating for domestic sales of goods and services destined to be used by the armed forces of other EU Member States or the civil personnel accompanying them, or to goods destined for armed forces canteens, when they take part in a defense operation performed as part of the EU 's common security and defense policy; and sales of goods and services to another EU Member State, destined to be used by the armed forces of a Member State (other than the Member State of destination) or the civil personnel accompanying them or to goods destined for their armed forces canteens, when they take part in a defense operation performed as part of the EU's common security and defense policy. In such cases, the zero-rating is to be applied by the vendor (i.e., direct zero-rating) based on a certificate presented by the beneficiary and issued by the relevant tax authorities. If the direct zero-rating is not applied, the beneficiary may request the reimbursement of the VAT incurred from the tax authorities.
- **Saudi Arabia:**[lxiii] On July 19, 2022, the Saudi Arabian Zakat, Tax and Customs Authority (ZATCA) announced a new procedure on VAT refund claims applicable to exempt sales of real estate. It specifies the conditions to be met to benefit from the VAT refund, as well as provides some details on the refund procedure.
- **Slovakia:**[lxiv] On August 18, 2022, the Slovak tax authority issued Guide Nos. 8/DPH/2022/IM and 9/DPH/2022/IM, which clarify: (1) VAT registration requirements; (2) invoice and reporting requirements for sales of services subject to VAT in another EU country; (3) return filing and payment procedures; (4) procedures and deadlines for submitting summary reports; (5) the 10-year record keeping requirement for invoices, and (5) the requirement to cancel VAT registration upon a taxpayers termination of domestic business.
- **Slovenia:**[lxv] On August 1, 2022, the Slovenian Ministry of Finance published a proposal that implements DAC7 requirements. DAC7 allows the tax authorities of the EU Member States to collect and automatically exchange information on income earned by sellers on digital platforms effective January 1, 2023.
- **South Africa:**[lxvi] On August 12, 2022, the South African Revenue Service published a guide for foreign vendors of digital services. The guide covers the registration obligation and process for nonresident digital services providers, as well as how to complete and submit the VAT return, and the procedure to request to be deregistered for VAT purposes if the value of digital services sold falls below the ZAR 1 million ($57,000) threshold in a period of 12 months.
- **Spain:**[lxvii] On July 29, 2022, the City Council of Barcelona launched consultation for a tax on e-commerce companies that use the "public domain" to deliver goods to their customers. The proposed tax is being considered level the playing field between e-commerce delivery companies that are not resident in Barcelona, but who derive economic benefits from the

use of public space like roads, and merchants that are resident in Barcelona and pay tax.

- **Ukraine:**[lxviii] On July 28, 2022, the Ukrainian parliament accepted for consideration, Bill No.7611, which proposes to extend the application of the VAT exemption on software products. Eligible software products include operating systems, applications, entertainment or educational computer programs and their components, and internet sites, online services, and access to those sites and services; copies of computer programs and their components in tangible and electronic form; any modifications, updates, applications, and functionality additions and extensions for computer programs, and the right to receive those products over a specific period of time; and cryptographic means of protecting information. The current exemption, adopted January 1, 2013, is currently scheduled to expire on January 1, 2023. If approved, the bill would extend the exemption for another five years.
- **Ukraine:**[lxix] On July 19, 2022, the Ukrainian State Fiscal Services issued a guidance letter in which it clarified that insurance indemnities paid for the occurrence of an insured event are not subject to VAT in Ukraine because the provision of insurance and reinsurance services is exempt from VAT. Therefore, paying an indemnity does not change the VAT obligations of the insurance company or of the person to which the indemnity is paid.
- **United Kingdom:**[lxx] On August 5, 2022, the UK's tax authority (HMRC) updated its guidance on VAT registration. The guidance explains the VAT registration procedure and rules, clarifies the instances when nonresident businesses must register for VAT, includes a procedure to complete the VAT2 form for some business activities, clarifies that taxpayers can use the VAT1 form to register a new or existing business; and includes a checklist and FAQs to complete the VAT forms.
- **United Kingdom:**[lxxi] On August 3, 2022, the Bank of England's Monetary Policy Committee decided to hike the base interest rate by 0.5 percentage points, to 1.75 percent. Consequently, on August 5, 2022, HMRC confirmed that the tax-related interest rates would change with effect from August 23, 2022. Specifically, HMRC increase the interest rates for late payment to 4.25 percent and the repayment interest rate to 0.75 percent.
- **Vietnam:**[lxxii] On August 1, 2022, Vietnam clarified six instances in which land prices are deducted for the VAT calculation on property transfers. It clarified that the price of land is deducted for VAT calculation purposes on property transfers in the case of the state being allocated land for investment in infrastructure to build houses for sale, an auction of land use rights, the leasing of land for infrastructure construction or for building houses for sale, a business receiving a land use right transfer from an organization or individual, a business establishment receiving a land use right contribution as capital from an organization or individual, and a real estate business implementing a form of build transfer payment by the value of land use rights.
- **Vietnam:**[lxxiii] On August 7, 2022, Vietnam published Decree No. 49/2022 which includes measures clarifying the VAT calculation price for electricity production activities, requiring specific businesses to pay VAT according to the flat tax method, requiring businesses to declare VAT separately for investment projects, providing a VAT refund for investment projects if the accumulated VAT incurred is VND 300 million ($12,786) or more, and clarifying the cases in which businesses are not entitled to a VAT refund. The decree is effective from September 12, 2022.

- **Zimbabwe:**[lxxiv] Zimbabwe recently announced proposed changes to its VAT regime in its 2022 mid-year budget The changes would criminalize non-remittance of VAT and provide a penalty, relax the rules restricting VAT payments in foreign currency, impose stricter rules for VAT refund requests, eliminate the tax authority's discretionary powers to accept a claim backdated as far back as three years, reduce the VAT registration threshold from $60,000 to $40,000 effective September 1, 2022, and clarify the VAT treatment of digital services.

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Footnotes

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