

## **Global Indirect Tax News**

Your reference for indirect tax and global trade matters

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

Features of this edition include the trade agreement between Canada, Mexico and the US, and Budget announcements from Ireland, Portugal and the UK.

### **David Raistrick**

Deloitte Global Leader – Indirect Tax

In this edition of GITN:

[Country summaries](#)

[Global](#)

[America](#)

[Asia Pacific](#)

[EMEA](#)

[Eurasian Economic Union](#)

[Contacts](#)

[Back to top](#)

# Country summaries

## Global

The US has announced additional tariffs on USD 200 billion of Chinese imports and China has responded with additional tariffs on USD 60 billion of US imports.

[Read more](#)

## Americas

### US-Mexico-Canada

There is news regarding the United States-Mexico-Canada Trade Agreement.

[Read more](#)

## Asia Pacific

### Australia-Taiwan

The customs agencies of Australia and Taiwan have signed a Mutual Recognition Agreement.

[Read more](#)

### India

There is an update on GST and customs.

[Read more](#)

There has been an amendment to the rules for Special Economic Zones.

There have been two decisions by the National Anti-profiteering Authority.

### New Zealand

Non-resident retailers selling to New Zealand consumers will be required to register for and charge New Zealand GST from 1 October 2019.

[Read more](#)

## EMEA

### Gulf Cooperation Council

The Bahrain parliament has approved the introduction of VAT, effective 1 January 2019 at the expected standard rate of 5%.

[Read more](#)

### Estonia

There have been changes to the VAT treatment of real estate.

[Read more](#)

### France

The VAT refund procedure for EU non-resident taxable persons in France now conforms with the EU Principal VAT Directive.

[Read more](#)

The non-residents' tax office has changed its practice concerning the filing of VAT returns under the *saisonnier* regime.

**Greece**

Under a new law, pending VAT refund claims of a total amount up to EUR 10,000 will be processed more quickly.

[Read more](#)

**Hungary**

Hungary has been authorized, by way of derogation from the EU Principal VAT Directive, to apply a presumed VAT deduction rate of 50% on the use of leased cars.

[Read more](#)

Hungary has also been authorized a derogation to increase the VAT exemption threshold for small enterprises.

**Ireland**

Budget 2019, delivered on 9 October 2018, included a number of indirect tax measures, including changes to the current VAT rate of 9%, and increases in excise duty on cigarettes and Vehicle Registration Tax on diesel cars.

[Read more](#)

**Italy**

E-invoicing simplifications are being evaluated.

[Read more](#)

Excise duty exemption will apply where electronic cards are used for withdrawal of fuel by personnel assigned to US/NATO.

There are new operating instructions for the communication of accounting data by traders storing energy products at third party deposits.

**Malta**

Malta has implemented the EU's e-commerce VAT package rules.

[Read more](#)

**Poland**

The Ministry of Finance is considering replacing VAT returns and mandatory JPK\_VAT evidence files submitted on monthly basis to the tax authorities with one SAF-T file.

[Read more](#)

## **Portugal**

The 2019 Budget law proposal has been announced and submitted by the Government to Parliament, including a number of proposals to amend indirect taxes.

[Read more](#)

## **Russia**

The Government expanded the list of addresses where retail organizations must be located to participate in the Tax Free pilot project.

[Read more](#)

The Ministry of Finance has clarified the ability to amend government contracts due to the increase to the VAT rate.

The Ministry of Finance has clarified the VAT treatment of international communication services.

The Ministry of Finance has clarified the VAT treatment of the sale of residential premises (apartments).

The Ministry of Finance has clarified the procedure for confirming the application of the 0% VAT rate for export sales of goods on the basis of temporary customs declarations.

Rates of customs duties for customs escort and storage at a temporary storage warehouse have been established.

The licensing period has expired for the import of crushed stone and gravel, etc.

Methodological recommendations have been approved for the implementation of the experiment on marking the identification of shoe products.

The Government has established a transition procedure for applying stamps for marking alcoholic products.

<b>Serbia</b>	There have been amendments to the law regarding VAT refunds to foreign taxpayers.	<a href="#">Read more</a>
<b>Slovakia</b>	The Ministry of Finance submitted a draft amendment to the VAT Act to be effective from 1 January 2019.	<a href="#">Read more</a>
<b>South Africa</b>	There will an implementation and phase down of safeguard duty on frozen bone-in portions of chicken.	<a href="#">Read more</a>
<b>United Kingdom</b>	The Chancellor of the Exchequer delivered his Budget Statement on Monday 29 October, including a number of indirect tax measures.  A court has ruled that free bets are not subject to gaming duty	<a href="#">Read more</a>

## **Eurasian Economic Union**

There has been an extension of anti-dumping duty on graphite electrode originating from India. [Read more](#)

A 0% import customs duty rate has been introduced for raw materials of fur and tanned or dressed fur skins.

The list of information specified in the customs declaration for certain categories of goods placed under the customs procedure of export in the Republic of Kazakhstan and the Russian Federation has been clarified.

The start date for the confirmation procedure for the actual export of goods from the customs territory of the EEU by the customs authorities of the EEU Member States has been changed from 1 September 2018 to 1 February 2019.

[Back to top](#)

# Global

## **US announces additional tariffs on USD 200 billion of Chinese imports and China responds with additional tariffs on USD 60 billion of US imports**

On 17 September 2018, President Trump and the United States Trade Representative (USTR) announced that the US will proceed with implementing additional tariffs on 5,745 goods of Chinese origin pursuant to Section 301 of the Trade Act of 1974. This third tranche of tariffs will levy an additional tariff of 10% on approximately USD 200 billion of imports of Chinese origin, effective 24 September 2018. This additional tariff rate will increase from 10% to 25% on 1 January 2019.

Following a recent public comment and hearing process, 297 tariff items were removed from the originally proposed list of 6,031 tariff items, including:

- Certain consumer electronic products, such as smart watches and Bluetooth devices;
- Chemical inputs for manufactured goods;
- Textiles and agricultural products;
- Certain health and safety products; and
- Child safety furniture, such as car seats and playpens.

When considered in combination with the two tranches of additional tariffs on Chinese origin goods of 25% that became effective on 6 July 2018 and 23 August 2018, this third tranche brings the total of impacted imports of Chinese origin goods to approximately USD 250 billion – nearly half of all imports of Chinese origin goods in 2017.

In conjunction with this announcement, President Trump specifically stated that any retaliatory action against the US in response to these Section 301 duties may result in the implementation of more tariff actions on an additional USD 267 billion worth of Chinese origin goods. Should this occur, tariffs on goods of Chinese origin would cover nearly the entire value of all imports of Chinese origin goods imported last year.

### ***Exclusion process***

On 18 September 2018, the USTR finally published procedures to request the exclusion of products from the Section 301 List 2 tariffs on China origin goods that took effect on 23 August 2018. These procedures detail the process by which any person(s), including trade associations, can submit requests for exclusion from the second tranche of additional duties. Citing protests from interested persons received during the initial notice and comment period for the Section 301 List 1 tariffs that took effect on 6 July 2018, the USTR determined to consider exclusions based on the following required information:

- A detailed description of the physical characteristics of the product in consideration;

- The 10-digit subheading;
- The average annual quantity purchased for the last three years;
- The percentage of the importer's total gross sales of the product in consideration, or for imports used in the production of final products, requestors must provide the percentage of the total cost of producing the final product and percentage of total gross sales; and
- The rationale for the requested exclusion (i.e., whether the product is available from a source outside of China, whether the additional duties would cause severe economic harm to the requestor or other US interest, and/or whether the particular product is strategically important or related to Chinese industrial programs (i.e., 'Made in China 2025').

Requests for product exclusions for List 2 must be filed within 90 days of the publication of the list (18 December 2018). Responses to the requests are due 14 days after the request is posted in docket number USTR-2018-0032. At the end of the 14-day response period, interested persons will have an additional seven days to reply to the response. Exclusions will be applied retroactively to 23 August 2018, and will be effective for up to one year upon publication of the exclusion determination in the *Federal Register*.

The exclusion request process for List 3 has not yet been published. Also, the previously published exclusion request process for List 1 set a deadline of 9 October 2018 for the filing of requests.

### ***China responds***

On 18 September 2018, China announced that it would impose a 10% retaliatory tariff on 3,571 goods of US origin, effective 24 September 2018. The affected products of US origin include:

- Oak wood veneer;
- Non-electrical machines;
- Makeup;
- Copper;
- Natural gas.

A separate list of 1,636 tariff items, including bleached wood pulp, cow hides, optical media, and needles, will be subject to a 5% additional tariff as of the same date.

The import value associated with these tariff measures amounts to approximately USD 60 billion in Chinese imports of US origin goods.

