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Colombia

The previous tax reform included a VAT exclusion for certain digital services, which has now been regulated by the tax authorities.

The Government has established new tariff benefits for the import of agroindustry goods and capital assets.

The authorities are considering a price threshold for the textile industry that will determine the merchandise that will be subject to control and review by the authorities.

Asia Pacific

India

There is an update on a number of GST issues, including a revision of GST rates for a number of goods and services and an extension to the due dates for the filing of GST returns.

There is an update on recent case law relating to customs and service tax.

Malaysia

The tax authorities have clarified certain GST issues, including penalties on GST filing, input tax credit from bills of demand, and Minister's Relief 1/2017 (on the supply of services provided directly in connection with goods for export to an overseas customer).

There is a further update on the GST treatment of recovery of repair costs under manufacturer warranty.

EMEA

EU-Canada

As of 21 September 2017, the Comprehensive Economic and Trade Agreement between the EU and Canada provisionally entered into force.

Denmark

The tax authorities have issued a binding ruling that a foreign supplier was not required to register for VAT when transferring goods to a Danish warehouse only accessible by the Danish customer.

There is an increasing focus on VAT issues for foreign webshops selling goods to Danish customers.

There is a new regulation regarding the VAT treatment of the private use of a company's assets by employees.

It has been announced that the tax authorities will be restructured into seven new agencies.

Finland

The Supreme Administrative Court has issued a decision on VAT deduction for costs relating to the sale of shares.

France

There has been a case concerning the meaning of 'establishment' for VAT purposes.

The tax authorities have clarified the scope of the anti-fraud legislation that requires a certification for cash register software as from 1 January 2018.

The customs authorities have provided some details regarding export documentation requirements for non-established companies.

GCC

Among the six Member States of the Gulf Cooperation Council, the United Arab Emirates and Saudi Arabia continue to lead the way towards the implementation of VAT, scheduled for 1 January 2018.

Italy

There has been an extension to the deadline for the e-communication of data on invoices issued and received for the period January to June 2017.

Simplifications to Intrastat reporting have been announced.

The customs agency has clarified the operative procedures to be followed by a third person (other than the debtor) to apply for a comprehensive guarantee authorization.

Netherlands

An obligatory VAT reverse charge for business to business supplies of telecommunications services applies from 1 September 2017.

A court has ruled that an operator of a transfer station with park and ride facilities supplies two separate services.

In the 2018 Tax Plan, the Government included a proposal for a refinement of the definition of medicine for the application of the reduced VAT rate as of 1 January 2018.

From 1 July 2017, the customs authorities will require mandatory Authorized Economic Operator criteria for customs representatives.

Poland

The proposal for mandatory daily SAF-T bank statement files has been withdrawn.

Work is ongoing to develop standards for the due diligence of suppliers.

Implementation of the retail sales tax has been postponed to 1 January 2019.

Portugal

The tax authorities have provided clarifications regarding the VAT reverse charge on the import of goods.

A Decree-Law has been published regarding changes to the general deadline for electronic notifications and creating the digital unique address.

Russia

A draft law introducing amendments to the Tax Code has been submitted to the State Duma, including proposed VAT changes.

There have been amendments to the rules for the completion of VAT invoices and other documents.

There are draft amendments to the customs regulation due to the introduction of a new Eurasian Economic Union Customs Code.

There has been a decrease in certain export customs duty rates due to Russia's obligations to the WTO.

Serbia

A VAT calculation overview must be submitted with the VAT return from 1 January 2018.

South Africa

There has been an application for a rebate provision for stainless steel fasteners.

United Kingdom

There has been a case on the VAT treatment of a loyalty scheme.

Eurasian Economic Union

There has been an import customs duty rate decrease for certain goods.

A technical regulation has been adopted on the safety of packaged drinking water.

I. Jurisprudencia

1. Tribunal Supremo. Sala de lo Contencioso. Sentencia de 19 de julio de 2017. Nº recurso 3017/2016.

Deducciones – Derecho a la deducción de las cuotas del IVA soportadas con anterioridad al inicio de la realización de las operaciones – el transcurso de un periodo de tiempo superior a 6 años desde la fecha de compra no puede suponer un impedimento a dicho derecho.

