Global Tax & Legal | Global Indirect Tax | August 2018

Global Indirect Tax News

Your reference for indirect tax and global trade matters

Welcome to the August 2018 edition of GITN, covering updates from the Americas, Asia Pacific, and EMEA regions.

Features of this edition include trade news from around the globe, the implementation of the Sales Tax and the Service Tax in Malaysia, and an upcoming VAT rate increase in Russia.

Two of our annual publications have recently been issued: the Deloitte Intrastat Guide 2018 (which sets out the latest Intrastat filing requirements and procedures for all 28 EU Member States) and the European VAT Refund Guide 2018 (which summarizes the rules and procedures on how to reclaim VAT in 31 European countries).

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Country summaries

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France	The tax authorities have updated their guidelines regarding the place of supply of services for VAT purposes with respect to immovable property.	**Read more**
Ghana	The VAT regime has been restructured with respect to the claiming of input VAT.	**Read more**
Hungary	The real-time invoice data provision obligation entered into force in Hungary as of 1 July 2018, and the 'grace period' has now ended. Rules have been introduced regarding the VAT treatment of vouchers. The reverse charge mechanism will continue to apply to supplies of grain and steel products until 30 June 2022.	**Read more**

Country	Update	
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Portugal	From 1 January 2019, there will be mandatory e-invoicing for B2G transactions. There is an update on the increase in vehicle tax following implementation of the Worldwide Harmonized Light Vehicle Test Procedure.	**Read more**
Russia	The standard VAT rate will increase from 18% to 20% from 1 January 2019. There have been a number of other VAT amendments. The Federal Tax Service has published an overview of the court position with respect to VAT recovery issues. Russian counter-sanctions measures have been extended.	**Read more**
South Africa	The annual quota for bone-in cuts of frozen chicken from the US has been increased.	**Read more**
United Kingdom	The CJEU has ruled that direct debit administration is not exempt from VAT. A court has ruled that VAT is payable on the salaries of temporary staff. The tax authorities have provided guidance on the application of the VAT cost sharing exemption and the 'directly necessary' test. Draft legislation has been announced to counteract VAT 'offshore looping' in financial services.	**Read more**

Under the tax authorities' Making Tax Digital for VAT initiative, taxpayers will be required to manage their VAT record-keeping and compliance reporting digitally. One key part of this initiative will be around digital submission of VAT returns.

Eurasian Economic Union

The zero import customs duty rate has expired for certain types of goods.

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Global

US tariffs on China-origin goods and China response

US issues second round of section 301 tariffs on China-origin goods

On 7 August 2018, the Office of the US Trade Representative (USTR) officially announced that an additional tranche of 279 Chinese origin goods would become subject to additional tariffs of 25% on 23 August 2018.

This second tranche of tariffs on Chinese origin goods, which is being implemented pursuant to section 301 of the Trade Act of 1974, will impact USD 16 billion in trade value from China. The final second tranche is a slightly scaled back version of the list of 284 tariff lines that was originally proposed on 15 June 2018. The following tariff items were removed following a public comment and hearing process:

- Alginic acid,
- Splitting, slicing or paring machines for working hard materials,
- Carriage containers,
- Floating docks, and
- Microtomes.

The USTR is expected to publish, in an upcoming *Federal Register* notice, the details on how US stakeholders may request product exclusions from these tariffs. According to the USTR's announcement, exclusions will be considered in cases where the impacted goods are only available from China and when the imposition of additional duties will cause severe economic harm to a US interest. Interested persons will have the opportunity to submit a response to such requests.

US extends public comment period for third round of section 301 tariffs

On 1 August 2018, the USTR had also announced a possible increase in the rate of additional section 301 tariffs with respect to a third tranche of proposed tariffs on goods of Chinese origin. Specifically, the USTR had originally proposed an additional 10% tariff on 6,031 products representing approximately USD 200 billion in trade value with China, and is now considering additional tariffs up to 25%.

Due to this change, the USTR indicated in its 1 August 2018 notice that it will extend the public comment period as follows:

- Requests to appear at the public hearing will now be due by 13 August 2018;
- Written comments will now be due by 6 September 2018;
- The date of the public hearing originally scheduled for 20 August 2018 in Washington DC will not change; and
- Post-hearing comments will be due by 6 September 2018.

In its announcement, the USTR indicated that these latest proposed tariff measures are "intended to provide the Administration with additional options to encourage China to change its harmful policies and behavior and adopt policies that will lead to fairer markets and prosperity for all of our citizens".

China responds with additional tariffs

On 9 August 2018, China responded to the US's announcement of its second list of tariffs by announcing its own list of 333 products that will be subject to 25% additional duties effective at 12:01pm CST on 23 August 2018.

Also, on 3 August 2018, in response to the US's proposed tariff rate increase on its proposed third list of tariffs on Chinese origin goods, the China Tariff Commission of the State Council published Announcement No. 6, which proposed additional tariffs on 5,207 categories of products covering a very wide range of goods originating from the US at four different rates (5%, 10%, 20%, and 25%). No effective date for these tariffs was indicated. However, based on past tariff actions taken by China and the China Ministry of Commerce's statement that "China will act according to the steps taken by the US", the effective date would likely coincide with any effective date associated with the proposed third tranche of US tariffs.

US implements India’s membership in Wassenaar arrangement

The US Department of Commerce’s Bureau of Industry and Security (BIS) has amended the Export Administration Regulations (EAR), formally recognizing and implementing India’s membership in the Wassenaar Arrangement. This rule is another in a series of rules that implement reforms to which the US and India mutually agreed to promote global nonproliferation, expand high technology cooperation and trade, and ultimately facilitate India’s full membership in the four multilateral export control regimes. This rule change became effective on 3 August 2018.

The Wassenaar was established to contribute to international security and stability by promoting transparency and greater responsibility in the transfers of conventional arms and dual-use goods and technology. All participating members agree to apply export controls through their national policies to the lists of goods and technologies established by the Wassenaar. India became the 42nd member of the Wassenaar in December 2017.

In amending the EAR, the US is formally recognizing India’s membership in the Wassenaar and its commitment to strengthen the global nonproliferation and export control framework. This change will enhance US-Indian cooperation in civil space, defense, and other high-tech sectors. In addition to becoming a member of the Wassenaar, India has also secured memberships in two other multilateral export control regimes, including the Missile Technology Regime (MTCR) and the Australia Group (AG). India has not yet been admitted to the Nuclear Suppliers Group (NSG). These memberships have earned India the status of a Major Defense Partner with the US.