#### **Global:**

**Fernand Rutten, [frutten@deloitte.com](mailto:frutten@deloitte.com), Deloitte Belgium**

#### **US:**

**Helen Cousineau, [hcousineau@deloitte.com](mailto:hcousineau@deloitte.com), Deloitte LLP**  
**Kristine Dozier, [kdozier@deloitte.com](mailto:kdozier@deloitte.com), Deloitte LLP**

**Americas:**

**Michele McGuire**, [mimcguire@deloitte.com](mailto:mimcguire@deloitte.com), Deloitte LLP

**Asia-Pacific:**

**Sarah Chin**, [sachin@deloitte.com.hk](mailto:sachin@deloitte.com.hk), Deloitte China

**EMEA:**

**Klaas Winters**, [klwinters@deloitte.nl](mailto:klwinters@deloitte.nl), Deloitte the Netherlands

[Back to top](#)

## Americas

### US-Mexico-Canada

#### US-Mexico-Canada Agreement

On 30 September 2018, shortly before a midnight deadline, Canada, Mexico and the US (the Parties) announced the completion of North American Free Trade Agreement (NAFTA) renegotiations. The result is a deal known as the United States-Mexico-Canada Agreement (USMCA). The text of the USMCA is available from website of the Office of the United States Trade Representative, see [United States-Mexico-Canada Agreement](#).

The Agreement provides for government managed trade as well as many other matters including investment, labour mobility, etc. The USMCA preserves key elements of the relationship developed between the Parties under NAFTA, develops new rules to deal with modern business issues, and makes changes that will affect every business that imports or exports goods within the trade bloc. Business should now prepare for the business opportunities and the regulatory challenges presented by completion of this agreement.

Once ratified, the USMCA is expected to bolster North American trade, investment, and business growth. This is the latest development in a regional integration process that has spanned decades, beginning with the Automotive Products Trade Agreement of 1965 (which is better known as the Canada-US Auto Pact). The process of regional integration accelerated under NAFTA in 1994. Last year, the total trade between the NAFTA Parties reached USD 1.1 trillion. Collectively, the Parties account for 28% of the world's gross domestic product (GDP). The development of the North American trade bloc has opened export markets, stimulated international business, and helped to attract foreign investment.

The path towards the ratification of the USMCA and replacement of NAFTA will take time. Steps in this process towards ratification include the 'legal scrubbing' of the initial version (that is, a legal review for accuracy, clarity, consistency, and language authentication). There will also be some opportunity for consultation with government entities in respect of the expected impact of the USMCA. Representatives of the Parties will likely hold a formal signing ceremony in late November 2018. The Parties will likely develop USMCA implementation legislation for potential review and ratification next year.

The USMCA will affect almost every business engaged in cross-border trade between Canada, Mexico and the US. In general, the USMCA builds upon NAFTA and Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) rules. Importers, exporters, freight forwarders, shippers, and others who are engaged in the business of trade between Canada, Mexico, and the US will be impacted. These types of business will need to review and understand the new rules for trade in North America once the rules in the USMCA have been ratified.

**Doug Myrden, [dmyrden@deloitte.ca](mailto:dmyrden@deloitte.ca), Deloitte Canada**

**Daniel Kiselbach, [dkiselbach@deloittetaxlaw.ca](mailto:dkiselbach@deloittetaxlaw.ca), Deloitte Canada**

**Frank Caruso, [fcaruso@deloitte.ca](mailto:fcaruso@deloitte.ca), Deloitte Canada**

[Back to top](#)

## Asia Pacific

### Australia-Taiwan

#### AEO Mutual Recognition Arrangement

On 18 September 2018, the customs agencies of Australia and Taiwan signed a Mutual Recognition Arrangement (MRA) in relation to providing streamlined border treatment to each other's Authorized Economic Operator (AEO) accredited traders.

Broadly, this preferential treatment will involve expedited clearance of goods at the border, reduced documentation and cargo inspections, and minimized disruption to trade flows.

Based on the average time for Australia's other MRAs to be fully implemented, it is anticipated that the Australia-Taiwan MRA will be fully implemented by the Australian Border Force (ABF) and the Taiwan Customs Administration by mid-2019.

Australia also has MRAs with the customs agencies of New Zealand, Hong Kong, Canada, the Republic of Korea (all fully implemented), as well as MRAs currently being implemented with Singapore and the People's Republic of China. Preparations are underway currently for MRAs to be signed with several of Australia's other key trading partners including the United States, Japan, and Thailand.

The ABF provides AEO accreditation to qualifying Australian importers, exporters, and related service providers under the [Australian Trusted Trader](#) program.

**David Ware, [dware@deloitte.com.au](mailto:dware@deloitte.com.au), Deloitte Australia**

## **India**

### **GST updates**

#### ***GST annual return and audit report***

The format of the GST annual return and GST audit report has been notified for normal and composition taxpayers. The due date for filing the GST annual return and audit report for the year 2017-18 is 31 December 2018.

#### ***Update on Tax Deduction at Source***

The Central Government had notified that the provisions of Tax Deduction at Source (TDS) under the GST regime will be effective from 1 October 2018.

Guidelines for deductions and deposits of TDS have been prescribed under GST. In brief, government agencies are liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply exceeds INR 250,000. Such tax collected must be paid to the government within 10 days from the end of the month in which such deduction is made along with a return in the prescribed form.

The deductor must issue a certificate to the deductee mentioning therein the contract value, rate of deduction, amount deducted, etc.

#### ***Refund of GST paid on export of goods or services***

The Central Board of Indirect Taxes and Customs has amended the process of refund of GST paid on the export of goods or services.

The amendment provides that an exporter cannot claim a refund of the GST paid on the export of goods or services if the person claiming the refund has received supplies on which the 'supplier' has availed the benefit of certain notifications, such as those relating to deemed exports, the concessional rate for merchant exports, and other notifications which granted exemption from GST and compensation cess on procurement of inputs in respect of *inter alia* advance authorization and Export Promotion Capital Goods (EPCG).

#### ***Amendment to Special Economic Zone rules***

Central Government has amended the SEZ Rules, 2006 to be in line with GST. This will help provide procedural and compliance ease to SEZs.

### **Customs update**

With the objective to reduce the current account deficit and curb imports of specific non-essential items in India, the Central Board of Indirect Taxes and Customs has notified an increase in the basic customs duty rates of specified non-essential items. These changes take effect from 27 September 2018.

## **GST decisions by National Anti-profiteering Authority**

### ***Whether a benefit accrued due to reduction in rate of tax of one product can be passed on via another product***

As per the provisions of Section 171 of the Central Goods and Services Tax (CGST) Act, 2017, any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit must be passed on to the recipient by way of a commensurate reduction in prices.

On 15 November 2017, there was a reduction in the rate of tax on certain products. In a recent case, the dealer dealing in one such product, instead of passing on the benefit accrued due to such reduction in tax rate, increased the base price of the product, due to which the landed cost of the purchaser would remain the same, even though the GST rate applied was a new reduced rate.

The purchaser of the product complained that the dealer had not passed on the benefit of the GST rate reduction, and alleged that the dealer had profiteered on account of the GST rate reduction in respect of the product.

The dealer contented that he had passed on the benefit not in particular on that product, but on the product category as a whole, and it was not particularly adjusted against the relevant product only to avoid inconvenience due to legal tender issues.

The National Anti-profiteering Authority analyzed the petition filed and all the documents and evidence brought on record and concluded the following:

- 1) Benefit available to the buyer on one product could not be denied by offering more than the required benefit to the buyer of other product.
- 2) It is apparent from the facts of the case that the dealer had no legal sanction to increase the base price of the product on his own and what was required of him was that he should have only reduced the maximum retail price (MRP) of the product by taking into account the effect of the reduction in the rate of tax.
- 3) The dealer is directed to reduce the price of the product commensurate to the reduction in the rate of tax and refund the applicable amount to the purchaser, along with interest. As the other customers of the product are not identifiable, the dealer is directed to deposit a certain amount along with the interest in the respective central or state Consumer Welfare Fund.

### ***Whether anti-profiteering applied where dealer selling product of foreign brand owner***

In another similar case of anti-profiteering, a dealer increased the basic price of products by an amount exactly equal to the amount by which the GST on them had been reduced. This change in the basic price was done with effect from the day from which the rate of tax was reduced.

According to the anti-profiteering authorities, the dealer was selling the product of a foreign brand owner and though the dealer had no direct influence over the revision of the MRP of external brands, he was still liable to revise his retail selling price, as he had taken the benefit of an input tax credit (ITC) on the purchase of the product.

The dealer had offered discounts on the product, but such discounts cannot be taken as in lieu of the reduction in the rate of tax, as such discounts are regular trade practices. Therefore the authority alleged that the dealer had not passed on the benefit of the reduction in the rate of tax to the applicant and resorted to profiteering.

The dealer contended the following:

- 1) The CGST Rules, 2017 empowered the National Anti-profiteering Authority to prescribe the methodology and procedure for determination of whether any reduction in the rate of tax or benefit of ITC had been passed on by a registered person by way of commensurate reduction in the prices or not. Since no guidelines had been framed as prescribed under CGST Rules, a registered person could not be held to be non-compliant.
- 2) In the absence of any prescribed methodology, a methodology that was reasonable and consistent with the objectives of the statutory provisions deserved to be accepted, and since the dealer had adopted a methodology that was reasonable and consistent with the objectives, the entire proceedings should be dropped.
- 3) As per the CGST Act, 2017, it was necessary to determine whether the reduction in tax rate had actually resulted in a commensurate reduction in the prices, but there was no prescription either under the Act or the Rules which required that the benefit had to be passed on in respect of each product separately. The pricing of the products was a complex exercise and they were usually not priced individually as several considerations were also taken into consideration to determine the price of a product.
- 4) As per the statutory provisions, it required only a broad correlation between the reduction in taxes and the pricing of products. The Indian Constitution granted him the right to carry on trade or business and to fix prices and earn profits which could not be subjected to unreasonable restrictions under GST.