El Tribunal Supremo rechaza en esta sentencia el criterio mantenido por la Inspección y el Tribunal Superior de Justicia de Madrid en cuanto a la denegación del derecho a deducir el IVA soportado por una promotora inmobiliaria en la adquisición de una finca, con anterioridad al inicio de la realización de las entregas de bienes o prestaciones de servicios, si existen evidencias objetivas (tales como el encargo del proyecto de urbanización a una arquitecta, obteniendo asimismo el correspondiente visado por el Colegio Oficial de Arquitectos, entre otros elementos de prueba) acerca de la intención de ésta de destinar dicha finca a tal fin, pese a que haya transcurrido un plazo superior a seis años desde la fecha de su adquisición sin haber realizado obra alguna.

En virtud de la sentencia Gabalfrisa del Tribunal de Justicia de la Unión Europea (TJUE), de 21 de marzo de 2000, el Tribunal Supremo dilucide que se derivan dos conclusiones relevantes para la resolución del presente supuesto de hecho: En primer lugar, que los sujetos pasivos tienen derecho a la deducción inmediata de las cuotas del IVA soportadas por los actos preparatorios de su actividad, sin tener que esperar al momento de su inicio efectivo y, en segundo lugar, que tal derecho podría condicionarse a que esa intención de comenzar efectivamente la actividad empresarial sujeta al Impuesto venga confirmada por elementos objetivos (a modo de ejemplo de lo que podría considerarse "elementos objetivos relevantes", el Alto Tribunal se refiere de nuevo a la jurisprudencia comunitaria y, en concreto, a lo señalado por el TJUE en su sentencia Lennartz de 11 de julio de 1991, Asunto C- 97/90 para analizar la intención del sujeto pasivo).

Es por todo lo expuesto que el Tribunal Supremo falla a favor del recurrente, en línea a lo ya resuelto en su sentencia de 7 de marzo de 2014, al considerar que éste acreditó su intención inicial de afectar la finca a su actividad empresarial por diversos elementos objetivos, no pudiendo ser el lapso temporal transcurrido entre el inicio de las actividades preparatorias y el comienzo efectivo de la actividad empresarial un óbice a efectos de la deducción del Impuesto, más

cuando se trata de una actividad de promoción inmobiliaria, cuyo periodo de maduración es inevitablemente largo, tanto por razones jurídicas como por la propia realidad de los proyectos.

II. Doctrina Administrativa

1. Tribunal Económico-Administrativo Central. Resolución 758/2014, de 20 de julio de 2017.

IVA. Devolución a no establecidos. Requerimientos.

El solicitante, entidad no establecida, presenta en los plazos establecidos para ello solicitudes de devolución de las cuotas del IVA soportadas correspondientes a los ejercicios 2009, 2010 y 2011, mediante el procedimiento de devolución a no establecidos.

En fecha 7 de enero de 2013 se notifican a la entidad sendos requerimientos en relación con cada uno de los ejercicios, solicitando la aportación de determinada documentación.

El 11 de enero de 2013 la entidad presenta escritos solicitando la ampliación del plazo para aportar la documentación, por imposibilidad material de agrupar toda la documentación solicitada en el plazo establecido.

En fecha 24 de mayo de 2013, la Oficina Nacional de Gestión Tributaria-IVA No Establecidos dicta acuerdos de archivo de las solicitudes por caducidad.

La documentación solicitada en los requerimientos iniciales se aporta en los recursos de reposición. No obstante, se dictan Resoluciones de desestimación, pues considera la ONGT que no cabe aceptar en fase de revisión la aportación de la documentación que no se presentó en fase de gestión.

Contra las resoluciones de los anteriores, la entidad alega que mediante el requerimiento que se le notificó, la ONGT inició un procedimiento de comprobación limitada, aunque no constase esta circunstancia expresamente en los requerimientos, sin efectuar el trámite de audiencia y puesta de manifiesto, no ajustándose a derecho y generando indefensión.

El TEAC desarrolla que la Administración tributaria podrá comprobar la procedencia de las devoluciones solicitadas en el marco del procedimiento establecido en el artículo 119 de la Ley del Impuestos sobre el Valor Añadido, y no sólo en relación con aspectos formales sino también materiales, lo que implica el desarrollo de una auténtica actividad de comprobación.