Immediate impact on exporters

This rule change will make it easier and more efficient for US companies to export, reexport, and retransfer a much wider range of products and US origin items to India’s high technology and military customers. Specifically, BIS revised the following sections of the EAR:

- **15 C.F.R Part 738** – license requirements for National Security Column 2 (NS2) reasons to India were removed, which means items controlled for NS2 reasons no longer require an export license to India;

- **15 C.F.R Part 740** – India was removed from Country Group A:6 and added to Country Groups A:1 and A:5. The addition to Country Group A:1 implements India’s status as a Wassenaar member, whereas the addition to Country Group A:5 provides greater availability of License Exception Strategic Trade Authorization (STA) for export and reexports to, and transfers within India. This means U. companies can now utilize STA to export ‘600 series’ military items to India without an explicit approval from BIS.

- **15 C.F.R Part 743** – India is now subject to Special Reporting and Notification requirements for items controlled under the Wassenaar.

- **15 C.F.R Part 758** – removal of the requirement for exporters to file certain Electronic Export Information in the Automated Export System for items controlled for Crime Control Columns 1 (CC1) and 3 (CC3) and Regional Stability Column 2 (RS2) destined to India.

- **15 C.F.R Part 772** – addition of India to the list of countries under the definition of the term 'Australia Group' which provides formal recognition of India's Australia Group membership.

The US Department of Commerce noted "this regulatory change will enhance the bilateral defense trade relationship and result in a greater volume of U.S. exports to India".

US reimposes sanctions on Iran as first wind-down period ends

On 6 August 2018, President Trump issued Executive Order 13846, which reimposed certain sanctions with respect to Iran in the first round of the Iran Deal sanctions 'snap back'.

President Trump had previously announced on 8 May 2018 the US's intention to withdraw from the Iran Nuclear Deal (the Joint Comprehensive Plan of Action, JCPOA). The US Department of the Treasury's Office of Foreign Assets Control (OFAC) published guidance detailing two wind-down periods for businesses to conclude certain activities that were allowed under JCPOA relief but would be restricted once JCPOA-related sanctions were reimposed (or 'snapped back') in August and November 2018.

Executive Order 13846 reimposed certain sanctions previously revoked or amended. General licenses relating to commercial aircraft, Iranian-origin carpets, and foodstuffs that were established to facilitate wind-down activities for the August deadline have also now expired. Executive Order 13846 also expanded the scope of sanctions against Iran in effect prior to 16 January 2016 (Implementation Day under the JCPOA).

JCPOA-related sanctions that have been reimposed include restrictions on:

- The purchase or acquisition of US bank notes by the Government of Iran;

- Iran's trade in gold and other precious metals;

- Graphite, aluminum, steel, coal, and software used in industrial processes;

- Transactions related to the Iranian rial;

- Activities related to Iran's issuance of sovereign debt; and

- Iran’s automotive sector.

The second and last wind-down period will expire at 11:59 p.m. Eastern Standard Time (EST) on 4 November 2018, and the remaining sanctions lifted or waived as part of the JCPOA relief will re-enter into full effect on 5 November 2018. Sanctions that will be snapped back into place in November include those relating to:

- Iran’s port operators and its shipping and shipbuilding sectors;
- Petroleum-related transactions, including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- Transactions by foreign financial institutions with the Central Bank of Iran and other designated Iranian financial institutions;
- Provision of specialized financial messaging services to the Iranian Central Bank and other financial institutions;
- Provision of underwriting services, insurance, or reinsurance; and
- Iran’s energy sector.

By the end of the wind-down periods, OFAC will announce additional persons and entities that will be added to its Specially Designated Nationals (SDN) list, requiring blocking actions and other restrictions relating to these individuals and entities.

OFAC had previously clarified in its FAQs issued 8 May 2018 that non-US, non-Iranian persons may receive payment for goods or services or may receive repayment of loans or credits extended, under certain conditions. These conditions include that the goods or services were provided before the end of the applicable wind-down period, or loans and credits extended before the end of the wind-down period, and as agreed to prior to 8 May 2018, following US sanctions in effect at the time. All payments must be consistent with US sanctions.

EU response to US snap back

In response to the White House's May announcement that the US would withdraw from the JCPOA, the EU stated on 18 May 2018 that it would reactivate its Blocking Statute, EC No. 2271/96 from 22 November 1996, in order to counter the effects in the EU of US withdrawal from the JCPOA. Fundamentally, the Blocking Statute seeks to protect EU operators from the extraterritorial application of particular US sanctions programs and provides a mechanism for EU operators to recover damages due to the application of these specified laws.

The Blocking Statute's annex was updated to include the now reimposed US sanctions on Iran. After a two-month period of scrutiny by the European Parliament and the European Council without objection by either, the updated Blocking Statute and amended annex to the Statute entered into force on 7 August 2018. The EU also provided published guidance regarding this update.

Impact on businesses

US businesses and their foreign branches and subsidiaries must evaluate their business operations and cease any activities that would be in violation of the sanctions reimposed on 6 August 2018. With the last wind-down period approaching, companies should also be working to conclude activities under those sanctions programs in anticipation of the 4 November 2018 deadline, including winding down activities formerly authorized under General Licenses H and preparing for additional updates to the SDN List.

This reimposition of secondary sanctions will have a significant impact on US companies and foreign subsidiaries of US companies that may have taken advantage of the opportunities to do business with Iran pursuant to the JCPOA-related sanctions relief, but now must take actions to wind-down activities in response to the fluid sanctions environment.

EU entities considering business in Iran or Cuba will need to consider the applicability of US sanctions and the EU Blocking Statute to their operations when deciding whether and how to proceed.

Additional information

For additional OFAC guidance and updated Frequently Asked Questions (FAQs), please refer to the following sources:

- OFAC FAQs regarding Executive Order 13846;
- OFAC FAQs issued 8 May 2018 and updated 6 August 2018;
- Additional resources and FAQs cited in OFAC's 6 August 2018 press release;

- Wind-down general license relating to commercial aircraft at 31 C.F.R. § 560.536; and
- Wind-down general license relating to Iranian-origin carpets and foodstuffs at 31 C.F.R. §§ 560.534 and 560.535).

Additional resources related to the EU Blocking Statute and updated annex are provided in the European Commission's press release: Updated Blocking Statute in support of Iran nuclear deal enters into force.