The National Anti-profiteering Authority analyzed the petition filed and all the documents and evidence brought on record and concluded against the dealer on the following grounds:

- 1) There was no reason for the dealer to increase the basic price exactly equal to the amount by which the rate of tax had been reduced. This change in the basic price was also made by him with effect from the day from which the rate of tax was reduced. Therefore, the whole exercise of increasing the basic price was done by the dealer with *malafide* intention of not passing on the benefit of tax reduction to his customers.

- 2) Although the dealer was selling the product of a foreign brand owner, the MRP of which he could not have decided, he was still legally bound to pass on the benefit of the tax reduction to his local customers as he had claimed the benefit of the ITC.
- 3) Any discount offered by the dealer on the product can also not be taken to have been given in lieu of the reduction in the rate of tax, as such discounts are regular trade practices.
- 4) The dealer has no discretion to provide benefit on certain class of products and deny the same in respect of other products. Denial of benefit as per the convenience of the dealer is not permissible, as the provisions of law apply, and hence he cannot argue that the benefit was not required to be passed on to all the products, as a consumer may buy a particular product and may not buy another.
- 5) The Authority is only concerned with the passing on of the commensurate benefit as is arrived at after calculation of the impact of the rate reduction on the MRP of a product. There is further no restriction on the right of the dealer to conduct trade as provision under GST only requires him to pass on the benefits, and does not require him to obtain any licence or seek approval to conduct trade or fix prices of the products being sold by him.

**Prashant Deshpande, [pradeshpande@deloitte.com](mailto:pradeshpande@deloitte.com), Deloitte India**

## **New Zealand**

### **GST on imported low value goods: Offshore vendor registration**

Following consultation earlier in the year, details have been released on the proposed GST regime for non-residents supplying 'low value goods' to New Zealand consumers, see [Proposed new rules for GST on low-value imported goods announced](#). While many aspects of the proposals remain the same as originally proposed, a major change is the proposal to apply the rules to all consignments of goods costing NZD 1,000 or less (as compared to the originally proposed threshold of NZD 400).

While legislation will not be introduced into Parliament until November 2018, there is still a commitment to have the regime apply from 1 October 2019. The new rules will apply to offshore suppliers who make supplies (or expect to make supplies) of goods to New Zealand consumers of NZD 60,000 or more in a 12-month period. Electronic marketplaces and re-deliverers will also have a requirement to register and comply with the new rules.

Low value goods will be defined as imports with a consignment value of NZD 1,000 or less. New Zealand tariffs and cost recovery charges will no longer apply to supplies covered by the new rules (alcohol, tobacco and fine metals are excluded from these rules).

Under the current GST rules, all sales by non-residents of goods on which the total amount of GST and duty is less than NZD 60 per shipment are not subject to GST at the border and no GST is due on the sale. Due to varying rates of duty on goods, there is no single value on which GST does not apply, in some cases it is under NZD 400, and in other cases only goods under around NZD 230 are not subject to GST currently. The new rules will do away with this distinction and simply focus on whether the consignment value is NZD 1,000 or less.

### ***How will a supplier know if a customer is a New Zealand consumer?***

Suppliers will need to charge GST if the destination of the goods is a delivery address in New Zealand.

Offshore suppliers will not be required to return GST on supplies to New Zealand GST registered businesses. There will be an optional rule allowing offshore suppliers to zero-rate supplies to New Zealand GST registered businesses. This approach would allow any GST incurred by the offshore supplier to be claimed back (for example costs of attending trade fairs in New Zealand). If supplies to businesses are zero-rated, these are included when calculating whether the NZD 60,000 registration threshold is exceeded.

Offshore suppliers will be able to presume that a New Zealand resident customer is not a GST registered business unless the customer has provided their GST registration number, New Zealand Business Number, or otherwise notified the supplier of their GST registered status.

If offshore suppliers are making supplies of types of goods that are typically consumed only by businesses, it is expected that it will be possible to seek agreement from the tax authorities (the Inland Revenue Department) that it can be presumed all customers are GST-registered businesses. This rule already exists for the existing remote services rules.

### ***Marketplaces***

When certain conditions are satisfied, an operator of an online marketplace (whether based in New Zealand or offshore) may be required to register and return GST on supplies made through the marketplace by non-resident suppliers, instead of the underlying supplier.

It is proposed that a marketplace would be liable to account for GST unless they do not authorize payment, authorize the delivery or directly or indirectly set any of the terms or conditions of the supply. These rules are consistent with the approach adopted in Australia.

If a marketplace does not process the payment for a supply of goods, in some instances the marketplace will be able to claim a bad debt deduction if they are unable to collect the GST and any other fees from the supplier.

A marketplace will be subject to the NZD 60,000 registration threshold, however this will include the total value of both low value goods and remote services.

## ***Re-deliverers***

Catering to the needs of New Zealand consumers who want to purchase from retailers who will not ship to New Zealand there are now a range of businesses who create local delivery addresses and then ship the goods to New Zealand. There are also personal shopping services available.

These businesses will be liable to register for GST and will need to collect the 15% GST on the value of the goods (the information released does not specify whether GST must also be charged on the redelivery services which take place outside New Zealand).

A re-deliverer will need to register when the value of the goods they 're-deliver' exceed NZD 60,000 in a 12-month period.

## ***Supplies above NZD 1,000***

Where the value of a consignment of goods exceeds NZD 1,000 then the current rules will continue to apply, and rather than the supplier charging GST, GST (and any applicable duty) will be collected at the New Zealand border, with the purchaser unable to collect their goods until the tax is paid.

Suppliers will, in some instances, be able to charge GST on goods costing more than NZD 1,000 (these rules will also apply to marketplaces and re-deliverers).

## ***Compliance requirements***

While not covered in the proposals released, it is expected that suppliers who are required to register under these rules will be able to apply for a simplified 'pay-only' registration basis, or alternatively may undertake a full registration allowing them to claim back any New Zealand GST incurred in making New Zealand sales.

Offshore suppliers who are already GST registered under the remote services rules do not need to separately re-register for these new proposed rules.

GST returns will ordinarily be due in quarterly instalments (March, June, September, and December). There will be an optional one-off six month filing period from 1 October 2019 – 31 March 2020 to allow suppliers to adapt to the new filing requirements.

The Government will be monitoring compliance with the rules, including through sharing of information between New Zealand Customs and Inland Revenue and using powers under double tax agreements to obtain information about foreign taxpayers.

## ***Key issues for suppliers***

Suppliers who sell low value goods to consumers in New Zealand should start thinking about how the new rules could impact their business.

A range of issues will need to be considered and addressed before the rules take effect including:

- Can total sales be easily tracked by jurisdiction?
- Will the level of supplies to New Zealand consumers exceed the registration threshold?
- What type of supplier is the supplier and what specific rules will apply – actual supplier, online marketplace operator, or re-delivery service?
- What modifications would need to be made to websites or business processes in order to determine whether New Zealand GST should apply?
  - Determining the delivery address of the customer
  - Determining whether the customer is an end consumer or a GST registered business
  - Determining the NZD value of the transaction
  - Being able to remove any local sales tax and replacing it with 15% GST
  - Excluding freight and insurance charges when determining if GST applies, but including those costs when calculating GST
  - How will returned or replaced goods need to be treated for GST purposes?
  - Do invoicing processes need to change?
- Does the business wish to continue shipping to New Zealand or effectively outsource the compliance to a marketplace or re-delivery businesses?

Legislation is expected to be introduced into Parliament in November 2018. There will be an opportunity for taxpayers to make submissions on the legislation before it is finalised. It is expected that legislation will not be enacted until close to the 1 October 2019 application date, which may be problematic for systems design.

**Andrew Babbage, [ababbage@deloitte.co.nz](mailto:ababbage@deloitte.co.nz), Deloitte New Zealand**

**Allan Bullot, [abullot@deloitte.co.nz](mailto:abullot@deloitte.co.nz), Deloitte New Zealand**

**Mark Lash, [marklash@deloitte.co.nz](mailto:marklash@deloitte.co.nz), Deloitte New Zealand**

[Back to top](#)

# EMEA

## Gulf Cooperation Council – Bahrain

### Bahrain to implement VAT effective 1 January 2019

The Bahrain parliament has approved the introduction of VAT, effective 1 January 2019 at the expected standard rate of 5%.

This announcement is a further reason for local businesses to accelerate their VAT readiness preparations, as there is now a definitive date for the tax to become effective. The introduction of VAT will be a significant challenge for the Bahrain market, as this represents the first mainstream form of taxation in the Kingdom. Businesses from a largely non-tax environment will be required to meet significant obligations critical to the operation of the new VAT system.

