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.

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Global Rate Changes

- **Algeria:**[i] On December 5, 2023, the Algerian parliament passed the 2024 Finance Bill. The law extends the VAT exemption for locally produced fresh fruits, vegetables, chickens, and other food items until December 31, 2024. It also extends the VAT exemption for fixed Internet services, bandwidth rental for fixed Internet services, web server hosting in Algerian data centers, website design and development costs, and website access and hosting maintenance and support costs until December 31, 2025.
- **Antigua and Barbuda:**[ii] Effective January 1, 2024, Antigua and Barbuda increased its VAT rate from 15 percent to 17 percent and discontinued various tax breaks for the tourism industry including the 14 percent reduced VAT rate. Further, it plans to increase the rate of the Money Transfer Levy from 2 percent to 5 percent and increase the property tax rate on properties worth.
- **Azerbaijan:**[iii] On December 27, 2023, Azerbaijan extended the application of the VAT exemption for imported raw materials through December 31, 2023.
- **Belgium:**[iv] Effective January 1, 2024, Belgium permanently extended the application of the 6 percent reduced VAT rate to the demolition and reconstruction of qualified residential dwellings, subject to certain conditions. Belgium further extended the application of the 6 percent reduced VAT rate for real estate work involving the installation of heat pumps near residential buildings until December 31, 2024. To read KPMG's previous discussion of this measure, please click here.

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- **Bulgaria:**[v] The Bulgarian parliament recently approved measures to extend the application of the 9 percent reduced VAT rate for rvestaurants through December 31, 2024, and for tourism services and gyms through June 30, 2024.
- **Cabo Verde:**[vi] Effective January 1, 2024, Cabo Verde implemented a VAT and import duty exemption for certain products and machinery related to environmental sustainability and waste recycling. This includes items that offer alternatives to single-use plastics and those necessary to produce inert materials, including mineral extraction on specific islands. It also increased the special consumption tax (SCT) on tobacco from CVE 90 to CVE 120 for each pack of cigarettes.
- **Czech Republic:**[vii] Effective January 1, 2024, the Czech Republic unified its reduced VAT rates into a single 12 percent rate. Additionally, it (1) moved certain goods and services, such as hairdressing, shoe and clothing repairs, newspaper and magazine sales, activities without clear social or health benefits, and those reclassified due to COVID-19, to the standard VAT rate; (2) excluded some beverages in food services from the scope of the 12 percent reduced VAT rate; (3) zero-rated the sale of books; and (4) limited the VAT deduction for specified passenger cars to CZK 420 thousand (corresponding to a purchase price of CZK 2 million). To read a report prepared by the KPMG International member firm in the Czech Republic, click here.
- **Egypt:**[viii] Egypt recently reduced the VAT rate for equipment and machinery used under "completion" agreements from 14 percent to 5 percent. The reduced rate applies to all locally purchased or imported machinery used directly for production. To qualify for this reduced VAT rate, a certificate must be issued confirming the machinery's use in a production line for manufacturing products or services. Additionally, the taxpayer must provide a certificate of having registered the relevant product or service with the tax authority.
- **Greece:**[ix] Effective January 1, 2024, Greece enacted legislation that includes measures to permanently apply a 6 percent reduced VAT rate to defibrillators, cinema tickets, and certain personal hygiene and protection items. The legislation also permanently applies a 13 percent reduced VAT rate to the import of art objects, collections, or antiques, as well as the delivery of objects of artistic value, tickets for zoos, and the provision of services by gyms and dance schools (under certain conditions). Additionally, the legislation extends until June 30, 2024, the application of the reduced VAT rate of 13 percent to cocoa, tea, chamomile, and infusions, as well as for the transportation of persons and their luggage, excluding taxis. Furthermore, the legislation ended the application of the reduced VAT rate to non-alcoholic drinks and introduced a zero percent VAT rate for COVID-19 vaccines. To read KPMG's previous discussion of these measures, please click here.
- **Ireland:**[x] On December 19, 2023, the Irish tax authority published guidance on the tax-related measures enacted as part of the Finance Act 2023. Among other things, the law extends the application of the 9 percent reduced VAT rate for gas and electricity through October 31, 2024. It also introduces effective January 1, 2024, a zero VAT rate for e-books and audiobooks, as well as for the sale and installation of solar panels on or adjacent to buildings used wholly or predominantly for the provision of primary or post-primary education by recognized schools. The law also decreases the farmers' flat-rate addition from 5 percent to 4.8 percent. Finally, the law exempts effective December 18, 2023, accommodation services.
- **Latvia:**[xi] Effective January 1, 2024, Latvia introduced a 12 percent reduced VAT rate for certain varieties of fruit, berries, and vegetables. This rate will be in effect from January 1 through December 31, 2024. Previously, a 5 percent super-reduced rate applied to these items. The legislation also exempts participation in sports competitions organized by

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associations or foundations, fees for sports lessons provided by these entities to persons engaged in sports, and fees for children's stays in children's camps.

- **Lithuania:**[xii] On December 4, 2023, Lithuania's parliament accepted for consideration a draft law proposing to introduce a 5 percent reduced VAT rate for all fruits, berries, and vegetables.
- **Poland:**[xiii] Effective January 1, 2024, Poland extended the application of the VAT zero-rate for basic food products through March 31, 2024, introduced a VAT zero-rate for selected medicinal products, and introduced a temporary 8 percent reduced VAT rate for selected products used in agricultural production through December 31, 2024. To read a report prepared by the KPMG International member firm in Poland, click here.
- **Portugal:**[xiv] On November 29, 2023, the Portuguese Parliament approved the country's 2024 Budget Bill, which includes measures to end the application of the VAT zero-rate for basic food items; extend the zero-rating on agricultural products and certain electricity sales until December 31, 2024; introduce a 6 percent reduced VAT rate to certain fish pastes, tutoring services, and equipment for alternative energy use, as well as child seats for bicycles; and introduce a 13 percent reduced VAT rate to vegetable oils.
- **Romania:**[xv] Effective January 1, 2024, Romania issued an emergency ordinance that includes measures introducing a 50 percent VAT deductibility limit on the acquisition, rental, or leasing of buildings in residential areas or blocks of flats, unless used exclusively for business purposes. The ordinance also clarifies that the 9 percent VAT rate applies to powdered milk for newborns, infants, and young children, regardless of sugar content. Additionally, it amends the definition of sugar to exclude sugars from unsweetened fruit juices, fruit juice concentrate, and fruit smoothies.
- **Slovakia**[xvi] Effective January 1, 2024, Slovakia excluded alcoholic products from restaurant services that are subject to a 10 percent reduced VAT rate.
- **Spain:**[xvii] Effective January 1, 2024, Spain extended the application of the 10 percent reduced VAT rate for electricity (through December 31, 2024); for natural gas (through March 31, 2024); and pellets, briquettes, and firewood for heating (through June 30, 2024). It also extended through June 30, 2024, the application of the 5 percent reduced VAT rate on olive and seed, and the VAT zero-rate for basic food products. To read a report prepared by the KPMG International member firm in Spain, click here.
- **Sri Lanka:**[xviii] On December 11, 2023, the Sri Lankan Parliament approved amendments to the country's VAT law, including measures to increase the standard VAT rate to 18 percent and eliminate most VAT exemptions, and retain only those for health, education, and essential foods effective January 1, 2024. To read a report prepared by the KPMG International member firm in Sri Lanka, click here.
- **Taiwan:**[xix] Taiwan recently extended the application of the VAT zero-rate for imported soybeans, wheat, and corn through March 31, 2024.
- **Tajikistan:**[xx] Effective January 1, 2024, Tajikistan decreased its standard VAT rate from 15 percent to 14 percent, with a further reduction to 13 percent scheduled for 2027. The country also implemented a 7 percent reduced VAT rate for construction work, hotel services, and public catering, and a 5 percent reduced VAT rate for the sale of domestically produced agricultural products, processing of agricultural products, educational services, and medical care activities. Moreover, it also introduced a customs duty exemption and a 50 percent VAT rate reduction for specific government imports including agricultural goods, and the import of natural gas and electricity.