US tariffs on steel of Turkish origin

US doubles section 232 tariffs on steel of Turkish origin and reexamines Turkey's eligibility under the Generalized System of Preferences

Since 23 March 2018, the US has been assessing section 232 additional tariffs of 25% on US imports of certain steel products originating from most countries, including Turkey. On 13 August 2018, the US increased these additional tariffs from 25% to 50% on such steel products originating from Turkey.

On the same day that it announced this increase, the Office of the US Trade Representative (USTR) also announced that it will review Turkey's eligibility for the Generalized System of Preferences (GSP). In its notice, the USTR indicated that a public hearing on this investigation will be held on 26 September 2018, with comments, pre-hearing briefs, and requests to appear due by midnight EST on 12 September 2018. This announcement followed an earlier statement on 3 August 2018 by Deputy USTR Jeffrey Gerrish suggesting that Turkey's decision to impose retaliatory tariffs on goods of US origin effective 21 June 2018 may have been a violation of the GSP eligibility criteria. On 21 June 2018, Turkey had imposed tariffs ranging from 4% to 70% on USD 1.8 billion of imports of US origin in response to the US's section 232 tariffs on imports of steel and aluminum.

Turkey responds with more tariffs on goods of US origin

On 14 August 2018, in response to the US's doubling of its additional tariffs on imports of Turkish steel, Turkey increased tariffs between 4% and 140% on 22 categories of US origin goods, including nuts, alcohol, rice, cosmetics, paper, automobiles, and coal.

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Americas

United States

Sales tax implication of *Wayfair* for non-US companies with US customers

On 21 June 2018, in *Wayfair et. al.* the US Supreme Court overturned the sales/use tax nexus standard of physical presence established in *National Bellas Hess* (1967) and later upheld in *Quill* (1992). Non-US companies which make sales of goods or taxable services to US customers have historically not been subject to a state or local sales tax collection responsibility on such sales unless they had a physical presence in the state of the customer, either directly or through an agent. With the Supreme Court's decision in *Wayfair*, inbound non-US companies and/or their US subsidiaries are now faced with potential collection and filing responsibilities in states with laws similar to those of South Dakota as well as those states with provisions extending nexus to "the extent permissible under the U.S. Constitution." As is discussed below, the concepts of Permanent Establishment (PE) and treaties generally provide no safe harbor relative to the determination of nexus for state (or local) sales and use tax purposes.

For further information on the *Wayfair* decision and the potential implications for remote sellers overall, see the Multistate Tax Alert of 26 June 2018, US Supreme Court overturns Quill's physical presence standard.

Considerations for foreign companies with US sales

The South Dakota statute upheld in *Wayfair* imposed a sales tax collection responsibility on sellers if annually their sales to South Dakota customers exceeded USD 100,000 or if the seller had 200 or more transactions with South Dakota customers. As a general rule, the levy of sales/use tax under the South Dakota statute is determined based on the location of the purchaser, without regard to where the sale originated. For example, a tangible good shipped directly from Asia to a customer in the US could be taxable if the seller meets the in-state sales/transaction requirements. Therefore, to the extent a seller, domestic or foreign, has sufficient sales/transactions in a state with a similar rule to the one upheld in South Dakota, the remote seller would now have a collection obligation. It is important to note that states are generally not bound by tax treaties, and bilateral tax treaties generally do not otherwise apply to non-income taxes at the state level.

Recommended analysis

Consider what state(s) may potentially levy sales and use tax on the transaction

As noted above, a sale is typically subject to sales/use tax in the state of the purchaser. However, it can be complicated to determine where to source a particular sale, especially where the purchaser is a large organization with many locations. For example, the sale of a software license that is used by an organization with office locations spread across multiple tax jurisdictions may result in sales tax potentially spread among those jurisdictions. Certain states have already enacted remote seller statutes similar to the one at issue in *Wayfair*, while others have not. Accordingly, it is crucial for companies to analyze their US sales activities and the potential states at issue.

Consider whether the products and/or services being sold are in fact subject to sales/use tax

Unlike many value added taxes, the vast majority of states primarily limit their imposition of sales tax to the sale of tangible property, i.e., many services are not subject to sales and use tax. However, this is not universally the case, as there are an increasing number of states that tax a growing list of different kinds of business services, notably those involving data processing, software and online or other cloud-based information technology (IT) services. For example, certain states do not tax software except where it is delivered in tangible form, while others tax electronically downloaded software and ‘software as a service’ subscriptions.

Consider available exemptions

There are also a number of different types of exemptions that may apply, depending on a particular state’s rules. These typically include:

- Sales of goods or services for use in manufacturing or industrial processing;
- Sales made for re-sale;
- Sales to non-profit, government or other tax exempt entities.

As determinations can be highly fact-specific, companies are encouraged to consult with their tax advisors with respect to each of their particular products or offerings as well as the nature of their customer base. In addition, companies may now have an obligation to register for sales tax collection though the necessary basis for an exemption exists. States typically require certain documentation to be maintained by the seller, such as properly completed resale exemption certificates, in order to validate qualification for an exemption.

Compliance, potential retroactivity, and exposure considerations

As states generally do not recognize branches in the context of sales/use taxes, the legal entity making the sale and with nexus in the state has the sales/use tax collection responsibility and must register with a state and file periodic sales/use tax returns. Companies will need to have systems in place to be able to accurately compute and collect sales tax at the time of the customer sale.

Sales/transaction-based nexus statutes or administrative rules have been in effect since at least 2016 in a number of states, and the issue of retroactive enforcement must be closely analyzed in such states. In addition to sales/transaction-based sales and use tax nexus statutes, approximately ten states have enacted sales tax notification and/or reporting statutes in the last several years. Such states require remote sellers to provide in-state buyers with information regarding their use tax obligations, as well as provide a report to the state detailing in-state purchases. Failure to comply in some instances may result in the levy of per transaction penalties, which may exceed the underlying sales/use tax. Accordingly, prior to registration in a state, foreign companies should analyze whether there are any exposures for prior sales to customers (or for failure to provide the required information to buyers/state revenue agency) and whether negotiation of a pre-registration agreement with a certain state (e.g., through a Voluntary Disclosure Agreement) is advisable.

Other state tax considerations

It should also be noted that the Court’s holding in *Wayfair* may potentially impact the state-level nexus determinations relative to income, gross receipts, telecom, utility and/or franchise taxes (the latter based on net worth or capital).

Relative to the state levy of net income taxes, while many states ultimately conform to the benefits of permanent establishment clauses present in US bilateral tax treaties, certain states do not limit the income tax base to effectively connected income (and may not extend the safe harbors provided by Public Law 86-272 to foreign taxpayers).