Deloitte has developed an approach and methodology to support businesses during this crucial time. See [VAT in Bahrain: Are you ready for the implementation?](#) for helpful tips on how to best prepare for VAT, as well as actions that should already be under way.

To further assist businesses, Deloitte has recently launched its new version of the [VAT in the GCC mobile app](#) in Arabic and English to help businesses in their readiness phase. With the prospect of the four GCC member states that have yet to implement VAT likely to begin releasing information relating to their implementation processes shortly, keeping track of the laws and regulations will be increasingly important. The app allows all the updated information to be stored in one place shortly after being released by the authorities.

**Michael Camburn, [mcamburn@deloitte.com](mailto:mcamburn@deloitte.com), Deloitte Middle East**

## **Estonia**

### **Changes to VAT treatment of real estate**

On 1 October 2018, an important addition was made to the VAT law – the words 'plot of land' were replaced with the wider concept of 'building land'.

Previously only plots ('plot' means a land area defined in a detailed spatial plan and in respect of which building rights are granted according to the Planning Act §6 (3)) without any construction on them were subject to VAT in Estonia. Under the new VAT law, in addition to plots, 'building land' will also be subject to VAT, defined as follows:

"Building land is deemed to be such immovable within the meaning of the General Part of the Civil Code Act, that does not contain any construction works, except utility networks or utility works, and which is designed for building pursuant to the design specifications, a detailed spatial plan or special spatial plan of the state or local government or for which a building notice has been submitted or the intended purpose of the cadastral unit of which is over 50% residential land or commercial land or these jointly." (VAT Act §2 (3))

The selling of this type of land without a building will be subject to VAT from 1 October.

**Tonis Elling, [telling@deloittece.com](mailto:telling@deloittece.com), Deloitte Estonia**

**Liisu Lell, [llell@deloittece.com](mailto:llell@deloittece.com), Deloitte Estonia**

## France

### **VAT refund procedure for EU non-resident taxable persons in France now in conformity with EU Principal VAT Directive**

On 4 December 2017, the French Administrative Supreme Court (*Conseil d'Etat*) issued a decision, concluding that the French tax authorities (FTA) may not reject a VAT refund claim submitted after 30 September of the calendar year following the refund period (Case No. 392575) as France has not transposed Article 15 of the EU Principal VAT Directive into the French Tax Code (FTC).

This has provided an opportunity for some taxpayers to make VAT refund claims for otherwise barred periods.

However, a decree dated 8 October 2018 has transposed Article 15 into the FTC (Article 242 or annex II of the FTC).

As a consequence, for 2018, VAT refund claims of EU residents (non-resident in France) will have to be submitted on or before 30 September 2019, and it is no longer possible to submit claims for previous years.

In addition, a VAT refund claim would be considered as 'not submitted' if information requested in the form is not provided. It would not be possible to regularize these omissions.

It is therefore important that VAT refund claims are made carefully.

### **Non-residents' tax office changes practice concerning filing of VAT returns under *saisonnier* regime**

The *saisonnier* regime allows for a taxpayer to file a VAT return only when a taxable turnover has been realized.

This regime is, in theory, only applicable when the taxpayer has an activity during a part of the year on a regular basis and is closed during the rest of the year. For example, the regime applies to a taxpayer who only has activity in summer (every summer) and is closed in winter. (Reference the FTA's comments, BOI-TVA-Decla-20-20-10-10-20150506.)

The non-residents' tax office has decided to apply this regime more strictly, as the regime was applied to taxpayers having an 'occasional activity', meaning an activity performed from time to time in France but not on a regular basis.

The non-residents' tax office will inform taxpayers already registered under the *saisonnier* regime that, as from a certain date, they will have to submit quarterly VAT returns if they perform an occasional activity. This change will be made on a case-by-case basis.

New taxpayers with an occasional activity will be required to submit quarterly VAT returns from the commencement of their activity. In this case, the amount of VAT to be paid per year should not be taken into account. This means that a taxpayer with an occasional activity will submit quarterly VAT returns even if the annual VAT to be paid is more than EUR 4,000, according to oral information obtained at this stage.

In France, VAT returns must be submitted on a monthly basis unless annual output VAT is less than EUR 4,000, in which case, the taxpayer can opt to pay VAT on a quarterly basis.

**William Stemmer, [wstemmer@taj.fr](mailto:wstemmer@taj.fr), Taj**

**Marie Manuelli, [mmanuelli@taj.fr](mailto:mmanuelli@taj.fr), Taj**

## **Greece**

### **Quicker processing of pending VAT refund claims**

Article 36 of Law 4569/2018 (published in the Government Gazette on 11 October 2018 (FEK 179 A'/11.10.2018)) provides the following.

The processing of VAT refunds of amounts up to EUR 10,000 per beneficiary in audit cases pending on 11 October 2018 is accelerated to facilitate and support business activities. Audit cases for which a temporary corrective tax assessment act has not been issued are considered to be pending audit cases for these purposes.

Audits of refunds of up to EUR 10,000 still may take place in a sample of cases selected through a decision issued by the Chief Officer of the Independent Authority of Public Revenues based on specific risk analysis criteria.

As per the Explanatory Report issued by the Greek Parliament on the articles of the new law, the above provision has been introduced as an extension of article 74 of Law 4484/2017, which first regulated the quicker processing of VAT refunds of amounts up to EUR 10,000 per beneficiary in audit cases that were pending on 1 August 2017.

**Kyriaki Dafni, [kdafni@deloitte.gr](mailto:kdafni@deloitte.gr), Deloitte Greece**

## **Hungary**

### **50% VAT deduction for leased cars**

On 18 September 2018, the European Council passed the proposal submitted by the European Parliament that would allow Hungary to decide, by way of derogation from the EU Principal VAT Directive, on a presumed VAT deduction rate of 50% on the use of leased cars.

This proposal is indicated in the autumn tax package of the Hungarian Government and the Hungarian Parliament will vote on this in November. If the Hungarian VAT Act is amended according to the resolution of the European Council, Hungarian taxpayers may deduct automatically 50% of the VAT on leased cars, or a higher proportion if a business usage ratio is verified, for example with a mileage log.

The new legislation would apply from 1 January 2019 to 31 December 2021.

### **HUF 12 million VAT exemption threshold for small enterprises**

On 2 October 2018, the European Economic and Financial Affairs Council passed a derogation request submitted by Hungary in relation to the increase in the VAT exemption threshold for small enterprises. The purpose of the legislation is to improve the competitiveness of small enterprises by reducing their administration-related costs.

Accordingly, the Hungarian Government is able to raise the VAT exemption threshold for small enterprises from HUF 8 million (approx. EUR 24,850) to HUF 12 million (approx. EUR 37,270) of annual revenues per year.

This proposal is also indicated in the autumn tax package of the Hungarian Government and the Hungarian Parliament will vote on this in November.

**Zoltan Gabor, [zgabor@deloittece.com](mailto:zgabor@deloittece.com), Deloitte Hungary**

**Zoltan Tancsa, [ztancsa@deloittece.com](mailto:ztancsa@deloittece.com), Deloitte Hungary**

## **Ireland**

### **Budget 2019**

Budget 2019, delivered on 9 October 2018, included a number of indirect tax measures. Full coverage of the Budget is available at [Budget 2019](#).

### ***Changes to current VAT rate of 9%***

The 9% VAT rate was initially introduced in July 2011 in response to a deep recession caused by the financial crisis of 2008. The reduced VAT rate was supposed to last for a three year time period but, now, after more than seven years, the VAT rate is being restored to its original level. The Government has cited the level of employment nearing its pre-crisis peak and the economy being in full recovery as its grounds for reversing the reduction. Some concerns have been expressed in relation to its removal, with the uncertainty of Brexit prime among them.

The increase in rate to 13.5% will affect hotels, other short-term guest accommodation, restaurants, cinemas, theatres, hairdressers, museums, and art galleries. The 9% VAT rate on newspapers and sporting facilities will remain. Additionally, the VAT rate for e-publications which are currently taxed at 23% will be reduced to 9%.

The changes will come into effect from 1 January 2019.

## ***Increase in excise duty on cigarettes***

Budget 2019 saw the excise duty on tobacco products rise by a further 50 cents from midnight on 9 October 2018, increasing the average cost of a pack of 20 cigarettes to around EUR 12.50. The increase will also apply pro-rata on other tobacco products.

## ***No change to excise duty on petrol and diesel, but 1% increase in VRT on diesel cars***

Further changes in Budget 2019 resulted in a raise in Vehicle Registration Tax (VRT) on diesel cars by 1% from midnight on 9 October 2018. The Minister for Finance also referred to the introduction of a more accurate form of calculating CO2 emissions which could potentially lead to a further increase of VRT on both diesel and petrol vehicles of 2% in January 2019. This would result in a total VRT increase of 3% for diesel and 2% for petrol vehicles.