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- **Türkiye:**[xxi] On November 24, 2023, Turkey published its draft Omnibus bill, which includes measures to extend several VAT exemptions set to expire in 2023 until December 31, 2028. Covered VAT exemptions include those for goods and services delivered for projects under the build-operate-transfer model, construction of health and educational facilities in exchange for leasing, and the transfer and delivery of urban rail transport systems. The bill also covers the transfer and delivery of immovable properties to the Social Security Institution, and their subsequent transfer or sale, including those made at auction.
- **Ukraine:**[xxii] As part of the IMF's requirements for the subsequent revision of Ukraine's current financing program, the Ukrainian Cabinet of Ministers adopted the National Income Strategy, which would be implemented in stages until January 1, 2030. The strategy includes measures to decrease the standard VAT rate from 20 percent to 15 percent and introduce two reduced VAT rates of at least 5 percent.
- **United Kingdom:**[xxiii] On December 8, 2023, the United Kingdom proposed to extend the application of the VAT zero-rating for women's sanitary products to period underwear effective January 1, 2024. In addition, on December 11, 2023, the United Kingdom proposed to expand the scope of the VAT zero-rate regime for energy-saving materials (ESMs), effective from February 1, 2024 to include (1) electricity battery storage, water-source heat pumps, and diverters retrofitted to ESMs such as solar panels and wind turbines (2) installation of all qualifying ESMs in buildings used solely for a relevant charitable purpose; and (3) certain groundworks necessary for the installation of ground-source and water-source heat pumps. The zero rate for the installation of technologies within this relief will last until March 31, 2027, after which the 5 percent reduced VAT rate will apply. The UK implemented these rules through The Value Added Tax (Installation of Energy-Saving Materials) Order 2024, which was published on January 11, 2024.
- **Vietnam:**[xxiv] Vietnam recently clarified that the temporary 2 percent standard VAT rate reduction (from 10 percent to 8 percent) applies to all stages of the supply chain. This includes importation, manufacturing, processing, and trading establishments that adopt the VAT credit method, as well as business establishments (including business households and business individuals) that declare and pay VAT at a deemed percentage rate of revenue. For more information, click here. To read KPMG's previous discussion of Vietnam's temporary reduced rate measures, click here.

Digitalized Economy Indirect Tax Updates

Azerbaijan: Implementing Regulations for VAT on Cross-Border Sales of Digital Services Published

On November 1, 2023, Azerbaijan's government approved technical regulations implementing the requirement for non-resident digital services providers to register for, collect, and remit VAT. According to the regulations, the regime applies to services and work performed using information systems, encompassing activities such as uploading electronic books, music, audio-video materials, graphic images, virtual games, software, and placing advertisements on the internet. There is no registration threshold for this regime. The location of the customer can be determined by either the IP address or the country code of the customer's mobile number. The regime applies to both sales made to consumers (B2C sales) and to business customers (B2B sales). For B2B sales, taxpayers are required to issue e-invoices and can confirm the business status of their customers by verifying their tax identification numbers (TIN).

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Even though the technical regulations have now been approved, the implementation of the regime is still hampered by pending technical solutions (interface, software, electronic application forms, synchronization with other modules of the e-tax portal, etc.). As such, the tax authority is expected to issue further guidance regarding how taxpayers may begin compliance with the regime. For more information, click here.

Japan: Proposed Introduction of full JCT Liability for Digital Platforms

On December 14, 2023, the Japanese government approved the 2024 tax reform package outline, which, if approved by the parliament, will, among other things, amend the Japanese consumption tax (JCT) rules for nonresident vendors of digital services. Currently, nonresident vendors of digital services to consumers (B2C) in Japan are required to register for and collect JCT if their sales are above the registration threshold even if their sales are facilitated through a digital intermediary such as a marketplace.

The reform proposes to introduce a full JCT liability regime for digital platforms. If foreign businesses conduct B2C digital services sales through digital platforms and receive payment through these platforms, the transactions will be considered as performed by the platform operators. Consequently, the operators of these platforms will be fully responsible for JCT on relevant cross-border B2C digital transactions. This regime will apply to digital platforms where the total payment for relevant transactions exceeds JPY 5 billion and will apply to transactions on or after April 1, 2025. Platforms meeting this requirement would be required to submit a notification to the tax authority. Once a platform is designated as a specified platform operator, the tax authority will publish he names of the platforms and the platforms will be required to notify digital services vendors about the platforms' JCT obligations.

The reform further proposes to limit the small business VAT exemption for foreign businesses. Starting from October 1, 2024, foreign businesses would no longer be eligible for the small business VAT exemption based on being below the payroll threshold of JPY 10 million. Finally, the tax reform would implement the Crypto-Asset Reporting Framework (CARF) published by the OECD on October 10, 2022.

Source: Japan – Japan Outlines 2024 Tax Reform Package Including Additional Global Minimum Tax Guidance, VAT Treatment for Digital Platforms and Crypto Asset Reporting Framework (December 28, 2023), News IBFD.

North Macedonia: Regulations on VAT Registration for Nonresident Digital Services Providers

The Ministry of Finance of North Macedonia recently issued a new rulebook regarding the requirement for foreign taxpayers to register for VAT through the appointment of a tax representative. The rulebook follows recent amendments to the VAT law requiring nonresident digital services providers to register for, collect, and remit VAT effective January 1, 2024. (For KPMG's previous discussion on this requirement, click here.)

The rulebook prescribes the new form to be submitted by foreign taxpayers registering for VAT through a tax representative and provides that such taxpayers must submit the following: (1) an agreement for the appointment of the tax representative providing the following minimum information: (a) the name of the foreign taxpayer, (b) the address of the foreign taxpayer's seat or home address, (c) the name of the tax representative, (d) the address of the tax representative's seat or home address, (e) the Macedonian VAT number of the tax representative, and (f) the appointment period; (2) proof of registration in the foreign jurisdiction; (3) proof that the tax representative is not undergoing bankruptcy or liquidation procedure; and (4) proof that the tax representative has been VAT registered for at least

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12 months before the submission of the request form for its appointment. The tax authorities are required to issue a decision on the VAT registration request within 15 days of submission of the form. To read a report prepared by the KPMG International member firm in North Macedonia, click here.

Other Developments

- **Belgium:**[xxv] Belgium's tax authority recently published comprehensive guidance on the tax rules applicable to social media personalities and influencers. This guidance, available in both Dutch and French, consolidates all relevant information on a single webpage. It includes legislation, case law, parliamentary questions, official opinions, and recent external publications on the subject matter. The guidance discusses key aspects such as the classification of income as either professional or diverse, registration requirements, the tax treatment of items received as gifts for promotional purposes, and the rules concerning value-added tax liability.
- **Belgium:**[xxvi] On December 22, 2023, Belgium implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. Under this requirement, payment service providers in EU Member States are obligated to report certain information about cross-border payments they facilitate. This information typically includes details about the payer, the payee, the amount of the payment, and the date of the transaction. The information is then shared by EU Member States through the Central Electronic System of Payment Information (CESOP). By collecting and analyzing this data, authorities can more effectively identify and investigate potential instances of VAT fraud.
- **Chile:** On November 20, 2023, the tax authority of Chile (SII) issued Resolution EX. SII No. 132/2023, which provides guidance on recording services from independent workers on digital platforms in Chile. It mandates registered digital platforms to issue e-receipts when they compensate these workers. The tax authority further requires these platforms to file an annual return using form 1879, which details the withholdings for these workers. This resolution will take effect three months after its publication. To read a report prepared by the KPMG International member firm in Chile, click here.
- **Czech Republic:**[xxvii] On December 29, 2023, the Czech Republic implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Denmark:**[xxviii] On December 19, 2023, the Danish parliament approved Bill No. L 70, which imposes a cultural levy on on-demand audiovisual media service providers effective from January 1, 2024. The levy, based on the revenues generated in Denmark, is set at a basic rate of 2 percent for all on-demand streaming companies, with an additional 3 percent surcharge for companies that invest less than 5 percent of their Danish revenues in Danish content. The law applies to service providers established in Denmark or another EU member state that targets a Danish audience. However, it excludes service providers with an annual total turnover of less than DKK 15 million or with a small Danish audience, and on-demand audiovisual streaming services offered in connection with public service activities.
- **European Union:** On November 24, 2023, the European Commission presented a progress report on the proposed reforms to the EU VAT system, known as VAT in the Digital Age (ViDA). These reforms, which the Commission announced in December 2022, included real-time digital reporting based on e-invoicing (DRR), updated VAT rules for the platform

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economy, and the introduction of a single VAT registration (SVR) across the EU. However, the report revealed that Member States had differing views on the level of harmonization for DRR, did not fully support the platform economy rule, and required technical adjustments for SVR. These disagreements suggest that the Commission will likely delay the original implementation timeline. The interconnected and complex nature of the changes often leads to such delays.