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Asia Pacific

India

GST updates

In its 28th meeting held on 21 July 2018, the GST Council made various recommendations for changes to the GST Law (the GST Law consists of the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, the Union Territory Goods and Services Tax Act, and the State Goods and Services Tax Acts). The proposed changes required the approval of both the Parliament and the State legislature. The Parliament has passed the GST Amendment Bill, 2018 on 8 August 2018 and the changes are expected to be effective shortly.

A summary of the GST Amendment Bill is as follows:

- **Definition of 'services':** Service charges in relation to transactions in securities are clarified as being taxable.

- **Meaning and scope of 'supply':** The term 'supply' is amended to remove reference to Schedule II, so as to ensure that the activities/transactions as per Schedule II are to determine only whether the same is a supply of goods or services.

- **Payment of GST under reverse charge:** Payment of GST under the reverse charge with respect to the supply of specified goods or services or goods or services by an unregistered supplier to a registered supplier will be restricted only to notified registered persons for specified goods and services.

- **Threshold limit for composition suppliers:** The threshold limit for composite suppliers is increased from INR 1 crore to 1.5 crores.

- Registered manufacturers and traders can now opt for the composition scheme even if they supply services of a value not exceeding 10% of the turnover in a State/Union territory in the preceding financial year or INR 5 lakhs, whichever is higher.

- **Input tax credit (ITC):** The deeming provision for claiming ITC was previously applicable only where goods were supplied by a supplier on the direction of a registered person to any other person (bill-to-ship-to). The same has been extended to services.

- **Registration:** Amendment allows separate registration of multiple places of business of taxpayers in addition to the different business verticals within the state.

- Provision is inserted for separate registration for a person having units in a Special Economic Zone (SEZ) or being a SEZ developer, as a business vertical distinct from other units located outside the SEZ.

- **Cancellation of registration:** A new proviso is inserted to provide for suspension of registration while proceedings are pending relating to the cancellation of registration. This would relieve taxpayers of the continued compliance burden under the law until such time as the process of allowing cancellation of registration is completed.

- **Issuance of credit and debit note in respect of multiple invoices:** The amendment seeks to permit a registered person to issue consolidated credit/debit notes in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

- **Simplification of returns:** A new provision is introduced to enable the new return filing procedure as proposed by the Returns Committee and approved by the GST Council. The detailed mechanism of giving effect to the above proposal is awaited.

- **Payment of tax:** A registered person would be able to utilize ITC on account of CGST and SGST/UTGST only after the registered person has exhausted all the ITC on account of IGST.

- Further amendment seeks to insert an enabling provision that allows the Government, on the recommendation of the GST Council, to provide a specific order in which a registered person can utilize input tax credits for settlement of a tax liability.

- **Pre deposit for appeal filing:** An amendment seeks to put an upper cap of INR 250 million to the amount to be deposited before filing an appeal to the appellate authorities. Further, the maximum amount to be deposited to file an appeal to the appellate tribunal is IR 500 million.

- **Schedule I (activities to be treated as supply even if made without consideration):** The import of services by entities that are not registered for GST (for instance entities that are only making exempted supplies) but are otherwise engaged in business activities shall be chargeable to tax when such services are received from a related person or from any of their establishments outside India.

- **Schedule III (activities or transactions treated as neither a supply of goods nor a supply of services):** The scope of Schedule III is expanded to include transactions of a supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into the taxable territory, the supply of goods in the course of a high seas sale, and the sale of warehoused goods.

- **No GST on goods imported for job work:** Under the IGST Act, no tax liability will be imposed on job work that is done on goods that are imported and then exported.

The 29th GST Council meeting took place on 4 August 2018. The key recommendations are as follows:

- The decision to provide incentives on digital payments was approved. The move aims at encouraging digital transactions which the Government promotes.

- In order to discuss the issues of Micro, Small and Medium Enterprises (MSMEs), the GST Council has decided to form a sub-committee to study the issues and make recommendations on the issues faced by MSMEs on GST compliance and procedures related to GST return filings.

Foreign trade policy update

Merchandise Exports from India Scheme (MEIS) under Foreign Trade Policy of India (FTP 2015-20) is one of the two schemes introduced in the Foreign Trade Policy of India 2015-20, as part of the Exports from India Scheme with effect from 1 April 2015. Appendix 3A of the Handbook of Procedure 2015-2020 lists items not allowed for import and scrips not to be used for payment of Customs duty for such items. Recently a public notice has been issued to remove all the items listed in Appendix 3A of the Handbook of Procedure 2015-2020.

The value limit for exports through courier service/post has been set at INR 5,00,000 and the eligibility criteria for entitlement under MEIS for courier/post exports have been increased to INR 5,00,000 per consignment from the previous rate of INR 25,000 per consignment. The limitation on the port of exports for courier exports for the purpose of incentives under MEIS has been removed.

Customs decision: Exemption notifications to be strictly interpreted and benefit of ambiguity must be interpreted in favor of the Revenue

The issue of whether an ambiguity in a tax exemption must be interpreted so as to favor the assessee claiming the benefit of such exemption or the Revenue was before the Supreme Court (SC). In view of the differences in views from prior precedents, the matter was referred to a Constitution Bench to decide the issue.

The Constitution Bench of the SC held that exemption should be allowed to be availed only to those assessees who demonstrate that a case for exemption squarely falls within the parameters enumerated in the notification and that the claimants satisfy all the conditions precedent for the availing of the exemption.

The exemption notifications should therefore be interpreted strictly. The burden of proving applicability would be on the assessee to show that its case comes within the parameters of the exemption clause or exemption notification. When there is an ambiguity in an exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the assesse, and it must be interpreted in favor of the Revenue.

Prior judgments which had taken the view that an ambiguity in a tax exemption provision or notification must be interpreted so as to favor the assessee claiming the benefit of such exemption have been overruled. This ruling will impact current and future disputes on how exemption claims are viewed. As a consequence, businesses need to revisit their ongoing litigation and reassess positions and way forward.

As the ruling was issued by a five member bench, this principle is likely to remain in force for the foreseeable future.

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Malaysia

Sales Tax and Service Tax implementation

Legislation to implement Malaysia's new Sales Tax and Service Tax (SST) and repeal the GST received Royal Assent and was published in the official gazette on 28 August 2018. The GST ended on 31 August 2018, and the SST will apply from 1 September 2018.