**Pascal Brennan, [pabrennan@deloitte.ie](mailto:pabrennan@deloitte.ie), Deloitte Ireland**

## **Italy**

### **E-invoicing simplifications**

The Government has approved a fiscal decree aimed at simplifying the implementation of the e-invoicing obligation (effective from January 2019). Below are the most significant simplifications:

- 'Grace period' for late e-invoicing:

For invoices issued during the first half-year of 2019:

- No administrative penalties for late e-invoicing would apply for valid e-invoices issued within the deadline provided for the settlement of VAT (in this case the relevant VAT is computed with reference to the correct period);
- Penalties will be reduced by 80% for late invoicing for valid e-invoices issued within the deadline provided for the settlement of VAT related to the following period (in this case the relevant VAT is computed with reference to the following period – month or quarter).

- 'Extended timing for the issuance of e-invoices:

Taxpayers would be allowed to raise invoices (both ordinary and e-invoices) within 10 days from the date on which the transaction is deemed to be carried out, upon condition that the relevant invoice provides evidence of the mismatch between the date of issuance and the tax point.

- 'Extended timing' for the accounting of sales e-invoices:

Taxpayers would be allowed to account for sales invoices by the 15<sup>th</sup> day following the month in which the transaction is deemed to be carried out (this provision amends the current provision under which the sales invoices must be accounted for by the 15<sup>th</sup> day from the date of issuance of the invoice).

- 'Extended timing' for the exercise of the right of deduction:

Taxpayers would be able to deduct, by the 16<sup>th</sup> of each month, the VAT related to invoices received and booked by the 15<sup>th</sup> day following the one in which the transaction is deemed to be carried out, except for invoices related to transactions carried out in the previous FY. (This means that the new provision should not apply for transactions carried out in FY1 and for which the relevant invoice is received in FY2, in such a case the VAT will have to be deducted in the year of receipt.)

- Simplifications in the accounting of e-invoices received:

The apposition of the protocol number on purchase e-invoices would no longer be required, as fulfillment would be deemed to be met for e-invoices passing through the SDI system.

**Antonio Piciocchi, [apiciocchi@sts.deloitte.it](mailto:apiciocchi@sts.deloitte.it), Deloitte Italy**

### **Excise duty exemption applies where electronic cards used for withdrawal of fuel by personnel assigned to US/NATO**

With reference to the excise duty exemption for fuel supplies to personnel assigned to US/NATO commands, in Circular no. 9/D of 20 September 2018, the Customs authorities provide for the conditions to be met for the purpose of using electronic identifying cards for the withdrawal of fuel instead of paper vouchers.

### **Communication of accounting data by traders storing energy products at third party deposits**

With reference to the new rules relating to the storage of energy products in a third party warehouse that apply as from 29 August 2018, in the note 103356/RU of 27 September 2018, the Customs authorities issued operating instructions for transmitting the accounting data by the parties storing energy products at third party deposits (i.e. traders).

**Alessandra Di Salvo, [adisalvo@sts.deloitte.it](mailto:adisalvo@sts.deloitte.it), Deloitte Italy**

## **Malta**

### **Malta implements e-commerce VAT package rules**

On 20 September 2018, regulations implementing EU Council Directive 2455/2017 in Malta were published by means of the following Legal Notices (L.N.):

- L.N. 297 – Value Added Tax Act (Amendment of Third Schedule) Regulations;
- L.N. 298 – Value Added Tax Act (Amendment of Twelfth Schedule) Regulations; and
- L.N. 299 – Value Added Tax Act (Amendment of Fourteenth Schedule) Regulations.

The Regulations will enter into force on 1 January 2019.

### ***L.N. 297/2018: Place of supply of telecommunications, broadcasting and electronic services to non-taxable persons***

As of 1 January 2019, the place of supply of telecommunications, broadcasting and electronic services (TBES) to non-taxable persons will be determined in accordance with the general place of supply rule (i.e. the place where the supplier is established) where:

- The supplier of such services is established in Malta, or has his permanent address or usual residence only in Malta; and
- The customers are non-taxable persons who are established, have their place of permanent address or usual residence in any EU Member State other than Malta; and
- The total value of such supplies (exclusive of VAT) does not in the current calendar year exceed EUR 10,000 and did not do so in the course of the preceding calendar year.

However, where, during a calendar year, this threshold is exceeded, the special rule determining the place of supply of TBES to non-taxable persons (i.e. the place where that person is established, has his permanent address or usually resides) will apply as of that time, and the supplier may opt to apply the Mini One Stop Shop (MOSS) simplification measure.

In addition, suppliers falling within the scope of this provision have the right to opt for the place of supply to be determined in accordance with the special rule mentioned above, which option shall in any event cover two calendar years. Exercise of this right requires a written notice to be furnished to the Commissioner for Revenue specifying the date from which it applies, which date cannot be earlier than thirty days from the date on which it is furnished.

### ***L.N. 298/2018: Simplified invoicing***

As of 1 January 2019, the issuance of a tax invoice will be governed by the rules applicable in the EU Member State where the supplier making use of one of the special schemes for TBES (i.e. EU and non-EU MOSS schemes) is identified. In Malta, persons supplying TBES under MOSS are exempt from the requirement to issue VAT fiscal receipts.

### ***L.N. 299/2018: Non-EU MOSS scheme***

As of 1 January 2019, a "taxable person not established within the Community" is defined as "a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there". The additional condition under existing rules whereby in order for a person to qualify as being established outside the Community, such person should also not be required to be identified for VAT purposes under article 10 of the Malta VAT Act, is therefore being removed.

**Chris Borg, [cborg@deloitte.com.mt](mailto:cborg@deloitte.com.mt), Deloitte Malta**

**Christos Charalampidis, [chcharalampidis@deloitte.com.mt](mailto:chcharalampidis@deloitte.com.mt), Deloitte Malta**

## **Poland**

### **SAF-T file JPK\_VDEK likely to replace VAT returns and JPK\_VAT**

The Ministry of Finance is considering replacing VAT returns and mandatory JPK\_VAT evidence files submitted on monthly basis to the tax authorities with ultimately one SAF-T file (the working name of which is JPK\_VDEK) in mid-2019.

At this stage there is little information available apart from press interviews by the Minister of Finance, in particular, no draft law is yet available. Nevertheless, the currently binding JPK\_VAT evidence template will need to be significantly reshaped, as it does not yet contain all of the elements of the VAT returns (such as carry forward amount, VAT liability amount, etc.).

This is a change that will obviously impact all Polish VAT registered entities and require significant involvement in and changes to the IT and financial systems of Polish VAT taxpayers.

**Agnieszka Lukasik, [aglukasik@deloittece.com](mailto:aglukasik@deloittece.com), Deloitte Poland**

## **Portugal**

### **State Budget proposal 2019**

The 2019 Budget law proposal has been submitted by the Government to the Parliament, for which parliamentary approval is still required.

Below are the main measures that the government has proposed in relation to VAT and other indirect taxes. All the listed proposed amendments will enter into force on 1 January 2019, except where indicated, provided the 2019 Budget law proposal is approved by the Parliament and the President of Portugal, and published in the Official Journal.

### **VAT**

#### *Changes in VAT rates proposed*

The reduced rate (6% in the mainland, 5% in Madeira and 4% in Azores) will be applied to the following goods and services (instead of the standard or intermediate rate):

- Supply of hair prostheses for cancer patients, as well as leasing of other type of prostheses, devices and other goods used namely by disabled people and by cancer patients;
- The acquisition by INEM (Portuguese Institute of Medical Emergency) of devices/equipment for emergency assistance;
- Cleaning services and social intervention performed in the scope of fire prevention as well as in agricultural and forest management contexts; and

- Admission fees for singing, dancing, music, theatre and circus shows (from 1 July 2019) when performed in fixed show rooms or itinerant circuses. Admission fees for cinema and bullfighting shows will remain at the intermediate VAT rate, as will any of the abovementioned shows not performed in the indicated places.

### *Legislative changes proposed*

#### Vouchers

Rules have been introduced regarding the VAT treatment of vouchers, transposing EU Council Directive (EU) 2016/1065.

The VAT treatment of transactions associated with vouchers varies according to the specific characteristics of the voucher. Single purpose vouchers are taxed upon supply, whereas multi-purpose vouchers are liable to VAT when they are redeemed and the goods or services are supplied.

For non-redeemed vouchers and when there is no return of the amount paid, VAT is due upon the expiration date of the right to the respective use of the voucher.

#### Telecommunications, broadcastings and electronically supplied services

EU Council Directive (EU) 2017/2455 will be transposed. The Directive determines rules to facilitate taxpayers that occasionally supply telecommunications, broadcasting or electronically supplied services, allowing the VAT taxation in the EU Member State where the supplier is established, when (i) the consumer is not a taxable person and is established in a different EU Member State from the supplier, (ii) the value of the services provided does not exceed EUR 10,000 (VAT excluded) in the former civil year or in the current civil year.

#### Bullfighting artists' services

Services supplied by bullfighting artists are no longer VAT exempt (currently subject to exemption without credit) and will be taxed at the reduced rate (allowing the recovery of the VAT incurred in the goods and services acquired for this activity).

#### *Municipal companies*

It has been clarified that supplies of fixed assets from municipal companies to municipalities, as a result of the compulsory winding-up of the municipal companies, does not imply the adjustment of the VAT initially deducted.