Además, el artículo 127 de la LGT establece que el procedimiento de devolución terminará con la devolución, con la caducidad, o con el inicio de un procedimiento de comprobación de oficio.

En los requerimientos notificados en enero a la entidad, se están pidiendo pruebas y aclaraciones complementarias sobre la actividad de la entidad y su derecho a deducir el IVA soportado en España.

Si únicamente se requiriesen facturas u otros documentos que deban presentarse con la devolución, podría entenderse que se quieren comprobar los requisitos formales y materiales necesarios para obtener la devolución solicitada, pero al requerirse la aportación de información adicional encaminada a comprobar la actividad de la empresa en España, se está excediendo el alcance del procedimiento de devolución en sí mismo considerado, y debe entenderse que se actúa en el seno de un procedimiento de comprobación limitada (va más allá incluso del alcance de un simple procedimiento de verificación de datos).

Por ello, el TEAC considera que sería necesario dar a la entidad un trámite de audiencia previo a la finalización del procedimiento.

En consecuencia, entiende el TEAC que no es procedente la declaración de caducidad efectuada y ordena retrotraer las actuaciones.

2. Dirección General de Tributos. Contestación nº V1719-17, de 4 de julio de 2017.

Tipo impositivo – Operaciones de transformación de productos naturales

En la presente contestación, la DGT se ha pronunciado sobre el siguiente supuesto de hecho:

La empresa consultante realiza servicios de aderezo de aceitunas, consistente en dar un determinado tratamiento a las aceitunas frescas entregadas por otras empresas para su transformación, y que luego son devueltas a dichas empresas como aceitunas de mesa.

En primer lugar, la DGT destaca que las ejecuciones de obra que tengan por objeto la obtención de un bien cuya entrega tribute a un tipo impositivo reducido o superreducido del IVA, se beneficiarán del mismo tipo. En este sentido, debe entenderse a estos efectos que las ejecuciones de obra a que se refiere el precepto son aquellas que tienen como resultado inmediato la obtención de un bien distinto a los suministrados por el cliente, como consecuencia de la transformación de tales materiales, o la incorporación de nuevos materiales por parte del empresario.

De acuerdo con el supuesto de hecho, la DGT entiende que el tratamiento objeto de consulta supone operaciones de transformación que dan como resultado un producto distinto del recibido por el empresario consultante (fruta oleaginosa en estado natural).

Sobre la base de lo anterior, las prestaciones de servicios consistentes en la transformación de la aceituna en estado natural a aceitunas de mesa estarán sujetas al Impuesto, debiéndose de aplicar el tipo reducido del 10 por ciento, de acuerdo con el artículo 91, apartado tres, de la Ley del IVA.

3. Dirección General de Tributos. Contestación nº V1727-17, de 4 de julio de 2017.

Tipo impositivo – Operaciones de transformación de productos naturales.

La DGT se ha pronunciado acerca de la posibilidad de que la venta descrita en el siguiente supuesto de hecho quedara sujeta pero exenta del IVA:

La sociedad consultante desarrolla la actividad de comercio mayorista de maquinaria agrícola, realizando ventas a un cliente español con entrega de la mercancía en los almacenes de éste, situados en el territorio de aplicación del Impuesto. El cliente manifiesta que la mercancía se destina posteriormente, tras un plazo de tiempo no definido, a un depósito distinto del aduanero, propiedad de otra empresa tercera, siendo éste el momento en el que el cliente efectúa la Declaración de Vinculación a Depósito. Finalmente, cuando la mercancía se exporta, el cliente cumplimenta el Documento Único Administrativo.

La consultante, en el momento de emitir la factura no dispone de la Declaración de Vinculación a Depósito, si no solamente del compromiso del cliente de vincular la mercancía posteriormente.

Tal y como ha venido manteniendo la DGT en contestaciones anteriores, dicho Centro Directivo señala que la entrega que resultará exenta de acuerdo con la letra e) del artículo 24.Uno.1º de la Ley del IVA sólo podrá ser la inmediatamente anterior a la vinculación al régimen de depósito distinto del aduanero (en adelante, DDA), que será, a su vez, aquella que tenga como destinataria a la persona que va a vincular al régimen de DDA las mercancías. Esta persona será la que aparezca como tal en la declaración de vinculación a depósito, y con independencia del lugar donde se realice la entrega física de la mercancía y el transportista de dicha entrega.