- **France:**[xxix] On December 8, 2023, France published Decree No. 2023-1149 providing technical details on the requirement for payment service providers to report cross-border payments and their recipients effective January 1, 2024.
- **France:**[xxx] On December 13, 2023, the French tax authorities released additional guidelines (BOI-INT-AEA-30-50) on the new reporting obligations for platform operators under DAC7 that are effective from January 1, 2024. DAC7 requires digital platforms to collect, verify, and report information on sellers who use their platform to sell defined goods or provide services. The guidelines clarify penalties for non-compliance, including failure to meet reporting requirements, provide clients with a summary of information transferred to the tax authorities, or process personal data as required by law. Penalties vary based on the type of non-compliance and whether the operator corrects failures spontaneously. For late filings, penalties range from EUR 0 for a first failure to EUR 50,000 for the fourth failure within the last three years. For non-submission, penalties range from EUR 10,000 for the first failure to EUR 50,000 for the third failure. Inaccuracies or omissions in filings carry a penalty of EUR 10 per inaccuracy/omission if corrected spontaneously and EUR 20 if not, up to the maximum limits for late/no filing. Failure to provide client information carries penalties ranging from EUR 10,000 for the first failure to EUR 50,000 for the third. The guidelines also detail the deregistration procedure for non-EU platform operators after a second formal request from tax authorities.
- **France:**[xxxi] On December 29, 2023, France published the Finance Law for 2024, which, among other things, introduces gross receipts tax on the provision of paid or free services for access to recorded music, also known as the "streaming music services tax," effective from January 1, 2024. The tax applies to rentals in France of phonograms and music videos for public private use on online networks, and to services that provide access to phonographic or music video recordings, either for a fee or for free. However, free services primarily aimed at providing information about musical works and promoting them to the public are not subject to this tax. The tax is based on the amount excluding VAT of the price paid by the public for the operations and 34 percent of the amounts paid by advertisers and sponsors for the broadcasting of their advertisements on a service that provides access to phonographic or music video recordings or that provides free access to content created by private users for sharing and exchange within communities of interest. The tax rate is set at 1.2 percent and is due at each collection of the amounts occurring after exceeding the threshold of EUR 20 million.
- **Greece:**[xxxii] On December 11, 2023, Greece implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Ireland:**[xxxiii] On December 29, 2023, the Irish tax authorities published eBrief 273/2023 providing detailed guidelines on the requirement for payment service providers to report cross-border payments and their recipients effective January 1, 2024.
- **Kazakhstan:**[xxxiv] On December 12, 2023, Kazakhstan published Law No. 45-VIII amending various tax laws effective January 1, 2024. Among other things, the law exempts from VAT the sale of digital assets and establishes a fixed rate of KZT 2 per KWh for electricity used

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in digital mining of cryptocurrencies, replacing the progressive rates based on average electricity prices. Additionally, a fixed rate of KZT 1 per KWh applies for electricity produced from renewable sources or units not connected to Kazakhstan's unified power system.

- **Latvia:**[xxxv] On December 13, 2023, Latvia published amendments to the Law on Taxes and Fees, which implement the joint audit rules required by DAC7. The explanatory memorandum redefines the DAC7 concept of "joint audit" as "joint supervision" in the Law on Taxes and Fees to avoid confusion with existing audit terminology.
- **Lithuania:**[xxxvi] On December 11, 2023, Lithuania published amendments to the rules requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. Specifically, the authorities revised point 4.1 of the rules (transposing article 243b, paragraph 2, point 2 of the Amending Directive to the VAT Directive (2020/284)). Now, it mandates payment service providers to maintain detailed records of payees and payments if they provide payment services for more than 25 cross-border payments to the same payee within a calendar quarter. Previously, the rules inaccurately stated that this mandate applied to services provided to the same payers.
- **Malta:**[xxxvii] On November 24, 2023, Malta published the "Value Added Tax (Reporting Obligations for Payment Service Providers) Regulations, 2023" transposing the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Malta:**[xxxviii] On December 11, 2023, the Maltese tax authorities updated the guidelines on the DAC7 platform reporting requirements. The updates include a clarification change on the election of a member country to fulfill registration and reporting requirements for platforms operating outside the EU. The registration deadlines for specified platform operators to register as a Reporting Malta Platform Operator (RMPO) and for excluded platform operators to register and provide proof of this classification have been moved to November 20 from October 31. Furthermore, the guidelines now state that platform operators commencing activities after November 20, a change from October 31, must register with the competent authority by December 31 and within two weeks of starting activities.
- **New Zealand:**[xxxix] On December 20, 2023, the New Zealand tax authorities published guidance on new rules affecting taxpayers in the sharing economy, effective from January 1, 2024. New Zealand tax resident marketplace operators must report seller information and their online income from certain activities using the OECD's XML schema, with information for 2024 due by February 7, 2025. The guidance outlines the new rules, reporting requirements, due diligence requirements, and seller information. Additionally, from April 1, 2024, both New Zealand and offshore online marketplaces must collect and return goods and services tax (GST) on legislatively defined "listed services" performed, provided, or received in New Zealand, including short-stay and visitor accommodation, ridesharing and hailing, and food and beverage delivery services. GST also applies to related services facilitated through the marketplace operator. A new flat-rate credit scheme will minimize compliance costs for sellers not registered for GST, with marketplace operators collecting GST at the standard 15% rate on listed services and passing on 8.5 percent to non-GST-registered sellers.
- **Nigeria:** On January 15, 2024, the Nigerian Federal Inland Revenue Service (FIRS) announced the indefinite postponement of the implementation of the guidelines to simplify the compliance regime for goods sold through digital means (e.g., marketplace, platform, app, portal, etc.) by nonresident vendors, which were scheduled to become effective from January 1, 2024. The announcement emphasizes that the postponement is to allow the

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FIRS to finalize the development of a seamless process for VAT compliance. It also clarifies that the postponement does not impact the simplified regime for digital services but only applies to goods. For more information, click here.

- **Slovenia:**[xl] On December 7, 2023, the Slovenian tax authorities reminded taxpayers of the DAC7 platform reporting requirements. The announcement establishes a January 31, 2024, deadline for Slovenia-resident digital platform operators to report data on sales facilitated through their platforms and clarifies reporting requirements for operators resident in Slovenia or with a permanent business unit there. It also outlines reporting obligations for operators facilitating offers of goods or services for compensation and allows operators active in multiple EU states to choose their reporting location, provided all relevant states are informed. The announcement exempts sellers conducting transactions exclusively through their websites from reporting, and details the information to be reported, encouraging operators to complete due diligence procedures by the end of 2023. It also includes a self-identification questionnaire and electronic submission procedure.
- **Slovenia:**[xli] On December 5, 2023, Slovenia implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Sweden:**[xlii] On December 21, 2023, the Swedish tax authorities issued Statement No. 8-2684701, clarifying the reporting obligations for cross-border payment service providers. The statement offers guidance on determining the location of parties involved in cross-border payments. It mandates the reporting of cross-border payment information to the tax agency for customers located in Sweden and instructs providers to use payment licenses to identify the location of payment services. The statement also emphasizes the obligation to report information on cross-border payments that suggest a customer's location is in a different country and instructs online marketplaces to adhere to EU business identification code (BIC) guidelines.
- **United Kingdom:** On December 19, 2023, the UK First-Tier Tribunal (FTT) ruled that ride-sharing services fall under the VAT regime for travel agencies and tour operators, known as the tour operators' margin scheme (TOMS). [2023] UKFTT 1043 (TC). TOMS allows qualifying entities to pay VAT on the difference between the amount a customer pays and what the company pays to provide the services. The FTT determined that ride-hailing services are similar enough to services offered by tour operators and travel agents to qualify for this special VAT regime. It also found that other services and travel arrangement methods provided by the ride-sharing company are sufficient to bring the mobile ride-hailing service under the TOMS regime.