### *Legislative authorizations*

The Budget Law proposal includes the following authorizations for the government to amend the VAT rules:

- Introduction of a VAT reduced rate for the fixed component of the supply of electricity and natural gas when the contract power does not exceed 3.45 kVA (electricity) and to low-pressure consumers which do not exceed 10,000 m<sup>3</sup> per year (natural gas); and,

- Creation of a simplified VAT regime which may include a special compensation scheme of deductible VAT, within the scope of a flat-rate scheme, for independent cinemas and public spaces for independent cinematographic and audiovisual works projections.

The Budget Law proposal includes the following authorizations (included in the 2018 Budget but not exercised):

- Expansion of the intermediate VAT rate (13% in the mainland) applicable to all beverage services provided by restaurants (currently beverage services of alcoholic drinks, soft drinks, juices, nectars, and sparkling water and those to which carbon dioxide or other substances are added are subject to the standard VAT rate – 23% in Portugal mainland);
- Expansion of the internal VAT reverse charge system for the purchase of cork, wood, pinecones and pine nuts with shell, similar to the current regime in force for waste, residues and recyclable scrap metal.

### ***Excise duties***

#### *Tobacco tax:*

- The excise duty levied on the specific component regarding cigarettes will increase from EUR 94.89 to EUR 96.12 per 1,000 cigarettes.
- For cigars and cigarillos, there is an increase of approximately 1.3% in the minimum limit of the duty resulting from the application of the *ad valorem* component which will be EUR 410.87 per 1,000 cigars and EUR 61.63 per 1,000 cigarillos.
- For rolling tobacco, snuff, chewing tobacco and heated tobacco there is an increase of duty levied from EUR 0.080 per gram to EUR 0.081 per gram.
- Additionally, the duty regarding fine cut tobacco for rolling cigarettes and the remain smoking tobaccos, for snuff, for chewing tobacco, and heated tobacco cannot be less than EUR 0.174 per gram, which represents an increase to the current limit (EUR 0.171 per gram).
- For liquids containing nicotine, the tax rate will increase from EUR 0.3 per ml to EUR 0.31 per ml.
- The rate of the *ad valorem* element regarding cigarettes manufactured in the Autonomous Regions of Madeira and Azores by small producers, whose yearly production does not exceed 500 tonnes individually and which are consumed in Azores, increases from 40% to 42%. On the other hand, there is an increase in the minimum amount of tax on cigarettes, from 73% to 75% of the minimum value due in Portugal mainland.

- The general arrangements for products subject to excise duty now apply to the circulation of tobacco leaf aimed for public sale of snuff, chewing tobacco and heated tobacco and liquid with nicotine, in devices used for charges and recharges of electric cigarettes.

#### *Tax on alcohol, alcoholic drinks and sugar-added drinks*

For non-alcoholic drinks with sugar or sweetener added, and drinks with alcohol content higher than 0.5% vol. and lower than or equal to 1.2% vol., there will be more tiers for taxes applied. This expansion results in an increase to the maximum tax rate applicable to drinks with a higher sugar level ( $\geq 80\text{g}$ ), whilst the remaining drinks benefit from a tax reduction, as follows:

Sugar (grams)	Tax rate EUR / hectoliter	
	2018	2019
$\leq 25$	8.34	1
25-49		6
50-79		8
$\geq 80$	16.69	20

#### *Tax on petroleum products*

The mix or incorporation of biofuels in other petroleum and energy products must be made in a tax bonded warehouse. Progressive taxation is maintained in the following petroleum and energy products in the production of electricity, heating electricity (co-generation) or city gas:

- Nomenclature Code 2701 (briquettes, and similar solid fuels manufactured from coal);
- Nomenclature Code 2702 (lignite, whether or not agglomerated, excluding jet); and,
- Nomenclature Code 2704 (coke and semi-coke of coal, of lignite, or of peat, whether or not agglomerated).

During 2019, a tax rate will apply to these products corresponding to 25% of the tax on petroleum products and a tax rate corresponding to 25% of the CO<sup>2</sup> special contribution rate (10% in 2018 for both).

Unlike in 2018, it is not expected that considering this additional cost in the final consumer's invoice will be prohibited.

In 2019, the additional rates of tax on petroleum products of EUR 0.007 per liter for gasoline and EUR 0.0035 per liter for both bus diesel and colored and marked diesel remain unchanged from 2018.

A legislative authorization has been approved for the government to smoothly expand the scope of the CO<sup>2</sup> special contribution rate to certain petrol and energy products.

## **Vehicle tax**

Vehicle tax will generally increase by approximately 1.3%.

Considering the increase of vehicle emissions (resulting from the new rules regarding the measure of gas emissions under the Worldwide Harmonized Light Vehicle Test Procedure (WLTP)), a transitional regime will be created for 2019, with a reduction (of between 5% and 24%) to be applied to CO<sup>2</sup> emissions calculations, that are considered in the computation of the environmental percentage rate of vehicle tax, as well as for the computation of CO<sup>2</sup> limits fixed in benefit regimes. In broad terms, the computed taxes in the scope of this transitional regime will offset the general increase in the vehicle tax rate, resulting, in several cases, in a reduction of the vehicle tax due in less polluting vehicles (but also in a higher tax for more polluting vehicles).

## **Circulation tax**

The circulation tax will generally increase by approximately 1.3%. Similar to vehicle tax, a transitional regime will also be created for circulation tax for 2019. Considering the significant increase in vehicle emissions under the new cycle of WLTP, the transitional regime will determine a reduction (between 5% to 21%) to apply to CO<sup>2</sup> emissions considered for computation of the applicable rates to category B vehicles (passenger vehicles), as well as for measurement of the CO<sup>2</sup> limits established for the application of existing exemptions.

For heavy-duty vehicles, with a gross weight of over 3,500 kg, exclusively used for entertainment and itinerant activities, by taxpayers who perform these services as their main activity, an exemption of 50% applies.

For 2019, the additional contribution of the circulation tax for diesel vehicles of categories A (motorcycle) and B (passenger vehicles) will be maintained.

**Afonso Arnaldo, [afarnaldo@deloitte.pt](mailto:afarnaldo@deloitte.pt), Deloitte Portugal**

## **Russia**

### **Government expands list of addresses for participation in the Tax Free pilot project**

The Tax Free pilot project has been implemented in Russia from April 2018. Retail organizations included in a special list of retail organizations participate in the pilot project.

To be included in the list, a retail organization or its separate subdivision must be located at the addresses approved by Government Resolution # 105 dated 6 February 2018.

The Government recently has expanded the list of locations to include the following Moscow streets: Kuznetsky Most, Nikolskaya, Bolshaya Dmitrovka, Petrovka, Novy Arbat and Stolesnikov Lane.

It is assumed that the expansion of the list of locations will increase production and sales of goods that are popular among foreign tourists.

### **Ministry of Finance clarifies ability to amend government contracts due to increase in VAT rate**

The Ministry of Finance in its Letter of 28 August 2018 No. 24-03-07/61247 clarified the possibility to amend government contracts due to an increase of the VAT rate.

In accordance with the Federal Law of 3 August 2018 No. 303-FZ, the general VAT rate will be raised from 18% to 20% starting from 1 January 2019.

There is no exception with respect to goods/ work/ services/ property rights supplied under contracts, including government contracts, concluded before the introduction of the Federal Law.

The Ministry of Finance stated that the Federal Law of 5 April 2013 No. 44-FZ 'On the Contract System of the Federal and Municipal Procurement of Goods, Work and Services' provides for the possibility to amend contracts including due to changes in the VAT rate.

In accordance with Federal Law No. 44-FZ, substantial terms of a contract may be amended where the execution of the contract without amendment is impossible due to reasons beyond the control of the parties.

### **Ministry of Finance clarifies VAT treatment of international communication services**

The Ministry of Finance in its Letter of 31 August 2018 No. 03-07-08/62285 advised that the place of supply of international electronic communication services rendered by a foreign entity to a Russian entity is not deemed to be Russia. In accordance with the general provisions of the Russian Tax Code, the place of supply of services is determined as the supplier's place of activity, unless specific rules are established with respect to particular services. No specific place of supply rules are established with respect to international electronic communication services. Thus, the services are not subject to VAT in Russia.

### **Ministry of Finance clarifies VAT treatment of sale of residential premises (apartments)**

The Ministry of Finance in its Letter of 11 September 2018 No. 03-07-07/64777 clarified the following.

In accordance with Art. 149 of the Russian Tax Code, the sale of residential buildings and residential premises, and of shares therein is exempt from VAT.

The Ministry states that with respect to the sale of residential premises (apartments) designed for temporary accommodation (without the right to register for permanent living), the VAT exemption provided by the Russian Tax Code is not applied.

Thus, the sale of residential premises (apartments) is subject to VAT.

## **Ministry of Finance clarifies procedure of confirming application of the 0% VAT rate for export sales of goods on basis of temporary customs declarations**

The Ministry of Finance in its Letter of 24 August 2018 No. 03-07-08/60478 advised that taxpayers should submit final customs declarations to the tax authorities to confirm the application of the 0% VAT rate with respect to export sales of goods placed under the customs procedure of export on the basis of temporary customs declarations. The final customs declaration should be issued before the end of the tax period with respect to which the VAT return is submitted and where the application of the 0% VAT rate is declared.