En relación al tiempo en que debe efectuarse la vinculación al régimen de DDA, la DGT señala que, para poder aplicar la exención de referencia, es necesario que la vinculación al régimen de DDA se efectué mediante la Declaración de Vinculación a Depósito (DVD) y que el transporte de la mercancía hasta el DDA se efectúe de manera inmediata.

Este último requisito parece no cumplirse en el supuesto de hecho consultado, por lo que la DGT concluye que la entrega efectuada por el consultante estaría sujeta y no exenta del IVA.

4. Dirección General de Tributos. Contestaciones nº V1750-17, nº V1756-17 y nº V1757-17, de 6 de julio de 2017.

Repercusión del IVA - Impuesto sobre Estancias Turísticas en las Illes Balears.

En la presente contestación, la DGT se ha pronunciado sobre el siguiente supuesto de hecho:

La consultante es una sociedad mercantil dedicada a la consignación de todo tipo de buques y que satisface, en virtud del contrato de agencia suscrito con los armadores de embarcaciones de crucero turístico que hacen escala en un puerto de la Comunidad Autónoma de Illes Balears, el Impuesto sobre Estancias Turísticas aprobado por la Ley 2/2016, de 30 de marzo (BOIB de 2 de abril), del Impuesto sobre estancias turísticas en las Illes Balears.

Satisfecho el Impuesto en nombre y por cuenta de los armadores de cruceros turísticos, la consultante lo repercute sobre éstos exigiendo, junto sus honorarios, el importe satisfecho en concepto de Impuesto.

En primer lugar, comienza la DGT definiendo lo que debe entenderse por suplidos y señalando, en relación con lo dispuesto en el artículo 78 de la Ley del IVA, que los mismos no se integran en la base imponible del IVA.

Por otro lado, indica este Centro Directivo que, de acuerdo con lo dispuesto en el artículo 6 de la Ley 2/2016, que en el caso de embarcaciones de crucero turístico, responderán solidariamente del ingreso de la deuda tributaria los consignatarios que, de acuerdo con la Ley 14/2014, de 24 de julio, de navegación marítima, actúen por cuenta de los sujetos pasivos sustitutos por medio de un contrato de agencia o de comisión.

De acuerdo con lo anterior, concluye la DGT su análisis disponiendo que son sujetos pasivos del Impuesto sobre Estancias Turísticas, en concepto de sustituto del contribuyente, los titulares de la explotación de los cruceros turísticos por lo que, en la medida en que el Impuesto es satisfecho por la consultante en nombre y por cuenta de dichos titulares y de concurrir las demás circunstancias antes mencionadas, en particular el mandato expreso del titular de la explotación en nombre de quien se actúa, las cantidades satisfechas por la consultante por el citado Impuesto deberán ser consideradas suplidos y, en consecuencia, su importe no deberá formar parte de la base imponible del Impuesto sobre el Valor Añadido devengado con ocasión de los servicios prestados por la consultante a favor de los titulares de la explotación turística.

5. Dirección General de Tributos. Contestación nº V1754-17, de 6 de julio de 2017.

Aplicación de la inversión del sujeto pasivo - transmisión de terrenos.

En la presente contestación, la DGT se ha pronunciado sobre el siguiente supuesto de hecho:

La entidad consultante, que ostenta la condición de empresario o profesional a efectos del Impuesto sobre el Valor Añadido, realizó las siguientes transmisiones de terrenos:

- *Terrenos respecto de los que, en la fecha de su transmisión no existiera ninguna deuda por concepto de gastos de urbanización al no haber resultado éstos todavía exigibles.*

- *Terrenos respecto de los que ya existe una deuda por gastos de urbanización sin que en el contrato de compraventa se recoja una asunción expresa o tácita por el adquirente del pago de los gastos de urbanización pendientes.*

- *Terrenos respecto de los que ya existiese una deuda por gastos de urbanización incluyéndose una asunción expresa o tácita por parte del adquirente de la obligación de pago de los mismos.*

En primer lugar, comienza la DGT aludiendo al artículo 4 de la Ley del IVA, que a estos efectos establece que las transmisiones de terreno llevadas a cabo por un empresario son operaciones sujetas al IVA.