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.

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E-Invoicing Updates

Poland: Implementation of E-Invoicing Mandate Postponed

On January 19, 2024, Poland's finance minister announced (Polish) that the national e-invoicing system (KSeF), which was to come into effect on a mandatory basis from July 1, 2024, will be implemented at a later date. The announcement does not state when the KSeF will be implemented but clarified that the delay is due to system errors that the Ministry of Finance identified. The Ministry of Finance will commission an external IT audit of KSeF and indicate a new date for the implementation of the system.

Taxpayers can voluntarily use KSeF from January 1, 2022. The e-invoicing obligation was to come into effect on July 1, 2024 for most Polish businesses involved in business-to-business transactions. Small and medium-sized companies exempt from VAT were scheduled to comply with the KSeF mandate from January 1, 2025. To read a report prepared by the KPMG International member firm in Poland, click here.

Spain: Mandatory Use of Invoicing Software Verified and Authorized by the Tax Authorities

On December 6, 2023, Spain published Royal Decree 1007/2023, setting standards for computer and electronic systems that facilitate taxpayer e-invoicing processes and standardizing e-invoice record formats. Both manufacturers and users of these software systems are required to comply with these standards.

The decree also revises the Spanish e-invoicing decree by requiring taxpayers using e-invoicing systems to include a QR code on their invoices. This QR code allows for the viewing of e-invoice content and includes a note indicating that the document is a "Verifiable invoice at the AEAT headquarters" or "VERI * FACTU" ("*Factura verificable en la sede electrónica de la AEAT*" o "VERI*FACTU").

In support of this, Spain's Ministry of Finance will release the technical specifications that e-invoicing systems must follow. These specifications will outline the structure and technical format of the e-invoices, the digital signatures and other hash codes to be included in the e-invoices, and the method for transmitting the e-invoices issued by taxpayers.

Upon the enactment of these technical specifications, businesses that develop the computer system must certify, through a Declaration of Responsibility, that the computer system meets the conditions established by this decree.

This decree will become effective on July 1, 2025. However, manufacturers of e-invoicing software and equipment must ensure their systems comply with these requirements within nine months from the date the tax administration publishes the technical regulations.

Other Developments

- **France:**[xliii] On December 30, 2023, France published the Finance Law for 2024, which, among other things, sets a new timeline for the implementation of the e-invoicing and e-reporting requirements in France. The law mandates a two-stage rollout: (1) effective September 1, 2026, all taxpayers must have the capability to receive e-invoices. Additionally, large, and medium-sized taxpayers must fully comply with the e-invoicing and e-reporting requirements; and (2) effective September 1, 2027, small and micro taxpayers must also fully adhere to these regulations. The law permits the French government to delay the first stage until December 1, 2026, and the second stage until December 1, 2027, if necessary.

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- **Germany:**[xliv] On November 17, 2023, the German lower chamber of parliament approved a tax reform proposal, which includes the implementation of a mandatory e-invoicing system. As the approved version does not align with the upper house's recommendations, the legislation was referred to a conciliation committee on November 24, 2023, to align the approved changes with the government's original proposal. According to the lower house's approved version, e-invoicing in a structured format would become standard for domestic B2B transactions starting January 1, 2025. Transition periods are also under consideration, allowing for the transmission of paper invoices and non-structured invoices, such as PDFs, until December 31, 2026, for domestic B2B sales conducted in 2025 and 2026, provided the invoice recipient agrees. This provision would extend until December 31, 2027, for sales in 2027 if the invoice issuer's sales in the previous year do not exceed EUR 800,000. However, from 2028, e-invoicing would become mandatory for all taxpayers in Germany.
- **Greece:**[xlv] On December 11, 2023, Greece enacted Law No. 5073/2023, which mandates businesses to electronically submit their accounting files to the tax authority from January 1, 2024. The law allows the tax authority to acknowledge only those tax deductions and expenses backed by e-documents. Non-compliant businesses will face a penalty of 10% of the net value of each missing document, capped at EUR 250 daily, with late submissions incurring half the non-submission penalty. The law also encourages citizens to report manipulated cash registers, offering them a reward of ten times the transaction value, within a range of EUR 100 to EUR 3,000, if their report leads to an audit and fines. Additionally, businesses opting for e-invoicing through certified providers in 2023 and 2024 will receive tax benefits, including a 2-year reduction in the statute of limitations, a 100% deduction for initial equipment and software purchases, and a shortened tax refund period from 90 to 45 days.
- **Kenya:**[xlvi] On November 23, 2023, the Kenya Revenue Authority issued the draft Tax Procedures (Electronic Tax Invoice) Regulations, 2023. If enacted, these regulations would mandate businesses to utilize an electronic tax invoicing or receipting system, referred to as "the system", to document each sale, generate an invoice for each transaction, and forward invoice details to the Commissioner. The draft regulations stipulate that businesses must consistently maintain and update the system and report any system usage issues to the Commissioner within 24 hours. Invoices produced by the system must include specific details such as the registered user's Personal Identification Number (PIN), the issuance time and date, the buyer's PIN, and the total gross and tax amounts. The proposed regulations outline certain exceptions to the e-invoice requirement, including emoluments, imports, and non-resident persons without a permanent establishment in Kenya.
- **Latvia:**[xlvii] On November 29, 2023, the Ministry of Finance of Latvia introduced the draft Shadow Economy Restriction Plan for 2024-2027. Among its proposals, it includes the implementation of a mandatory e-invoicing system for transactions between businesses (B2B) and between businesses and government (B2G). To read a report prepared by the KPMG International member firm in Serbia, please click here.
- **Nigeria:** The Lagos State Internal Revenue Service's (LIRS) started deploying an upgraded Consumption Tax collection process for the hospitality sector in Lagos State. The LIRS has introduced a digital payment solution platform, the Eco Fiscal System (EFS), tailored for businesses in the hospitality sector. The EFS, which interfaces with the point-of-sale system and transmits records of all sale transactions to the LIRS Online Tax System (OTS) in real time, aims to automate the collection of the Hotel Occupancy and Restaurant Consumption Tax (HORCT). The LIRS has made it mandatory for all operators in the hospitality sector to adopt the EFS, with penalties for non-compliance. However, the report also notes a current dispute regarding the imposition of consumption tax by State Governments on businesses

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in the hospitality sector, and the potential challenges of implementing and maintaining internet infrastructure for the EFS, especially for small operators. To read a report prepared by the KPMG International member firm in Nigeria, click here.