## **Rates of customs duties established for customs escort and storage at temporary storage warehouse**

Government Resolution of the Russian Federation of 11 September 2018 No. 1082 established the rates and base for calculating customs fees for the customs escort of goods transferred by road, sea, air and railway.

In addition, the rates and base for the calculation of customs fees for storage in warehouses of temporary storage of the customs authority are established.

Government Resolution No. 1082 came into effect on 21 September 2018.

## **Licensing period expires for import of crushed stone, gravel, crushing screenings, materials from crushing screenings and mixtures whose components are crushed stone, gravel and sand**

Government Resolution of the Russian Federation of 30 June 2018 No. 773 introduced from 1 July 2018 to 31 October 31 2018 (inclusive) licensing of imports into the Russian Federation from non-Member States of the EEU of crushed stone and gravel, classified by customs classification code 2517 10 100 0, crushing screenings, and materials from crushing screenings in the process of manufacturing crushed stone and gravel, as well as various mixtures whose components are crushed stone, gravel and sand, classified by customs classification codes 2517 10 200 0, 2517 10 800 0, 2517 49 000 0, imported from third countries that are not members of the EEU, when placed under the customs procedure of release for internal consumption.

## **Methodological recommendations approved for implementation of experiment on marking identification of shoe products**

The Ministry of Industry and Trade has approved methodological recommendations for the implementation of the experiment on marking the identification of shoe products in the territory of the Russian Federation from 1 June 2018 to 30 June 2019.

Methodological recommendations include, in particular, the definitions, the rules regulating the application of the means of identification, the requirements for equipment used to apply and read labeling codes, the requirements for participants in the experiment on labeling, and the procedure for labeling goods with means of identification.

Methodological recommendations for participants in the experiment on labeling with means of identification and monitoring the turnover of shoe products that correspond to commodity positions 6401 – 6405 according to the Harmonized System of the EEU in the Russian Federation were approved by the Ministry of Industry and Trade of Russia on 3 September 2018.

### **Government establishes transition procedure for applying for stamps for marking alcoholic products**

In accordance with the Government Resolution of the Russian Federation of 27 September 2018 No. 1140 it is possible to trace each unit of alcoholic beverages through a two-dimensional bar code contained on federal special stamps (FSM) and excise stamps (AM), stamped by the manufacturer and containing the unique identifier of the Unified State Automated Information System (EGAIS) in coded form, allowing identification of the brand, as well as the alcoholic products they mark.

The Government has established a transition procedure for applying for the federal special and excise stamps.

In particular, the following changes have been made:

- Production of FSM and AM is carried out in accordance with the samples, list of details, and security elements approved by the Ministry of Finance of Russia (*Rosalkogolregulirovanie*), using a technology that excludes the possibility of their counterfeiting and reuse, as well as providing the ability to read a two-dimensional bar code containing the EGAIS identifier;
- Requirements for samples of FSM and AM for labeling alcoholic beverages, for the order of their application to various types of alcoholic beverages, and the form of the report on the use of previously issued AM are clarified;
- It is stipulated that the *Rosalkogolregulirovaniye* transfers to the manufacturer the EGAIS identifier included in the two-dimensional bar code applied to FSM and AM;
- The price of a federal special stamp was reduced from RUB 1,850 (approx. USD 28.90) (excise stamps from RUB 1,700 (approx. USD 25.90)) to RUB 1,690 (approx. USD 25.80) without VAT (per 1,000 units), the costs included in the price were adjusted.

Government Resolution of the Russian Federation of 12 December 2005 No. 786 'On excise stamps for labeling alcoholic beverages' was terminated.

Government Decree No. 1140 came into effect on 1 October 2018. Stamps of the previous type will be issued until 1 January 2019.

**Tamara Arkhangelskaya, [tarkhangelskaya@deloitte.ru](mailto:tarkhangelskaya@deloitte.ru),  
Deloitte Russia**

## **Serbia**

### **Amendment to law regarding VAT refunds to foreign taxpayers**

As of 1 January 2019, VAT refunds will be allowed even for non-resident taxpayers who perform supplies of goods and services in the Republic of Serbia, provided that such supplies are performed to VAT registered persons and that the tax debtors for such supplies, as per Serbian regulations, are the recipients of goods or services (i.e. that the reverse charge applies).

Prior to this, non-residents performing any type of supply in the Republic of Serbia (save for international passenger transport services) were not eligible for VAT refunds.

**Pavle Kutlesic, [pkutlesic@deloittece.com](mailto:pkutlesic@deloittece.com), Deloitte Serbia**

## **Slovakia**

### **Amendments to VAT Act**

The Ministry of Finance submitted a draft amendment to the VAT Act to be effective from 1 January 2019. The draft amendment to the VAT Act will be discussed by the relevant committee of the National Council of the Slovak Republic. The most important proposed changes are as follows:

- Cancellation of the tax guarantee concept – decisions on the deposit of a tax guarantee issued until 31 December 2018, where a 12-month period since the date of the guarantee deposit has not expired, will be cancelled, and the guarantee or its part, which was not used to pay tax arrears, must be returned by the tax authorities by no later than 28 February 2019.
- Change in the definition of turnover for VAT purposes/ the coefficient for the proportional deduction of tax – it is proposed to replace the terms 'revenues' and 'income' by the term 'value of supplied goods and services' as a result of which the actual value of supplied goods and services will be included in turnover, i.e. the consideration at the time of their supply. The change will also affect the provision on the calculation of the coefficient for the proportional deduction of tax, and the method of calculating the turnover and the coefficient for the proportional deduction of tax for 2018, following changes to become effective on 1 January 2019, is regulated under the transitional provisions.

- Supply of goods/services when using vouchers – the definition of a voucher and rules for the application of VAT when using such voucher are to be added to the Act. According to the new rules, vouchers will be classified as 'single purpose vouchers' and 'multi-purpose vouchers' depending on whether the amount of tax payable and the place of supply of goods/services, to which the voucher applies, is known at the time of the voucher issue. The new rules for the tax treatment of vouchers for VAT purposes will apply to vouchers issued after 31 December 2018.
- Modification of rules for providing telecommunication services, radio and television broadcasting services and electronic services to a person other than a taxable person – the new rules are mainly intended for occasional providers of the said services which will be able to decide whether the place of supply of these services will be the EU Member State of establishment of the service recipient or the Member State of their establishment, provided that they will comply with the statutory requirements.
- Changes in the supply and lease of real estate – the relevant provision of Article 38 of the VAT Act is to be amended significantly. The first major change is new conditions for applying tax exemption upon the supply of a building or its part, according to which for the first five years taxation will apply not only to new buildings but also to older buildings for which a change in purpose has been permitted, as well as to buildings after reconstruction, provided that in both cases the costs of the construction work amount to at least 40% of the value of the building before the start of construction work. Another change is the limitation of the right to choose taxation upon the supply of a residential building or its part that qualifies for tax exemption. There is the same limitation of the right to choose when leasing residential real estate, i.e. the lessor will be required to apply tax exemption regardless of the status of the recipient.
- Adjustment of deducted tax for investment property – a new provision is to be introduced, imposing a payer's obligation to adjust the deducted tax for investment property with a cost over EUR 3,319.39 if the extent of its use for business and other-than-business purposes has changed.
- Modification of domestic reverse charge for selected agricultural crops and metal goods – it is proposed to abolish the transfer of tax liability to the recipient in situations where the supplier issues a simplified invoice (eg a receipt from an electronic cash register) upon the supply of the above goods.

The draft amendment to the VAT Act also specifies in more detail certain provisions of the VAT Act, including the following:

- Registration obligation upon the sale of a business or part of a business – the reference to the Commercial Code is deleted as the supply of a business or its part is a term defined by the European Union and should, therefore, not be governed exclusively by Slovak legislation.

- Free supply of goods – the payer is required to pay VAT on a free supply of goods if the payer applied VAT deduction upon the purchase of the goods or part thereof, but the tax base will only include the costs related to the part of the goods, which appreciated after the purchase and to which VAT deduction was applied.

**Katarina Mikovinyova, [kmikovinyova@deloittece.com](mailto:kmikovinyova@deloittece.com),  
Deloitte Slovakia**

**Michala Kravarikova, [mkravarikova@deloitteCE.com](mailto:mkravarikova@deloitteCE.com), Deloitte  
Slovakia**

## **South Africa**

### **Implementation and phase down of safeguard duty on frozen bone-in portions of chicken**

Parts of the schedules of the Customs and Excise Act, 1964 that provide for safeguard duties on imported goods have been amended to implement a gradual phase down of safeguard duties on frozen bone-in portions of fowls of the species *Gallus domesticus* (chickens) imported from or originating from the EU.

Effective from 28 September 2018, the following safeguard duty rates will apply on frozen bone-in portions of chickens imported or originating from the EU:

- 35.3% effective from 28 September 2018 up to and including 11 March 2019
- 30% effective from 12 March 2019 up to and including 11 March 2020
- 25% effective from 12 March 2020 up to and including 11 March 2021
- 15% effective from 12 March 2021 up to and including 11 March 2022

Frozen bone-in portions of chickens, tariff subheading 0207.14.9, attract 37% 'general rate' or a free 'EU rate' of ordinary customs duty. The safeguard duty on frozen bone-in portions of chickens imported or originating from the EU will be due in addition to the ordinary customs duty due at the time of importation into South Africa.