En este sentido, se plantea por el consultante si la transmisión de los terrenos con gastos de urbanización pendientes o no de pago es un supuesto que habilita la aplicación de la inversión del sujeto pasivo, de acuerdo con lo establecido en el artículo 84.Uno.2ºe).

En relación con lo anterior y según lo dispuesto por artículo 18 del Real Decreto Legislativo 7/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley de Suelo y Rehabilitación Urbana, la afección de los terrenos sujetos a una actuación urbanizadora al cumplimiento de los deberes legales de urbanización incumben a los promotores.

De este modo, y en atención también a lo establecido por el artículo 126 del Real Decreto 3288/1978, de 25 de agosto, se considera un supuesto de hecho en la que se da una afección real de los terrenos al cumplimiento de los deberes derivados de dichas actuaciones de transformación urbanística y, entre otros, al pago de los gastos de urbanización.

Esto es, las obligaciones derivadas de los planes de ordenación urbanística, son obligaciones de carácter real, que dan una preferencia de cobro sobre el bien afectado, por lo que se considera una hipoteca legal tácita.

En relación con todo lo anterior, este Centro Directivo concluye lo siguiente:

i. Que no les será de aplicación el supuesto de inversión del sujeto pasivo a la transmisión de los terrenos en los que no sean exigibles los gastos de urbanización.

ii. Que les resultará de aplicación el supuesto de inversión del sujeto pasivo, en tanto los gastos de urbanización a que se refiere el escrito de consulta se hayan devengado y sean exigibles, y siempre que no estemos ante el supuesto previsto en el guion segundo del artículo 84 de la Ley del IVA.

6. Dirección General de Tributos. Contestación nº V1999-17, de 26 de julio de 2017.

Tratamiento a efectos del IVA de los activos absorbidos por fusión de una sociedad mercantil.

En la presente contestación, la DGT se ha pronunciado sobre el siguiente supuesto de hecho:

La entidad consultante es una sociedad mercantil que llevará a cabo la fusión por absorción por la que la absorbente adquirirá los activos de las absorbidas, integrados fundamentalmente de inmuebles dedicados al arrendamiento.

La entidad consultante se cuestiona acerca de la tributación en el IVA de la referida operación.

La DGT comienza su contestación haciendo referencia al artículo 7. 1º de la Ley del IVA para confirmar que las referidas transmisiones están sujetas a IVA puesto que, al contrario de lo que señala dicho artículo, del escrito de consulta parece deducirse que cada operación de fusión no se verá acompañada de la necesaria estructura organizativa de factores de producción para que cada transmisión pueda considerarse como unidad económica autónoma.

En segundo lugar, respecto de la transmisión de solares, señalar que no les resulta aplicable el artículo 20. Uno. 20º de la ley del IVA, estando la operación sujeta y no exenta del impuesto. Sin embargo, dado que alguno de dichos solares estaba afectos a la construcción de viviendas destinadas al alquiler sin opción de compra, la cuota soportada por la adquisición de tales solares no fue deducida en ninguna cuantía. Así, sabiendo que se trata de un bien de inversión, deberán diferenciarse dos situaciones:

- Que no haya transcurrido el periodo de regularización a que se refiere el artículo 107. En este caso, a efectos de la regularización única, la prorrata aplicable en el año en que se realice la entrega y en los años que resten del periodo de regularización es del 100 por cien.

- Que haya transcurrido dicho periodo. Así, se considerará que al sujeto pasivo no se le ha atribuido el derecho a efectuar la deducción parcial de las cuotas soportadas cuando haya utilizado los bienes o servicios adquiridos exclusivamente en la realización de operaciones exentas que no originen el derecho a la deducción, aunque hubiese sido de aplicación la regla de prorrata.

- En aplicación del artículo 20. Uno. 24º, la transmisión posterior realizada fuera del periodo de regularización está sujeta pero exenta.

En tercer lugar, se plantea la posibilidad de que se aplique lo establecido en el artículo 20. Uno. 22º de la citada Ley que dispone que estarán exentas del Impuesto "las segundas y ulteriores entregas de edificaciones, incluidos los terrenos que se hallen enclavadas, cuando tengan lugar después de terminada su construcción o rehabilitación".