- **Paraguay:**[xlviii] On December 19, 2023, Paraguay enacted Decree 872/2023, revamping and broadening the regulatory framework for its e-invoicing system, effective January 1, 2024. The decree mandates that all B2C invoices for transactions over PGY 35 million, from January 1, 2024, and over PGY 7 million, from January 2025, must include the buyer's identification. It introduces three new types of electronic documents: the Electronic Exchange Invoice, the *Resimple* Electronic Receipt, and the Electronic Receipt for Public Shows. Additionally, it introduces new electronic documents including the Electronic Voucher of Revenues IRP, the Electronic Voucher for Donations, the Electronic Voucher for Imports, the Electronic Voucher for Withholdings and Perception, the Electronic Receipt for Cash, and the Electronic Note for Deliveries. The decree also requires taxpayers to submit invoices to the tax administration for approval and validation within 72 hours of electronic signing, with the tax administration retaining the right to impose a shorter timeframe or a pre-validation requirement based on the taxpayer's profile.
- **Peru:**[xlix] On November 10, 2023, Peru's tax authority (SUNAT) published Resolution 000039-2023-sunat/700000. According to this resolution, SUNAT will not penalize taxpayers who did not update their accounting ledgers and other reports on the SUNAT platform (SIRE) from November 2021 to June 2023. The same exemption applies to taxpayers who failed to meet this requirement on the new SUNAT's SIRE platform from July to December 2023. However, SUNAT will impose penalties if these taxpayers do not update their ledgers by April 30, 2024.
- **Portugal:**[l] On November 29, 2023, Portugal approved the 2024 Budget Law, which defers the requirement for PDF invoices to bear a Qualified Electronic Signature (QES) to be recognized as valid e-invoices. The implementation of this requirement has been postponed from January 1, 2024, to January 1, 2025. Additionally, the law delays the obligation for the accounting Standard Audit File for Tax (SAF-T), which will now apply to the 2025 accounting period with a mandatory submission requirement effective in 2026, instead of the previous schedule of the 2024 accounting period, effective in 2025.
- **Romania:**[li] On December 15, 2023, the Romanian Ministry of Finance enacted an Urgent Ordinance, proposing, among other things, to exclude simplified invoices from reporting requirement and adjusting the applicable fines for non-compliance with the e-invoicing mandate to 15% of the total invoice value for both the issuer and the recipient. Starting from July 2024, Romanian residents will have five calendar days counted from the moment of issuance of the invoice to submit the invoice to the national invoice system. Failing to comply will result in fines ranging from RON 1,000 to RON 10,000, depending on the classification of the taxpayer. The legislation also includes specific provisions for times when the Romanian e-invoice system is non-operational.
- **Serbia:** The Ministry of Finance of the Republic of Serbia recently adopted amendments to the Rulebook on Electronic Invoicing, which will be effective from January 1, 2024. The amendments primarily focus on the deadlines for electronic recording of VAT. The deadline has been reduced from 15 to 10 days after the end of the tax period, aligning the Rulebook with the Law on Electronic Invoicing. In addition, the amendments address the issue of transactions requiring an e-invoice. If an e-invoice is not issued within the new 10-day deadline, the calculated VAT is recorded for that tax period. The amendments also clarify the VAT recording process for advance payments when the tax debtor is the recipient of goods and services. In such cases, VAT is recorded in the tax period in which the advance

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was paid. Lastly, from March 1, 2024, the list of e-invoicing system (SEF) users should include specific data such as the user's Tax Identification Number, Unique Number Of User Of Public Funds, registration date on SEF, and deletion date, if applicable. The process for deletion from the list is typically initiated by the SEF user's electronic request.

- **South Korea:**[lii] On December 13, 2023, the Korean tax authority extended the requirement for issuing e-invoices to include new groups of taxpayers involved in cash transactions. Effective January 1, 2024, an additional 13 industries, including butchers, parking lots, telecommunications equipment repair businesses, grain, flour, or livestock feed sellers, household appliance and boiler repair services, passenger transportation services, automobile brokerage businesses, book, newspaper, and magazine sellers, convenience stores, markets, department stores, other retail businesses, and removals companies, will be obligated to issue e-receipts for cash payments, raising the total number of industries under this requirement to 125. The updated regulation mandates issuing a receipt for any cash payment of KRW100,000 or more. Non-compliant businesses will face a 20% penalty on the unissued amount.

E-invoicing developments timeline

The world of taxation and compliance is constantly becoming more digitalized and governments are continuously issuing new regulations and requirements for taxpayers. To help businesses stay up-to-date with tax administration developments in e-invoicing, digital reporting, and real-time reporting, we have created this e-invoicing developments timeline which will be regularly updated.

Other Indirect Tax Developments and News from Around the World

The Americas

Overview of Indirect Tax Developments in The Americas from KPMG International Member Firms

- **KPMG in Argentina** published a report discussing a new incentive regime for large investments. This includes simplification of the VAT refund process for acquisitions, constructions, and/or development of fixed assets and infrastructure investments (including services received for such purposes) by Special Purpose Vehicles (SPVs).
- **KPMG in Canada** published a report discussing 2023 indirect changes and upcoming deadlines. This includes the implementation of new reporting rules for certain platform operators, effective from January 1, 2024, and the proposed implementation of the Digital Services Tax (DST). To read KPMG's previous discussion of Canada's proposed DST, click here; and for the information reporting obligations for platform operators, click here.
- **KPMG in Canada** published a report discussing tax measures in the 2023 budget bill, including the proposed Digital Services Tax (DST), which is to come into force on the day that is fixed by Order of the Governor in Council, but not earlier than January 1, 2024. To read KPMG's previous discussion of Canada's proposed DST, click here

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- **KPMG in Chile:** published a report discussing recent tax developments in the country. These include recent tax authority guidance on late submission of VAT returns online, and the VAT treatment of collection management services and support services provided abroad.

United States: Guidance Issued on Sales Tax Responsibilities for Businesses Using Delivery Companies

On December 15, 2023, the Florida Department of Revenue issued Tax Information Publication No: 23A01-24, clarifying who is responsible for remitting sales and use tax when a third-party delivery network company is involved in the transaction. Under Florida law, a marketplace provider does not include a person who is a delivery network company unless the delivery network company (1) is a registered dealer and (2) notifies all local merchants that sell through the delivery network company's website or mobile application that the company is a marketplace provider and is responsible for collecting and remitting Florida sales tax. In Tax Information Publication No: 23A01-24, the Department notes that it has become aware of situations in which restaurants, grocery stores, convenience stores, and other local merchants using third-party delivery network companies did not report or remit the correct amount of Florida sales tax on their sales made through these networks. The guidance reminds such retailers that some delivery companies do not collect and remit Florida sales tax on the merchant's behalf; others collect Florida sales tax from customers but return the tax to the merchant to remit to the Department. Still others elect to collect and remit the tax. The Department recommends that local merchants using third-party delivery network companies should closely review the terms of their agreements related to sales tax collection and remittance responsibilities and the effective date of any changes related to those responsibilities. Merchants may also visit their delivery network company's website to determine if the delivery network company has made such an election. Interestingly, legislation has been introduced in the Florida Legislature (House Bill 1099 and Senate Bill 676) that, among other things, would require food delivery platforms to itemize and clearly disclose to a customer any taxes due on the transaction and would require an agreement between a food delivery platform and a food service establishment to identify the party responsible for collecting and remitting sales taxes. For more information, click here.

KPMG in Brazil: Indirect Tax Reform Approved by Congress

On December 15, 2023, Brazil's Chamber of Deputies approved a constitutional amendment law with the basic text of a tax reform involving federal, state, and municipal indirect taxes. The reform, which initially received approval in July, was subject to another vote after the Federal Senate revised the text in November, prior to returning it to the lower house.

Under the reform measure, Brazil will introduce a dual VAT regime including: a tax on goods and services (*imposto sobre bens e serviços*—IBS) that will replace the state VAT (i*mposto sobre circulação de mercadorias e serviços*—ICMS) and the municipal tax on services (i*mposto sobre serviços de qualquer natureza*—ISS); and the contribution on goods and services (*contribuição sobre bens e serviços*—CBS) that will substitute the federal PIS/COFINS contributions, as well as the federal excise tax on manufactured products (*imposto sobre produtos industrializados*—IPI).

While the constitutional amendment law sets the broad guidelines for reforming the Brazilian indirect tax system, details will only be clarified with the regulation of complementary laws in 2024. For instance, the standard rate for the new dual VAT is not set in the law. In this respect, official studies suggest a rate around 27 percent. The constitutional framework however clarifies that the following will be subject to a reduced rate set at 60 percent of the standard rate: health services, education services, food for human consumption, medicines,

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basic menstrual health care products, medical devices, accessibility devices for people with disabilities, agricultural and aquacultural inputs, personal hygiene and cleaning products, artistic and cultural events, goods and services related to national security, and public transport services. In addition, services of intellectual, scientific, literary, or artistic nature, if they are subject to supervision by a professional council, will be subject to a reduced rate set at 30 percent of the standard rate. Moreover, the following will be exempt from the dual VAT system: basic grocery items, fruits and eggs, higher education (only for CBS purposes), services provided by non-profit innovation entities, urban rehabilitation activities, and passenger cars when purchased by people with disabilities. Finally, the special tax regimes will be introduced for the following: regional aviation, travel agencies, amusement parks, bars and restaurants, hospitality services, fuels, cooperative societies, transactions covered by international treaties, and sports activities developed by a football corporation.