Frozen bone-in portions of chickens imported or originating from the EU, with a valid EU proof of origin/certificate, for the period 28 September 2018 to 11 March 2019, are liable to 35.3% in safeguard customs duty only. However the same articles if imported or originating from the EU, without a valid EU proof of origin/certificate, in addition to the 37% in ordinary customs duty, for the period 28 September 2018 to 11 March 2019, are liable to 35.3% in safeguard customs duty. This will also increase, although refundable, the amount of import VAT paid at the time of importation into South Africa.

**Wian de Bruyn, [wdebruyn@deloitte.co.za](mailto:wdebruyn@deloitte.co.za), Deloitte South Africa**

**Zweli Makhubo, [zmakhubo@deloitte.co.za](mailto:zmakhubo@deloitte.co.za), Deloitte South Africa**

## **United Kingdom**

### **Budget 2018**

The Chancellor of the Exchequer delivered his Budget Statement on Monday 29 October. The indirect tax measures include the following. Full coverage of the tax measures is available at [www.ukbudget.com](http://www.ukbudget.com).

#### ***VAT groups***

It has been confirmed that the VAT grouping rules will be amended to permit certain non-corporate entities, e.g. individuals and partnerships, to be members of VAT groups. In addition, HMRC proposes to alter its guidance to VAT groups that buy in services via overseas branches and to provide clarity about HMRC's 'protection of the revenue' powers and treatment of UK fixed establishments. HMRC expects to collect an additional £240 million as a result of the changed guidance, which is to come into force from 1 April 2019.

#### ***Unfulfilled supplies***

The government has announced that, from 1 March 2019, VAT will be due on all prepayments for goods and services, even when the underlying supply does not take place, unless the customer receives a refund. At present some 'forfeited deposits' and the like (e.g. on a hotel booking where the hotelier collects a non-refundable deposit and the customer cancels the booking) can be treated as compensatory and VAT-free. HMRC expects to collect an additional £425 million over the next five years as a consequence of this change.

#### ***Price adjustments and VAT refunds***

HMRC is to take a stricter approach to VAT adjustments that follow a reduction in price. From 1 September 2019, the Regulations relating to such adjustments will require that a credit note is issued to the customer. The measure is intended to guarantee that businesses are transparent and do not benefit from VAT that is due to the consumer or the exchequer. The change is expected to yield an additional £515 million over the next five years.

#### ***Single use plastics***

The government intends to introduce a tax on the production and importation of plastic packaging from April 2022. It proposes to tax plastic packaging that does not contain at least 30% recycled plastic, and to reform the Packaging Producer Responsibility System, to increase the producers' responsibility for the costs of their packaging waste, provide an incentive for producers to design packaging that is easy to recycle and penalise the use of hard to recycle packaging. A consultation about the tax is to be launched in the coming months.

## **'Split payment' VAT collection**

The government is continuing to work on a 'split payment' VAT collection model that is intended to reduce online VAT fraud by third country sellers and improve the way in which VAT is collected on cross-border e commerce. An industry working group is to be established to address some of the main challenges associated with this policy.

## **VAT registration threshold to remain unchanged**

The government has published a [summary of the responses to its call for evidence on changes to the VAT registration threshold](#). The responses "... did not provide a clear option for reform" and the VAT registration and deregistration thresholds are to remain at their current levels (GBP £85,000 and GBP 83,000 respectively) for a further two years, until 1 April 2022.

## **Court rules that free bets not subject to gaming duty**

Valued casino customers can sometimes be given chips which cannot be exchanged for cash (non-negotiable chips, or 'Non-Negs') to encourage them to play more. In the recent case of *London Clubs Management Ltd*, the Court of Appeal has considered whether these should be subject to gaming duty, which is calculated by reference to 'stakes staked'.

The Non-Negs were a stake, in the sense that they could be used in much the same way as cash chips at the gaming tables. However, the Court has dismissed the tax authorities' appeal: although the Non-Negs had a face value, they effectively allowed customers to bet with the casino's money.

Nothing came out of the customer's pocket when they placed a bet with a Non-Neg, and therefore (in the normal everyday meaning of the word) they were not 'staking' anything on the outcome. The judgment shows the importance that courts can attach to economic reality when considering all indirect taxes, not just VAT.

**Donna Huggard, [dohuggard@deloitte.co.uk](mailto:dohuggard@deloitte.co.uk), Deloitte United Kingdom**

[Back to top](#)

## **Eurasian Economic Union**

### **Extension of anti-dumping duty on graphite electrode originating from India**

Decision of the Board of the Eurasian Economic Commission of 25 September 2018 No. 156 extends until 24 September 2018 (inclusive) anti-dumping duties regarding graphite electrodes used in furnaces, graphitized round section with a diameter of more than 520 mm, but not more than 650 mm, or other cross-section with an area of more than 2,700 cm<sup>2</sup>, but not more than 3,300 cm<sup>2</sup> with customs classification code 8545 11 002 0 according to Harmonized System of the EEU, originating from India and imported into the Eurasian Economic Union.

The anti-dumping duties are established in the amount of 16.04% and 32.83% of the customs value, depending upon the producer.

Decision No. 156 came into effect on 28 October 2018.

### **Introduction of 0% customs duty rate for raw materials of fur and tanned or dressed fur skins**

Decision of the Board of the Eurasian Economic Commission of 7 September 2018 No. 146 introduced 0% import customs duty on the customs value of raw materials of fur and tanned or dressed fur skins which are included in commodity group 43 of the Harmonized System of the EEU, from 12 October 2018 until 30 September 2020 (inclusive).

Decision No. 146 came into effect on 12 October 2018.

### **List of information specified in customs declaration of certain categories of goods placed under customs procedure of export in the Republic of Kazakhstan and the Russian Federation clarified**

Decision of the Board of the Eurasian Economic Commission of 25 September 2018 No. 157 introduces amendments to the Order of completing a customs declaration of goods, approved by the Decision of the Customs Union Commission No. 257 of 20 May 2010. The changes relate to information that must be additionally specified upon customs clearance of birch wood products placed under the export customs procedure in the Republic of Kazakhstan and the Russian Federation.

Decision No. 157 came into effect on 28 October 2018.

### **Start date for applying procedure for confirming actual export of goods from EEU customs territory by the customs authorities of the EEU Member States moved from 1 September 2018 to 1 February 2019**

Decision of the Board of the Eurasian Economic Commission of 28 August 2018 No. 144 amends the Decision of the Board of the Eurasian Economic Commission of 7 February 2018 No. 25 'On the Order for confirming the actual export of goods from the customs territory of the Union by the customs authorities of the member states of Union'. The amendment is due to the need for development of the information systems of the customs authorities of the EEU Member States regarding confirmation of the actual export of goods from the customs territory of the EEU.

Under the amendments, the start date for applying the Order for confirmation by customs authorities of the actual export of goods from the customs territory of the EEU has been postponed from 1 September 2018 to 1 February 2019.

The Order will be applied by the customs authority in which region the final departure of goods from the customs territory of the EEU took place when confirming the actual export of goods placed under the export customs procedure, the customs procedure for processing outside the customs territory, temporary export customs procedure, re-export customs procedure, or a special customs procedure, to the customs authority that carried out the release of goods in accordance with one of these customs procedures.

Decision No. 144 came into effect on 29 September 2018.

**Tamara Arkhangelskaya, [tarkhangelskaya@deloitte.ru](mailto:tarkhangelskaya@deloitte.ru),  
Deloitte Russia**

[Back to top](#)

## Contacts

### Deloitte Global & Regional Indirect Tax Contacts

David Raistrick, Deloitte Global Leader – Indirect Tax  
[daraistrick@deloitte.ca](mailto:daraistrick@deloitte.ca)

Fernand Rutten, Deloitte Global Leader – Customs & Global Trade  
[frutten@deloitte.com](mailto:frutten@deloitte.com)

Ronnie Dassen, Deloitte Global Leader – Indirect Tax Americas  
[ronniedassen@deloitte.com](mailto:ronniedassen@deloitte.com)

Sarah Chin, Deloitte Global Leader – Indirect Tax Asia Pacific  
[sachin@deloitte.com.hk](mailto:sachin@deloitte.com.hk)

Darren Stephens, Deloitte Global Leader – Indirect Tax EMEA  
[darrenstephens@deloitte.co.uk](mailto:darrenstephens@deloitte.co.uk)



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities. DTTL (also referred to as "Deloitte Global") and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries and territories serves four out of five Fortune Global 500<sup>®</sup> companies. Learn how Deloitte's approximately 264,000 people make an impact that matters at [www.deloitte.com](http://www.deloitte.com).

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms or their related entities (collectively, the "Deloitte network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

[Deloitte.com](http://Deloitte.com) | [Legal](#) | [Privacy](#)

30 Rockefeller Plaza  
New York, NY 10112-0015  
United States

© 2018. For information, contact Deloitte Touche Tohmatsu Limited.

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.