La DGT concluye que del presente caso quedarán exentas: las viviendas construidas y las adquiridas por la entidad transmitente y destinadas al arrendamiento sin opción de compra y los locales comerciales adquiridos por la entidad transmitente y destinadas a su arrendamiento, si bien todas ellas podrán renunciar a dicha exención siempre que cumplan con los requisitos previstos en el artículo 20. Dos de la Ley del IVA, siendo

de aplicación, en relación al sujeto pasivo de la transmisión, lo dispuesto en el artículo 84. Uno. 2º. Por último, no será de aplicación la exención a los inmuebles en construcción.

7. Dirección General de Tributos. Consulta V2003-17, de 26 de julio de 2017.

Sujeción al impuesto – Derecho de deducción.

En la presente contestación, la DGT se ha pronunciado sobre el siguiente supuesto de hecho:

La consultante es una entidad mercantil que realiza dos actividades diferenciadas. Por una parte, la actividad principal desarrolla programas de apoyo a emprendedores a los que cede unas instalaciones sin contraprestación y presta servicios de apoyo, como servicios de formación, asesoramiento financiero, contable, comercial y de estrategia empresarial con carácter gratuito. Por otra parte, la sociedad arrienda parte de las instalaciones de las que es titular a sociedades vinculadas, junto con todos los medios materiales para el desarrollo de la actividad del propio arrendatario.

En relación con la naturaleza de la actividad principal desarrollada por la consultante, esto es, el desarrollo de programas de apoyo a emprendedores a los que cede unas instalaciones sin contraprestación y presta servicios de apoyo, y a los que de igual forma, concede financiación a tipos de interés muy bajos, concluye la DGT que la misma tiene carácter fundacional, a pesar de que la consultante no constituye propiamente una fundación, y por tanto, no tendrá la condición de empresario o profesional a los efectos del IVA por la prestación de sus servicios, que se encuadran dentro del de interés general, y por los que no recibe ninguna contraprestación.

Lo anterior sobre la base de la interpretación del artículo 13 parte A, apartado 1) letra m) de la Directiva del IVA, emanada de la jurisprudencia del TJUE, quien entiende que el citado artículo debe interpretarse en el sentido de que puede considerarse que un organismo actúa "sin fin lucrativo" aunque pretenda sistemáticamente obtener superávits que después destina a la ejecución de sus prestaciones.

Del mismo modo, y de conformidad con el criterio mantenido en reiteradas contestaciones vinculantes a consultas de la DGT, entiende este órgano que la conclusión anterior no se ve desvirtuada por el hecho de que la entidad consultante reciba una contraprestación a tipos de interés muy bajos por la concesión de financiación a los emprendedores,

ya que debe llegarse a la lógica de que en los casos en que esa contraprestación exista pero sea meramente simbólica, se trata de una operación sin contraprestación a efectos del IVA.

No obstante lo anterior, señala la DGT que la actividad de arrendamiento mediante contraprestación a sociedades vinculantes, junto con todos los medios materiales necesarios para el desarrollo de la propia actividad de la arrendataria, concede a la consultante la condición de empresario o profesional a efectos del IVA, actividad que estará sujeta y no exenta al citado impuesto, debiendo tributar al tipo impositivo general del 21 por ciento.

Respecto al régimen de deducción aplicable a la consultante, indica este Centro Directivo que del total de cuotas soportadas por la misma deberán quedar excluidas, de principio, aquellas que se corresponden íntegramente con la adquisición de bienes y servicios destinados exclusivamente a la realización de operaciones no sujetas, las cuales serán no deducibles en ninguna proporción.

De igual forma, y respecto de las cuotas soportadas afectas de forma simultánea al desarrollo de operaciones sujetas y no sujetas al Impuesto, concluye la DGT que se deberá adoptar un criterio razonable y homogéneo de imputación de las cuotas correspondientes a actividades gravadas, criterio que deberá ser mantenido en el tiempo salvo que por causas razonables haya de procederse a su modificación.

Respecto de las cuotas soportadas por la adquisición de bienes y servicios que se destinen única y exclusivamente a la realización de operaciones sujetas al Impuesto más aquellas resultantes de la aplicación del criterio razonable, se señala que serán deducibles siempre que se destinen a la realización de operaciones originadoras del derecho a la deducción de acuerdo con lo dispuesto al artículo 94 Ley del IVA y esté en posesión de una factura que reúna los requisitos del Reglamento de Facturación del IVA.