The Sales Tax will apply at 5% or 10% on prescribed taxable goods (with some goods exempt), and the Service Tax at 6% on in-scope services.

The Royal Malaysian Customs Department (RMCD) released the following regulations, orders and guides:

- SST Regulations
- SST Orders
- General Guide
- Industry Guides

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EMEA

European Union

New definition of exporter of record

On 16 May 2018, the European Commission (EC) amended and corrected the Delegated Act to the Union Customs Code (UCC). In addition to other relatively minor changes, the new regulation amended the definition of 'exporter' to allow greater flexibility to business partners in their choice of person to act as exporter for customs purposes. The new definition came into effect as of 31 July 2018.

Current definition of exporter

According to the UCC Delegated Act, applicable until 30 July 2018, an exporter can only be one individual meeting three cumulative requirements. Specifically, the individual must:

1. Be established in the customs territory of the Union;

2. Hold a contract with a consignee in a third country; and,

3. Have the power to determine that the goods are taken outside the customs territory of the Union.

The EC felt that this description has been too restrictive and wanted to allow greater flexibility for business partners' designation of an individual as exporter for customs purposes.

New definition of exporter less restrictive and provides greater flexibility

According to the EC, the new definition limits the conditions for being an exporter to the essential requirements for the function of the export procedure. The only remaining conditions are that exporters must have the power to determine that the goods are to be taken out of the Union's customs territory, and that they must be established in said territory. The amendment means that the decision on who would act as exporter is largely at the discretion of the business partners involved; their choice can only be overruled if the assigned individual would not be established in the Union's customs territory. Only in such a case, and in others where business partners do not agree on who would act as exporter for customs purposes, the exporter for customs purposes is then determined based on specific provisions of customs legislation.

In essence, the new provision appears to introduce a situation, or memorialize an existing practice, in which business partners have the flexibility to designate an exporter for customs purposes, as long as this person is established within the Union's customs territory.

Under the new definition, there is a potential disconnect between the exporter for customs purposes in the customs declaration and the VAT exemption for export, as the person claiming the VAT exemption is not necessarily the exporter for customs purposes.

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Belgium

Draft bill to be submitted to Parliament on optional VAT on immovable letting

Following the Council of State's remarks on initial texts regarding the optional VAT on immovable letting, the Government considered a number of changes and has reached a consensus on the final texts.

Changes in the final pre-draft of the bill are as follows:

- For buildings that will be constructed as of 1 October 2018, parties can subject their tenancy agreement to VAT. The option to tax enters into force on 1 January 2019.
- The option to tax only needs to be included in the contract, with no requirement to notify the VAT authorities.
- The VAT recapture period for buildings leased with VAT under the new scheme will be increased to 25 years.
- Short-term rent is redefined as the letting of immovable goods for a period that does not exceed six months (previous drafts referred to a period of one year). Such contracts will be subject to VAT as required by law (no optional scheme). However, the letting of residential dwellings or premises exclusively used for private purposes, including student accommodation and holiday apartments, remains exempt from VAT. The same applies for the letting of a property to a non-profit organization or for socio-cultural purposes.

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Denmark

VAT treatment of sea going vessels and permanent equipment

A draft for a binding instruction has been issued by the tax authorities to specify a change of the administrative practice regarding VAT exempt services provided to sea going vessels.

Previously it has been a condition for the application of the VAT exemption that the supply of goods or services is carried out in the last supply in a chain supply (to the vessel).

The ruling in the Court of Justice of the European Union case *A Oy* (Case C-33/16), changes the current administrative practice in Denmark for when the VAT exemption can be applied. It is proposed that the exemption should also apply to previous supplies in a chain supply.

In the draft for binding instruction, the tax authorities specify that the VAT exemption can be applied if the following conditions are fulfilled:

1. It is possible, with guarantee, to determine what the purpose of the supply of the service is, because this is agreed upon,

2. There is no need to initiate a special inspection to secure a correct and simple use of the VAT exemption; and,

3. The supply is a part of the sales chain for the service.

According to the ruling in *A Oy* and the draft for binding instruction, the administrative practice will be broadened, and if the conditions are fulfilled, the change in practice also applies to other services and goods than loading and reloading. However, the authorities are of the opinion that the supply of fuel as a starting point cannot fulfill the conditions.

VAT exemption for exportation of goods

A draft for a binding instruction has been issued by the tax authorities to specify the change of administrative practice for the application of the VAT exemption regarding transport services related to the export of goods to outside the EU.

The ruling in the CJEU case *L.C.* (C-288/16) leads to a sharpened (narrower) interpretation of the VAT exemption. It will now be a condition for the application of the VAT exemption that these transport services are supplied to the consignor or the recipient of the exported goods.

The instruction will only be effective going forward, from 1 September 2018.

VAT on transaction fee for payment in an app

A binding ruling has been issued by the tax authorities in regard to a transaction fee for payment in an app.

The app provides an option to pay external suppliers for parking services. In the app the users must enter their credit card information. The provider of the app will hereafter transfer the credit card information to the bank and the app provider receives an authorization code to withdraw the amount from the bank.

The tax authorities specify that the transfer of the credit card information is not sufficient to fulfill the specific and essential functions of being a VAT exempt payment transaction. Additionally they specify that the provider of the app does not have a responsibility for the completion of the legal or economic changes which characterize the presence of a VAT exempt payment transaction.

The full payment for using the app is therefore subject to VAT even though the app is used for both paying the app provider for initiating the payment and paying parking services provided by an external party.

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Finland

Tax authorities' new guidance on VAT group as the purchaser of services (*Skandia America*)

On 20 June 2018, the tax authorities published new guidance regarding the VAT treatment of service purchases made by a VAT group. The new guidance is based on the Court of Justice of the European Union ruling in *Skandia America*, and it will change the taxation practice in Finland as of 1 January 2019.

The current taxation practice in Finland is based on the Finnish Supreme Administrative Court's decision KHO:2004:120, according to which the service transactions between a Finnish branch and a head office located in another EU country were not deemed as service sales according to the Finnish VAT Act, even though the branch belonged to a VAT group in Finland. Instead, the services were deemed to be transactions within one legal entity, thus they were not considered sales from a VAT point of view.