The reform will be introduced over a transitional period of seven years beginning in 2026 with a test phase with the introduction of CBS at a rate of 0.9 percent, and IBS at a rate of 0.1 percent. In 2027, CBS should be fully collected while PIS and COFINS will be terminated. Starting 2029, the ICMS and ISS will be gradually reduced, and the IBS rates will be gradually increased. Full implementation of the regime is set to happen from 2033. To read a report prepared by the KPMG International member firm in Brazil, click here. To read KPMG's previous discussion of Brazil's indirect tax reform measures, click here.

Miscellaneous Developments in the Americas

Bahamas:[liii] On October 31, 2023, the Bahamas' Department of Inland Revenue clarified that professional services provided by a resident business to a nonresident recipient are considered a zero-rated export of services. However, such services are subject to VAT at the standard rate when the recipient actively utilizes or obtains the benefit or advantage of the services within the Bahamas. Furthermore, resident businesses providing zero-rated exported services are required to actively maintain records supporting the zero-rated treatment of those services. This clarification applies retroactively from March 3, 2023.

Chile:[liv] On December 6, 2023, the Chilean Internal Revenue Service published Ordinary Letter 3005, clarifying that cargo shipping services provided to a resident from abroad, and vice versa, are zero-rated. Taxpayers performing such services have the right to recover VAT incurred on expenditures relating to their cargo shipping activities.

Ecuador:[lv] On December 20, 2023, Ecuador enacted the Law of Economic Efficiency and Employment Generation, introducing several tax incentives, including a refund of VAT paid on goods and services used in real estate construction within 90 days, the application of a zero percent VAT rate on goods imported by free zone operators and users, and the application of a zero percent VAT rate for accommodation for foreign tourists, provided the transaction is arranged through a travel agency.

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Overview of Indirect Tax Developments in EMEA from KPMG International Member Firms

- **KPMG in Bahrain** published a report discussing tax developments in the Gulf Cooperation Countries, including a campaign by the National Bureau of Revenue of Bahrain encouraging unregistered business to monitor VAT registration rules and apply for registration when an obligation is triggered.
- **KPMG in Belgium** published a report outlining the changes in the VAT recovery procedures for taxpayers that have only a partial right to recover VAT incurred on expenditures. Since January 1, 2023, those using the actual use method must submit a prior electronic notification and provide specific information via Intervat, an online platform. A law published on December 1, 2023, effective from January 1, 2024, introduces similar requirements for those using the general apportionment method, including submitting a notification through the "e-604" online application and annually informing VAT authorities of their general apportionment percentage. The report further notes that taxpayers, who conduct activities outside the scope of VAT, will also need to inform the tax authorities about the special apportionment method they use.
- **KPMG in Belgium** published a report discussing key VAT developments in 2023 and anticipated changes for 2024 and beyond, including the extension of limitation periods for VAT assessments, the expanded application of the VAT self-assessment requirement to certain immovable property works, and a Court of Justice of the European Union (ECJ) ruling on whether a toll manufacturer constitutes VAT fixed establishments. The report further highlights a new circular letter on VAT rules for cross-border company cars, a draft bill on a reduced VAT rate regime for demolition and reconstruction, and a law making electronic interfaces potentially jointly liable for VAT payments. Future changes include the postponement of the "VAT chain" reform to 2025 and the mandatory introduction of e-invoicing in 2026.
- **KPMG in the Czech Republic** published a report discussing a recent Supreme Administrative Court (SAC)ruling that disallowed VAT deductions on anti-radar equipment and a GPS logbook. The SAC ruled that the anti-radar equipment, used to avoid traffic rule infringements, was not a tax-deductible expenditure as it was not used for economic activity and did not protect the taxpayer's property. The taxpayer's failure to submit the GPS logbook, citing employee data protection, also led to the rejection of the deduction claim.
- **KPMG in the Czech Republic** published a report discussing a SAC ruling on whether the transfer of technical improvements (made by a lessee at their own expense) to the lessor for compensation at the end of a lease constitutes a service from a VAT perspective. The SAC ruled that the transfer of technical improvements does not fit the ordinary meaning of the term "provision of construction and installation work," but rather meets the definition of the provision of services set out in the VAT Act. The SAC also rejected the application of the legal fiction in the VAT Act, which states that the VAT self-assessment applies if both the vendor and the customer reasonably believe that the transaction is subject to the self-assessment requirement, and both apply this mechanism.
- **KPMG in Greece** published a report discussing the recent tax authority circulars clarifying the VAT treatment of revenues from over-the-counter derivative products, such as Contracts for Difference (CFDs). The circulars establish that revenues from CFDs are subject to the standard VAT rate of 24 percent, as these are not traded on a stock market and are used for

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hedging risks. The circulars further clarify that other provisions of the VAT Code may provide exemptions for over-the-counter derivatives such as the VAT exemption for transactions concerning OTC derivatives, where at least one of the contracting parties is a credit institution or an Investment Services Company.

- **KPMG in Malta** published a report discussing proposed amendments to the Maltese VAT Act. The amendments would introduce a general anti-abuse provision (GAAR), which codifies VAT anti-abuse principles established by the ECJ. The GAAR targets artificial or fictitious schemes designed to obtain tax advantages contrary to the VAT Act's purpose. It also specifies that no amount shall be treated as deductible VAT if it represents tax chargeable on goods or services subject to VAT fraud, and the person claiming the deduction knew or should have known of such fraud. The amendments further propose broader access for the Commissioner to inspect and require electronic access to books, records, or documents during an investigation. Other changes include clarification on the filing of Correction Forms after a provisional assessment, changes to the appeals process following decisions of the Tribunal, and record-keeping requirements for taxpayers not registered for VAT.
- **KPMG in Poland** published a report discussing tax developments, including a recent ruling by the Supreme Administrative Court holding that loan management services rendered by an entity other than the creditor do not qualify as VAT exempt financial services.
- **KPMG in Poland** published a report discussing tax developments, including the postponement of the e-delivery requirement, the extension of the temporary reduced VAT rates on basic food products, and a SAC ruling holding that a company making available an accommodation free of charge to employees is allowed to recover VAT incurred on rental payments.
- **KPMG in the United Arab Emirates** published a report discussing recent amendments to Excise Tax Executive Regulations. The amendments, effective from December 1, 2023, introduce new definitions for "official evidence," "commercial evidence," and "shipping certificate" to provide clarity. They also specify that the rejection of an excise tax registration application does not prevent entities from reapplying or complying with excise tax provisions. The Federal Tax Authority (FTA) can now deregister a business after six months of ceasing relevant activities unless intent to resume is proven. The amendments also address issues related to stockpiling of excise goods, natural shortages, exemption for exports, designated zones, deductible excise tax, and excise tax refunds. The refund provisions will come into force on June 1, 2024.

European Union: Court of Justice Holds that Director's Fees Are Not Subject to VAT

On December 21, 2023, the ECJ issued its decision in *TP*, Case C – 288/22, regarding the VAT treatment of activities conducted by a board member of a public limited company. In the case, TP, a lawyer and board member of several public limited companies, argued that his remuneration should not be subject to VAT as TP did not perform the activities independently, but as part of a collective body. The Luxembourg VAT authorities, however, considered TP's director's fees from 2019 as subject to VAT, as they saw TP's role as an independent economic activity.

The ECJ ruled that the existence of an independent economic activity should be examined considering all circumstances in which the activity is provided. It confirmed that TP, as a board member, should exercise an "economic activity" if TP provides services to the company for consideration on a continuous basis. However, the ECJ did not consider that TP's activities

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were independent as TP did not bear the economic risk of the activity and did not act in his own name, on his own account, and under his own responsibility. Therefore, the ECJ ruled that TP does not qualify as a taxpayer for VAT purposes under article 9 of the EU VAT Directive, and the director's fees should thus not be subject to VAT.

This decision could significantly change the VAT treatment of board members' services across the European Union. Board members established in the EU will likely have to reassess their VAT status and deregister if, based on the criteria laid out by the ECJ, they do no longer qualify as taxpayer for VAT purposes. EU companies with board members established abroad will also have to investigate the tax treatment of these director's fees to determine if they need to continue self-assessing VAT. To read a report prepared by the KPMG International member firm in Luxembourg, click here.