Por último, concluye la DGT que la naturaleza del inmueble construido como bien de inversión impondrá a la consultante la obligación de calcular durante los nueve ejercicios inmediatos siguientes a la adquisición o entrada en funcionamiento y realizar, en su caso, la regularización de las deducciones inicialmente practicadas por la construcción del inmueble, de acuerdo con lo previsto en el artículo 107 de LIVA cuando, entre el porcentaje de deducción definitivo correspondiente a cada uno de dichos años y los que prevalecieron en los años en que se soportó la repercusión, exista una diferencia superior a diez puntos.

8. Dirección General de Tributos. Contestación nº V2005-17, de 26 de julio de 2017.

Aplicabilidad del supuesto de inversión del sujeto pasivo recogido en el artículo 84.Uno.2º.e) de la ley del IVA.

En la presente contestación, la DGT se ha pronunciado sobre el siguiente supuesto de hecho:

La sociedad consultante acordó la transmisión de dos parcelas de su titularidad, una de las cuales se encontraba gravada con una hipoteca. Por exigencias urbanísticas, antes de la formalización de la transmisión ambas parcelas fueron agrupadas en una única. El consultante se comprometió contractualmente a cancelar dicha hipoteca. Asimismo, en el supuesto de que la hipoteca no hubiera sido cancelada en el momento de elevar a escritura pública la operación, se estableció contractualmente la obligación del consultante de formalizar un aval para garantizar dicha cancelación.

Respecto al supuesto de inversión del sujeto pasivo recogido en el artículo 84.Uno.2º.e) de la ley del IVA, tercer guion, señala la DGT que para su correcta aplicación, deberán cumplirse los siguientes requisitos:

a) El destinatario de las operaciones sujetas al IVA debe actuar con la condición de empresario o profesional.

b) Las operaciones realizadas deben tener la naturaleza jurídica de entregas y tener por objeto un bien inmueble que esté afectado en garantía del cumplimiento de una obligación principal.

c) Tales operaciones deben consistir en entregas de bienes distintas de aquellas a las que se refieren los dos primeros supuestos contemplados en el propio artículo 84.Uno.2º.e) de la Ley del Impuesto.

d) Las entregas realizadas deben ser consecuencia de la ejecución de la garantía constituida sobre los bienes inmuebles, si bien la inversión del sujeto pasivo también se producirá en los casos de transmisión de inmuebles otorgados en garantía a cambio de la extinción total o parcial de la deuda garantizada o de la obligación de extinguir tal deuda por el adquirente.

Lo anterior sobre la base de que la finalidad de la inclusión de este nuevo supuesto de inversión del sujeto pasivo por la Ley 7/2012, y conformidad con las afirmaciones incluidas en la exposición de motivos de dicha Ley, es evitar comportamientos fraudulentos, en especial en las operaciones de entregas de inmuebles.

Así, concluye la DGT que en el supuesto objeto de consulta tiene cabida la aplicación del supuesto de inversión del sujeto pasivo recogido en el artículo 84.Uno.2º.e) de la ley del IVA, en la medida en que la sociedad transmitente se comprometa contractualmente a la extinción de la deuda y de la hipoteca que recae sobre los bienes objeto de transmisión.

9. Dirección General de Tributos. Contestación nº V2028-17, de 26 de julio de 2017.

Se plantea por el consultante si como consecuencia de una acción de reintegración concursal, el sujeto pasivo deberá proceder a la rectificación de las cuotas del IVA inicialmente repercutidas.

En la presente contestación, la DGT se ha pronunciado sobre el siguiente supuesto de hecho:

Una persona física efectuó con una empresa promotora una permuta de terrenos a cambio de edificación futura soportando aquella la correspondiente cuota del Impuesto sobre el Valor Añadido devengada por el pago a cuenta que la entrega de los terrenos representaba respecto de la entrega futura de los inmuebles. Dicha persona física donó a su hijo los derechos derivados del mencionado contrato de permuta.

Con posterioridad, la empresa promotora ha sido declarada en concurso de acreedores instando la apertura de la sección de liquidación.