As of 1 January 2019, the VAT treatment will be amended so that if the head office or branch belongs to a VAT group, its service transactions to its branch or head office in another country will be considered sales according to the VAT Act. As a result, when a Finnish head office or branch belonging to a Finnish VAT group purchases services from a branch or head office located in another EU Member State or non-EU Member State, the VAT group will be deemed as the purchaser of the service instead of the head office or branch. Accordingly, the purchase is no longer regarded as an internal dealing of the same legal entity but a taxable transaction between the head office or branch and the VAT group. The Finnish VAT group will be liable to report the purchase in Finland according to the reverse charge mechanism, following the general place of supply rule or, when the place of supply is otherwise Finland, provided that the service is taxable. The same treatment applies also to branches belonging to a VAT group in Finland purchasing services from another branch of the head office located in another country. The Finnish VAT group is thus liable to remit VAT on those purchases.

Correspondingly, when a Finnish head office or branch purchases services from a foreign branch or head office that belongs to a VAT group in its country of domicile, the services are deemed as purchases in accordance with the VAT Act which are being purchased from the foreign VAT group. Accordingly, such purchases must be reported in Finland following the reverse charge mechanism, when the place of supply is Finland and the service is taxable.

When the Finnish head office or branch sells services to a branch or head office that belongs to a VAT group in another EU country, the transaction is considered to be a sale of services, according to the VAT Act. The Finnish head office or branch may deduct the input VAT of its costs related to these sales provided that the service is taxable by nature.

Tax authorities' new guidance on taxable base of import VAT

On 4 July 2018, the Finnish Tax Administration published their official guidance on the determination of the taxable basis for import VAT. The determination of import VAT was transferred from Finnish Customs to the Finnish Tax Administration on 1 January 2018.

As the import VAT is now self-assessed, the importer liable for VAT shall calculate and report the import VAT and the taxable basis on their own initiative in their VAT return to the Finnish Tax Administration. The Finnish Customs still determines the import VAT on imports on which the importer is not registered for VAT purposes in Finland or when the importer is a VAT-liable private individual and the import is not made for taxable business purposes.

According to the guidelines, the customs value acts as a starting point in determining the taxable basis for VAT. By way of exception, the customs value is not used as a starting point for the taxable basis in the following cases, as the calculation methodology is different:

- Computer software stored on a data carrier and other data medium
- Goods handled outside the EU customs and fiscal territory (so-called outward processing relief)
- Goods sold via customs auctions
- Temporary storage, customs warehousing, and free zones
- The use of corresponding goods in special procedures.

In addition to the customs value, related costs to be taken into account in determining the taxable basis are transportation costs, loading and unloading costs, insurance costs, and other costs related to importation, such as different forwarding costs. These costs are included in the taxable basis until the first destination point in Finland. Should there be a second destination point determined in Finland or elsewhere in the EU, where the goods are transported in relation to the import, transportation or importation related costs are accounted for in the taxable basis until that destination point provided that the importer is aware of that other destination point and the related services and their costs.

Added to the taxable basis are also the taxes, customs duties and any other import charges payable to the State or to the European Union in connection with the import customs clearance, excluding VAT. Taxes and other charges payable outside Finland are also included in the taxable basis.

Certain imports are VAT exempt according to the VAT Act. Regardless of the goods being VAT exempt, VAT registered importers must declare the taxable basis of such imports on their VAT return, although no import VAT is due.

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France

Definition of immovable property and supply of services connected to immovable property for VAT purposes

The tax authorities have updated their guidelines following the enactment of articles 13 ter, 31 bis and 31 ter of the European Council Implementing Regulation (EU) n° 1042/2013 dated 7 October 2013 regarding the place of supply of services for VAT purposes.

The main changes concern:

- The definition of immovable property and
- The definition of the supply of services connected to immovable property for the application of the VAT rules.

The guidelines are contained in TVA-CHAMP-10-10-40-30 and TVA-CHAMP-20-50-30.

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Ghana

Restructuring of VAT regime

The VAT and National Health Insurance Levy (NHIL) regime, which previously allowed for input VAT claims of both VAT and NHIL, has been restructured. The restructuring revises the standard VAT rate from 15% to 12.5%.

The Ghana Education Trust Fund (GetFund) levy of 2.5%, which was hitherto part of the 15% VAT, will now be a separate levy on taxable supplies. The NHIL of 2.5% will also be a levy on taxable supplies.

The effect of the new structure is that, whilst the total of VAT plus levies will remain at 17.5%, suppliers will only be able to deduct the 12.5% VAT component on purchases. The 5% (NHIL plus GetFund) levy paid on purchases will now be treated as part of business expenses.

The new structure for standard VAT rate supplies is as follows:

Item	**Tax on supplies**	**Input deduction**
VAT	12.5%	12.5%
NHIL (straight levy)	2.5%	
GetFund (straight levy)	2.5%	
Total	**17.5%**	**12.5%**

Wholesalers and retailers of goods under the VAT flat rate system are not affected by the changes, so will continue to charge 3% VAT on their sales without an input VAT claim.

Standard-rated VAT suppliers will be the businesses impacted by the changes.

The changes took effect from 1 August 2018, hence the new VAT structure should be used for VAT return reporting for August 2018, which is due by end of September 2018.

For information on other tax measures included in the recent mid-year budget review for 2018, see Highlights on recent tax amendments.

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Hungary

End of grace period for online data reporting

By way of background, from 1 July 2018, taxpayers issuing invoices (B2B only) using invoicing software must provide real-time data to the tax authorities. The real-time data provision applies to invoices issued by invoicing software if the VAT amount indicated on the invoice reaches or exceeds HUF 100,000. (Taxpayers may choose to report all invoices issued by invoicing software.) The invoice data must be provided immediately.

By 31 July 2018, the 'grace period' for online data reporting came to an end. The passing of this deadline means that all businesses included in the regulations must comply with the requirements of the real-time invoice data provision obligation. Nevertheless, the tax authorities do not aim to levy penalties following the grace period to those companies which acted in good faith and notify the authorities about any delay, provided the delay does not arise from the taxpayer's negligence.

The tax authorities publish information and documentation regarding the real-time invoice data provision obligation. The latest updates are available on the following link, in English: https://www.nav.gov.hu/nav/onlineszamla.

New VAT treatment of vouchers

From 1 January 2019, two different types of vouchers, single and multi-purpose, will be introduced, each with different VAT treatment.

The date of issuance will be the VAT tax point for single purpose vouchers. For multi-purpose vouchers, the tax point will be the date of redemption.

Extended period for reverse charge mechanism

Since 2012, the reverse charge mechanism has applied to supplies of grain and steel products, as a measure against VAT fraud. Based on the published VAT law, from 1 January 2019, the reverse charge mechanism will continue to apply to supplies of these products until 30 June 2022.