Roundup of Latest Court of Justice of the European Union Cases

- On December 14, 2023, the ECJ published the nonbinding Opinion of its Advocate General (AG) in *MAX7 Design Kft*, Case C-519/22, on whether cancelling a VAT identification number due to failure to lodge a tax guarantee is compatible with the freedom to conduct a business. The AG opined, among other things, that a Member State cannot impose a guarantee in the amount of the unpaid tax debts of another taxpayer, such as that at issue in the present case.
- On December 14, 2023, the ECJ published the nonbinding Opinion of its AG in *Slovenské Energetické Strojárne A.S.*, Case C-746/22, on the rules for VAT refunds to EU taxpayers who are not established in the Member State of refund based on the EU VAT Refund Directive. The AG opined that the 1-month timeframe for providing additional information requested by the authority should not be considered obligatory. The AG further indicated that national laws that prevent the use of additional information in appeal proceedings are inconsistent with principles of effectiveness and fiscal neutrality. Finally, the AG opined that Member States can reject nonresident refund claims if the taxpayer fails to comply with the with an additional information request if the Member State has an effective judicial procedure for appealing against the decision to discontinue the proceedings.

Source: European Union; Hungary – ECJ Advocate General Opines on Legitimacy of Cancellation of the VAT Identification Number Due to Non-Payment of Guarantee: MAX7 Design (Case C-519/22) (VAT) (Dec. 14, 2023), News IBFD; European Union; Hungary – ECJ Advocate General Opines on VAT Refunds to Taxable Persons Not Established in the Member State of Reimbursement: Slovenské Energetické Strojárne (Case C-746/22) (VAT) (Dec. 14, 2023), News IBFD.

Miscellaneous Developments in EMEA

- **Algeria:**[lvi] Algeria recently published the Supplementary Finance Law, which, among other things, includes a tax amnesty providing an exemption from late payment interest and penalties on outstanding tax debts if they are fully paid by December 31, 2024. However, this amnesty does not apply to taxpayers who have committed fraud.
- **Algeria:**[lvii] On December 5, 2023, the Algerian parliament passed the 2024 Finance Bill. Among other things, the law introduces a monthly VAT compliance requirement, mandating taxpayers to submit a nil return if no taxable activity is conducted in a month.
- **Austria:**[lviii] On December 21, 2023, the Austrian Federal Ministry of Finance published updated VAT Guidelines, which, among other things, clarify the VAT treatment for vouchers, VAT deductions, VAT rates, and record-keeping requirements, including new reporting obligations for payment service providers effective January 1, 2024.

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- **Bosnia and Herzegovina:**[lix] Effective December 2, 2023, Bosnia and Herzegovina increased its VAT registration threshold from BAM 50,000 to BAM 100,000.
- **Denmark:**[lx] Effective January 1, 2024, Denmark amended its VAT law including measures to establish regulations for investment goods and defining the partial right of deduction in VAT calculations; providing guidelines for the sale of real estate and the transfer of other investment goods; outlining the procedures for Danish companies and companies outside the EU to claim VAT refunds; defining invoicing requirements; establishing guidelines for declaration and accounting; and establishing penalties for non-compliance with VAT.
- **European Union:**[lxi] On December 6, 2023, the European Commission finalized negotiations with Norway to amend the EU-Norway agreement on administrative cooperation, recovery assistance, and combating VAT fraud. The negotiations, which began in June 2022, aimed to include new cooperation tools with Norway, such as joint audits and follow-up actions, and to update the agreement's rules on personal data processing and free movement. The amended agreement will provide EU Member States with new tools for cooperation with Norway once it is signed and adopted. To read KPMG's previous discussion of the EU-Norway agreement to combat VAT fraud, please click here.
- **Georgia:**[lxii] On November 28, 2023, Georgia issued Order No. 446, revising the VAT rules for pre-delivery payments. Among other things, the order clarifies the terms for taxing such payments, including the definition, quantity, cost, and VAT status of goods and services, and extends these rules to barter or exchange transactions, whether they are in cash or part-payment in goods or services.
- **Jersey:**[lxiii] Effective January 1, 2024, Jersey enacted its 2024 Budget bill into law. Among other things, the bill includes measures to (1) extend GST group registrations to groups that include both online retailers based outside Jersey and those established in Jersey; (2) change the GST registration requirements so that sales made to businesses in Jersey by overseas retailers are not included when calculating a business's gross receipts for GST registration; (3) renumber the conditions relating to the sale of goods into Jersey for clarity in the GST law; and (4) revise the definition of "aircraft" in the GST Law to prevent small operators from importing private planes for individual use as zero-rated imports. To read KPMG's previous discussion of Jersey's 2024 Budget Bill, please click here.
- **Kenya:**[lxiv] On December 18, 2023, the Kenyan National Treasury initiated a consultation on its draft budget policy for 2024. The policy includes plans to implement VAT on insurance services, remove the threshold for applying the VAT deduction apportionment formula, and establish a framework for a carbon tax and green fiscal incentives. It also aims to develop tax laws, including income tax, VAT, and excise tax, and improve the tax system through expanding the tax base, modernizing, and simplifying tax procedures, and ensuring timely tax refunds for taxpayers.
- **Latvia:**[lxv] On December 21, 2023, Latvia published a law amending the VAT Law, including measures to increase the VAT registration threshold from EUR 40,000 to EUR 50,000 effective January 1, 2024.
- **Luxembourg:**[lxvi] Effective January 1, 2024, Luxembourg enacted a law expanding the requirement for buyers to self-assess VAT to include certain electronic devices and raw or semi-finished metals for invoices exceeding EUR 10,000. However, items under the special regimes for gold investment, second-hand goods, works of art, antiques, and collectors' items are excluded.

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- **Poland:**[lxvii] Poland recently announced that the Intrastat reporting thresholds for 2024 are PLN 2.8 million for intra-EU dispatches and PLN 6.2m for intra-EU acquisitions. Further, taxpayers whose sales are below PLN 150 million for intra-EU dispatches or PLN 103 million for intra-EU acquisitions are exempted from the requirement to provide statistical value information.
- **Romania:**[lxviii] On December 15, 2023, Romania published the Government Emergency Ordinance (GEO) no. 115/2023, introducing several amendments to the VAT system, effective from January 1, 2024. The changes include a 50% VAT deductibility limitation on the acquisition, rental, or leasing of buildings in residential areas or apartment blocks, unless used exclusively for business purposes. This measure will take effect once Romania secures a special derogation from the European Union. The GEO also modifies the category of taxpayers eligible to pay VAT on imports through the VAT reverse charge mechanism, requiring now that taxpayers obtain an affidavit stating that they have no outstanding tax debt.
- **Saudi Arabia:**[lxix] The Saudi Arabian Zakat, Tax, and Customs Authority (ZATCA) further extended the application of the general tax amnesty program through June 30, 2024. To read KPMG's previous discussion of Saudi Arabia's amnesty program, please click here.
- **Seychelles:**[lxx] The Seychelles recently published the 2024 Budget, which, among other things, proposes to amend the VAT Act to stop booking platforms from applying commission on VAT related to the Tourism Environmental Sustainability Levy. The Budget also plans to reduce the excise tax and environment levy on pick-up trucks, twin cabs, hybrid vehicles with batteries of 200 voltage or more, plug-in hybrids, vehicles running solely on batteries, and new quarter panels for vehicles.
- **South Africa:**[lxxi] On November 27, 2023, the South African Revenue Service (SARS) issued guidance on record-keeping requirements for taxpayers. The guidance specifies when taxpayers can deviate from standard record retention rules, and outlines taxpayers' obligations to maintain records, books of account, and documents. It provides that taxpayers must seek SARS authorization to keep records in a different form than required by law or to store electronic records outside South Africa.
- **South Africa:**[lxxii] On November 27, 2023, the SARS published Binding General Ruling 66, clarifying the VAT consequences for a clearing agent and a principal in the event of an overpayment of VAT on the importation of goods due to an erroneous customs declaration made by the clearing agent, on behalf of the principal. The ruling states that the principal or importer, not the clearing agent, is responsible for VAT payment on imports. The clearing agent only facilitates the customs clearance declaration and VAT payment. If VAT is overpaid, the principal or importer can deduct the VAT. SARS will only refund overpaid VAT under four specific circumstances outlined in the Customs Refunds and Drawbacks Policy. Any reimbursement of overpaid VAT between the agent and principal/importer must be addressed contractually, and SARS will not intervene.
- **Sweden:**[lxxiii] Effective November 1, 2024, Sweden repealed the tax on plastic carrier bags. The government introduced the tax on plastic carrier bags in March 2020 to meet the EU's plastic carrier bag consumption targets. In the past two years, however, the consumption of lightweight plastic carrier bags in Sweden has been less than 20 plastic carrier bags per person per year. Consumption is thus far below the EU's consumption target of a maximum of 40 lightweight plastic carrier bags per person per year. Based on the data, the government decided that it would achieve the EU's consumption target, without the tax on plastic bags.