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Italy

Guidelines on non-preferential origin

With Note No 70339 of 16 July 2018, the Customs authorities issued guidelines regarding the non-preferential origin rules set out in the Union Customs Code (UCC) legal package.

In particular, clarifications and examples have been provided regarding how to confer non-preferential origin to goods the production of which involves more than one country or territory, both where the goods are covered by Annex 22-01 of Reg. (EU) 2015/2446 (i.e. listing the substantial processing or working operations conferring non-preferential origin to the therein included goods) and where they are outside the said Annex.

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Portugal

Introduction of mandatory e-invoicing for B2G transactions

As a result of Portugal transposing EU Directive 2014/55/EU on electronic invoicing in public procurement through Decree-Law nr. 111-B/2017, it is important to remember that, as from 1 January 2019, under the execution of public contracts, the parties involved will be required to issue electronic invoices.

Until 31 December 2018 there is a transition phase under which entities can continue to use procedures other than electronic invoicing.

This situation impacts not only public entities receiving electronic invoices, but also their suppliers, which will have to adapt their procedures accordingly.

Increase in vehicle tax following implementation of WLTP

It was reported in the July 2018 edition of this newsletter that the new laboratory test procedure known as WLTP (Worldwide Harmonized Light Vehicle Test Procedure) would be implemented as of 1 September 2018 to measure fuel consumption and CO2 emissions from passenger cars, as well as their pollutant emissions, and, as a result, increased taxation on vehicle sales would apply from that date. At the beginning of August, the Portuguese media reported that the tax authorities would present, as part of the preparatory work for the 2019 Budget State Law, a proposal for the review of the vehicle tax calculation procedures in order to accommodate the new laboratory test protocols and, thus, avoid an exponential increase on vehicle tax.

There has also been some speculation that the Secretary for the Fiscal Affairs will issue an order before the due date referred to above, to stop the increased tax on vehicles sales, although at this stage there is no formal information on how such an objective might be achieved.

Nevertheless, should the Government establish new limits, it might be expected that such legislative amendment would only enter into force from 1 January 2019. Therefore, if there are no relevant changes until the beginning of September, there will be increased taxation on vehicles sales.

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Russia

VAT rate increase from 1 January 2019

Federal Law No. 303-FZ of 3 August 2018 introduces a number of amendments to the Russian Tax Code, including increasing the VAT rates as follows:

- The standard VAT rate is raised from 18% to 20%;
- The VAT rate applied to the sale of an enterprise as a property complex and to e-services rendered by foreign providers is raised from 15.25% to 16.67%.

The new rates will apply to sales of goods (work, services, and property rights) made from the Federal Law effective date, i.e. from 1 January 2019.

A lower VAT rate of 10% for socially important goods will remain unchanged (in particular, for certain food products; children’s products; educational, scientific and cultural periodicals; pharmaceuticals; and medical appliances).

The VAT rate increase is expected to generate additional annual budget revenue of RUB 620 billion from 2019.

Amendments to Tax Code

Federal Law No. 302-FZ of 3 August 2018 introduces a number of amendments to the Russian Tax Code, including the following:

- The term of the in-house tax audit of the VAT return is decreased from three months to two months.

  Tax authorities may prolong the term of the audit up to three months if in the course of the audit they have identified signs of violation of the tax legislation. The new term will be applied with respect to VAT returns submitted after 4 September 2018.

- The set of documents necessary to confirm the application of the 0% VAT rate has been amended; there will be no obligation to provide transportation documents with the stamps of the customs authority to confirm the application of the 0% VAT rate with respect to supplies of exported, re-exported goods, and goods placed under the customs procedure in the customs-free zone. However, the obligation to provide copies of transportation documents will remain with respect to supplies of stores for export, supplies of international transportation services, services performed by oil and oil products pipeline transportation companies, services related to the transportation of goods placed under transit customs procedure. Tax authorities can still request copies of transportation documents when they identify inconsistencies between the information available to the tax authorities and a taxpayer's information. The amendment will be applied with respect to supplies performed from 1 October 2018.

- The 0% VAT rate will be applied with respect to supplies of goods for export if the contract is concluded with a Russian entity and the supply is performed to a separate subdivision of the Russian entity located outside the Eurasian Economic Union. The current version of the Tax Code states that in order to confirm the application of the 0% VAT rate with respect to supplies of goods for export, a contract with a foreign entity should be provided in the set of documents to the tax authorities. The amendment will be applied with respect to supplies performed from 1 October 2018.

Federal Tax Service publishes overview of court position with respect to VAT recovery issues

The overview includes analysis of Supreme Court decisions in cases where the tax authorities have rejected VAT recovery in situations when a supplier applied the 18% VAT rate with respect to services that are subject to VAT exemption or to the 0% VAT rate.

The Federal Tax Service concludes the following:

- Non-application of the VAT exemption should not result in VAT recovery rejection when companies voluntarily agreed to apply and pay VAT with respect to the exempt services and formed the contract price in consideration of the application of VAT;

- Where a supplier of services has issued a VAT invoice with VAT with respect to VAT-exempt services, the supplier of services is obliged to account for and pay the amount of VAT charged to the buyer to the tax authorities. The buyer in its turn has the right to claim the amount of VAT for recovery based on the VAT invoice regardless of the acquired services being VAT-exempt;

- A formal approach should not be applied when considering VAT recovery claims related to transactions that are VAT-exempt;

- During tax control measures the tax authorities must investigate the unjustified tax benefit question, as well as the reality of a taxpayer's transactions.

The Federal Tax Service highlights the necessity to act in accordance with the court practice of the Supreme Court and gives recommendations to the tax authorities to be applied during tax control measures. These recommendations are as follows:

- The tax authorities should identify circumstances that will directly or indirectly confirm the unreality of work/services performed by a contracting party;

- The tax authorities should check the amounts of VAT paid by a supplier of work/services from doubtful transactions;

- The tax authorities should check the correctness of the determination of the place of supply of transportation services.

Extension of Russian counter-sanctions until 31 December 2019

Decree of the Russian Government No. 816 of 12 July 2018 introduces amendments in the Decree of the Russian Government No. 788 of 7 August 2014 which prohibits the importation of certain agricultural products, raw materials, and food products originating from the US, the countries of the European Union, the Republic of Albania, Australia, Canada, the Republic of Iceland, the Principality of Liechtenstein, Montenegro, the Kingdom of Norway, and Ukraine. The amendments extend the counter-sanctions until 31 December 2019.