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- **Sweden:**[lxxiv] On December 11, 2023, the Swedish tax authorities published Statement No. 8-2656869, clarifying the zero-rating of certain services provided to publishers of periodical publications, such as member magazines, staff magazines, and organizational magazines. According to the Swedish VAT Act, services related to the production and distribution of these publications are zero-rated. This includes technical services essential for reproduction. The tax authorities interpret "reproduction" to refer to the actual printing or equivalent of a publication. In other words, the zero-rating applies when the right to dispose of the publications is transferred from the printer to the customer.
- **Sweden:**[lxxv] On December 13, 2023, the Swedish tax authorities published Statement No. 8-2671490, clarifying the conditions for opting to apply VAT in the case of premises rental. To qualify, the premises must be rented for business use where transactions fully or partially allow for a VAT deduction. The landlord must demonstrate continuous use, typically through a lease agreement of at least one year. Continuous use is met even if premises are rented to multiple tenants simultaneously or alternately, provided all tenants' business transactions allow for VAT deduction. However, opting to apply VAT is not applicable if the landlord uses the premises alongside the tenants without exclusive rights. The tenant must use the premises continuously in a business activity that allows for VAT deduction. The tax authorities also clarified the concept of "mixed business," where a tenant uses the premises for their own business while subletting to others and stated that voluntary taxation is determined on a local basis.
- **Switzerland:**[lxxvi] Switzerland recently published a consolidated version in English of the VAT Act with amendments that are scheduled to apply from January 1, 2025, onwards. The changes include, among other things, amendments to the VAT grouping rules, the introduction of a liability for online platforms facilitating the sale of certain goods, and new recordkeeping requirements for online platforms.
- **United Arab Emirates:**[lxxvii] On December 3, 2023, the Federal Tax Authority (FTA) of the UAE published VAT Clarification VATP0035, outlining the criteria for determining parts and pieces of electronic devices in relation to the application of the VAT self-assessment requirement, which was introduced earlier in 2023. (For KPMG's previous discussion on the VAT self-assessment requirement for sales of electronic devices in the UAE, click here.) The criteria include parts and pieces normally used in manufacturing or production and necessary for normal operation, those not typically used in manufacturing but necessary for device operation, and replacement parts for goods that meet the first two criteria. The Clarification specifies that parts enhancing the functioning or enjoyment of electronic devices, but not necessary for their operation or activation of features, do not meet the criteria to be related to electronic devices.
- **United Kingdom:**[lxxviii] On December 14, 2023, HMRC announced plans to evaluate the impact of the plastic packaging tax, introduced in April 2022 to encourage the use of recycled plastic. The evaluation will measure unintended consequences and business impact, with data gathered from various sources to create a counterfactual scenario of what might have occurred without the tax. Findings will be reported by various factors, including business size and sector, and industry groups will be engaged for targeted analysis. The evaluation is expected to conclude in 2026.
- **United Kingdom:**[lxxix] On December 14, 2023, HMRC published a summary of responses to its December 2022 consultation on the VAT treatment of fund management services, which sought to enhance policy clarity and eliminate dependence on retained EU law. Respondents raised concerns about the ambiguity surrounding the definition of a Special

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Investment Fund (SIF) and the extensive reliance on Items 9 and 10 of Group 5 Sch. 9 of the VAT Act. After reviewing the feedback, the government determined that the current UK VAT legislation, employing a list-based approach, provides adequate legal certainty for the majority of fund types and that the existing definition of "management" of a fund, established by settled case-law, offers sufficient legal certainty. However, the government plans to review current guidance to provide additional clarity. The government further confirmed that businesses will no longer be able to rely on direct EU law after December 31, 2023.

- **United Kingdom:**[lxxx] On December 18, 2023, HMRC confirmed plans to implement a carbon border adjustment mechanism (CBAM) by 2027. This new import carbon pricing mechanism will apply to imports of iron, steel, aluminum, fertilizer, hydrogen, ceramics, glass, and cement from overseas, ensuring these goods face a comparable carbon price to those produced in the UK. The measure aims to reduce "carbon leakage," which refers to the displacement of emissions to other countries with lower or no carbon price. The CBAM will depend on the amount of carbon emitted in the production of the imported good and the gap between the carbon price applied in the country of origin and the carbon price faced by UK producers. The design and delivery of the CBAM will be subject to further consultation in 2024. In addition to the CBAM, the government will work with industry to establish voluntary product standards and develop a framework for measuring the carbon content of goods. The government will also engage with stakeholders in the power, aviation, and industrial sectors on proposed changes to the UK Emissions Trading Scheme.
- **United Kingdom:**[lxxxi] On December 19, 2023, the United Kingdom's Upper Tribunal (Tax and Chancery Chamber) published its judgment in *United Grand Lodge of England* (UGLE), [2023] UKUT 307 (TCC), regarding whether the UGLE qualifies as an organization with philanthropic or philosophical aims for VAT purposes. In the case, the UGLE claimed a VAT refund arguing that its membership services should fall withing the VAT exemption provided to organizations with philanthropic or philosophical aims. However, the Tribunal held that providing relief to Freemasons and their dependents in distress is not philanthropic in nature because it is benefiting Freemasonry's self-interests.
- **United Kingdom:**[lxxxii] On December 27, 2023, the Council of the European Union authorized the United Kingdom, specifically Northern Ireland, to continue applying a VAT flat-rate scheme related to non-deductible VAT charged on fuel expenses for company cars used for private purposes, as published in Implementing Decision 2023/2907. This special measure, aimed at reducing administrative burdens and compliance costs by eliminating the need for detailed mileage records for VAT purposes, simplifies the process of collecting VAT on fuel used for private purposes in company cars. The United Kingdom has the green light to apply this measure in Northern Ireland until December 31, 2026.

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Overview of Indirect Tax Developments in ASPAC from KPMG International Member Firms

- **KPMG in Korea** published a report discussing a recent Supreme Court ruling regarding the VAT classification of issuer contribution fees and daily issuer contribution fees paid by a Korean credit card company to a US credit card company. The court held that the issuer contribution fee was deemed as royalty subject to Korean VAT since it was unrelated to the US company's payment system. However, it held that the daily issuer contribution fee was deemed business income subject to Korean VAT as these fees related to the US company's payment system.
- **KPMG in the Philippines** published a report discussing recent tax authorities guidelines, including a guideline prescribes the policies and guidelines for the optional VAT registration of registered business enterprises (RBEs) classified as domestic market enterprise under the 5 percent tax on gross income earned in lieu of all taxes regime during the 10-year transitory period. In another guideline, the tax authorities clarified the requirement for agricultural producers to issue receipts, sales, or commercial invoices.

Miscellaneous Developments in ASPAC

- **India:**[lxxxiii] On December 14, 2023, the Indian Supreme Court upheld the Calcutta High Court's ruling in *Suncraft Energy Private Limited & Ors*. SLP(C) No.27827-27828/2023. The High Court initially ruled that a taxpayer cannot be denied the right to deduct GST incurred on expenditures solely because the vendor of goods or services failed to remit the GST collected from the taxpayer.

About *Inside Indirect Tax*

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

Footnotes

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