Decree No. 816 came into effect on 28 July 2018.

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South Africa

South Africa increases annual quota for bone-in cuts of frozen chicken originating from US

Effective from 27 July 2018, importers of frozen bone-in cuts of chicken will, subject to an import permit from the International Trade Administration Commission of South Africa (ITAC) and on recommendation by the Department of Agriculture Forestry and Fisheries (DAFF), be allowed to import more bone-in cuts of frozen chicken (tariff subheading 0207.14.9) imported or originating from the US than previously.

The ITAC has increased the basic annual quota to 65417 metric tonnes by amending the rebate provision granting full antidumping duty to importers of frozen chicken cuts of tariff heading 0207.14.9. The applicable general rate of customs under tariff subheading 0207.14.9 is 37%. The current rate of antidumping on frozen chicken cuts imported or originating from the US is 940c/kg. Importers who obtain an ITAC permit and enter the goods under rebate will save 940c/kg only. The 37% customs duty remains payable.

The amendment is implemented with retrospective effect from 1 April 2018. However, the rebate item shall be suspended if any benefits enjoyed by South Africa under the Africa Growth Opportunity Act (AGOA) are suspended by the Minister of Finance.

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United Kingdom

CJEU rules that direct debit administration not exempt from VAT

In *DPAS*, the Court of Judgment of the European Union has ruled that arranging direct debits for people to pay their dentists does not qualify for VAT exemption as payment handling. To qualify, DPAS's services needed to fulfil the specific, essential, functions of transferring money, and could not be mere administrative services. It needed to make the legal and financial changes which are characteristic of the transfer of money.

In the CJEU's judgment, all DPAS did was request that various financial institutions transferred money. This might be a necessary precursor to a transfer, but it was essentially an administrative task that was subject to VAT. Consequently, there was no need to consider whether DPAS's services were debt collection.

The CJEU's approach rehearses some established principles, but raises questions over whether other financial intermediary services could also be seen as administrative, and therefore taxable. However, further the tax authorities' (HMRC) guidance on the judgment's scope is unlikely before the case has returned for determination by the Upper Tribunal, which may take several months.

Court rules that VAT payable on salaries of temporary staff

In *Adecco*, the Court of Appeal has considered whether, for VAT purposes, temporary staff are employed by an employment agency or its client (when, legally, they are employed by neither).

Although a business like Adecco has little control over what a temp does in practice (they work under the client's supervision) the Court has ruled that it is providing the services of the temp, and not just introducing them. The Court focused on the contractual position: Adecco contracted with the temp and its client, but the temp had no direct contractual relationship with the client. The question of who directed the temp's work was insufficient to demonstrate that the economic reality was different to the contractual position. As shown by the (rarely exercised) contractual right to terminate the temp's employment, Adecco did not drop out of the picture when it had introduced the temp to the client. Furthermore, employment regulations that required Adecco to treat itself as a principal for employment law purposes meant that it could not treat itself as an agent.

Consequently, Adecco should charge VAT on the salaries of temporary staff, and not just on its commission.

VAT cost sharing exemption and 'directly necessary' test

The cost sharing exemption only applies to services supplied by a cost-sharing group that are 'directly necessary' for its members' exempt or non-business activities. HMRC had accepted that services qualify provided that members' taxable activities are no more than 15% of their total activities. However, following last year's CJEU judgment in *EC v Luxembourg*, HMRC is withdrawing this threshold from 15 August 2018 (although groups which are currently using the threshold may continue to do so until 31 December). HMRC recognise that groups should be allowed to apportion their services, and charge VAT on that part which relates to members' taxable activity. Guidance has been published which considers the additional calculations and record-keeping requirements required of the group, and the input tax recovery by members.

Draft legislation to counteract VAT 'offshore looping' in financial services sector

The Government has announced draft measures to counteract VAT 'offshore looping' in financial services. A written ministerial statement refers to a "version of offshore looping which is currently found almost exclusively in the insurance sector". The explanatory memorandum accompanying a draft statutory instrument confirms that this arises from UK companies recovering VAT on intermediary services supplied to Gibraltar insurers. The new rules, which will come into effect later this year, seek to counter these structures by removing financial and insurance intermediation services from part of the Specified Supplies Order. HMRC are also aware of variants of this structure, and are considering further legislation and other possible measures outside of the UK VAT system.

Making Tax Digital for VAT

Under HMRC's Making Tax Digital for VAT (MTDfV) initiative taxpayers will be required to manage their VAT record-keeping and compliance reporting digitally.

One key part of this initiative will be around digital submission of VAT returns. For organisations intending to continue using spreadsheets for VAT return preparations from April 2019, it will be necessary to find a new way to submit VAT returns to HMRC through the required Application Programming Interface (API). HMRC have published a list of suppliers supporting MTDfV, including Deloitte. Deloitte's myInsight VAT Return Filer is a simple and cost-effective cloud-based solution, which allows for easy management and submission of VAT returns through the HMRC API without installing any software. For information about MTDfV, including the myInsight VAT Return Filer, see Making Tax Digital in the UK: Get set for digital returns.

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Eurasian Economic Union

Expiry of zero import customs duty rate for certain types of goods

Decision of the Council of the Eurasian Economic Commission No. 61 of 9 August 2016 and Decision of the Council of the Eurasian Economic Commission No. 41 of 23 June 2017 established zero import customs duty rate for quilted textile fabrics of machine or hand knitting with a width of more than 30 cm, containing 5% or more of elastomer threads, but not containing rubber threads, for the period up to 31 August 2018 (inclusive). After 31 August 2018, the import customs duty rate will be 3% of the customs value of such goods. Decision No. 41 came into effect on 1 September 2017. Decision No. 61 came into effect on 28 October 2016.

Decision of the Council of the Eurasian Economic Commission No. 47 of 22 August 2017 established zero import customs duty rate for polyvinylchloride and acrylic polymers in primary forms for the period up to 31 August 2018 (inclusive). After 31 August 2018, the import customs duty rate will be 6.5% of the customs value of such goods. For Armenia, the zero rate for such goods will be valid until 2019. Decision No. 47 came into effect on 14 October 2017

Decision of the Council of the Eurasian Economic Commission No. 97 of 18 August 2017 established zero import customs duty rate for different components for bicycle manufacturing for the period up to 31 August 2018 (inclusive). After 31 August 2018, the import customs duty rate will be 5% of the customs value of such goods. Decision No. 97 came into effect on 20 September 2017.

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