En primer lugar, comienza la DGT aludiendo al artículo 80 de la Ley del IVA, que a estos efectos establece que la base imponible del Impuesto correspondiente deberá modificarse cuando la misma quede sin efecto o se altere el precio pactado en la operación.

En este supuesto de hecho y a efectos del IVA y con base en que la operación gravada quedó sin efecto, concurre el supuesto de modificación de la base imponible previsto en el artículo 80. Dos de la Ley del IVA. Mediante este artículo, se rectifican las cuotas inicialmente repercutidas en la declaración correspondiente al periodo en que fueron declaradas las cuotas devengadas por la empresa constructura.

Considera la DGT que la persona física no tuvo ningún ingreso indebido, siendo la entidad concursada la responsable de presentar la factura rectificativa. Aun así, en el caso de que la concursada no emitiese la factura rectificativa, el consultante podría presentar una reclamación económico administrativa.

III. Country summaries

Americas

Canada – European Union

Comprehensive Economic and Trade Agreement

As of 21 September 2017, the Comprehensive Economic and Trade Agreement (CETA) between the European Union (EU) and Canada provisionally entered into force.

For more information, see European Union – Canada: Comprehensive Economic and Trade Agreement.

Colombia

VAT exclusion for digital services regulated

The Ministry of Information and Communication Technologies has issued Decree 1412 of August 2017, establishing the main points of the VAT exclusion for certain digital services, which were included in the previous tax reform.

New tariff benefits include goods not produced in Colombia

The Government has issued Decree 1343, with the main objective of increasing the competitiveness of national industry, through a tariff exception for more than 3400 subheadings, related to agroindustry goods and capital assets not produced in the country. The tariff exception will be reviewed annually.

Authorities developing decree for import textile control

The customs authorities and the Minister of Foreign Trade are developing a decree to determine a price threshold for the textile sector, with the main purpose of establishing a price threshold that will determine the merchandise that will be the target of detailed customs control, to decrease smuggling activity.

Asia Pacific

India

GST update

The GST Council has reconsidered and revised the rates of certain goods and services. Accordingly, the rates for various services, such as works contract services for government, printing services, job work services relating to textiles, goods transport agency services, etc. and goods, such as computer monitors, statues, certain food articles, etc. have been revised.

The GST Council has proposed an increase in compensation cess rates applicable on mid-segment cars, large cars and SUVs by 2%, 5% and 7% respectively. No change in compensation cess has been proposed for small cars and hybrid cars.

An Electronic Way Bill (E-Way Bill) must be issued by every GST registered person causing the movement of goods. The GST Council has provided its in-principle approval to the E-Way Bill rules. It has been decided that an E-Way Bill is required for the movement of goods (worth more than INR 50,000) beyond 10 kilometers. The said rules are likely to be effective from 1 October 2017.

A liability for e-commerce operators under the reverse charge mechanism has also been introduced with respect to the services of providing accommodation in hotels, inns, guest houses, clubs, campsites or such commercial places meant for residential or lodging purposes. However, the reverse charge liability will not apply to e-commerce operators when the service provided through the e-commerce operator is by a service provider registered under GST.

Certain specific organizations such as the United Nations, foreign diplomatic missions, etc. will be entitled to claim refund of GST paid on inputs and input services subject to the fulfilment of prescribed conditions.

The GST Council has also approved setting up anti-profiteering committees in all States and at the Center. It has been proposed to set up a screening committee which will monitor whether tax reductions (post GST-implementation) have been passed on to consumers.

The due date for the submission of Form GST TRAN-1 has been extended to 30 October 2017 and the same can be revised once.

The registration for persons liable to deduct tax deducted at source (TDS) and tax collected at source (TCS) commenced on 18 September 2017. However, the date from which the provisions of TDS and TCS will apply will be notified at a later date

GST returns

The GST Council has also proposed an extension to the due dates for filing GST returns for the month of July 2017:

Month	GSTR-1	GSTR-2	GSTR-3	GSTR-6
Jul 2017	10 Oct*	31 Oct	10 Nov	13 Oct

* For registered persons with aggregate turnover of more than INR 1 billion, the due date will be 3 October 2017.

Due dates for filing the abovementioned returns for subsequent periods will be notified at a later date.

GSTR-3B (the simplified GST return) will continue to be filed for the months of August, September, October, November and December 2017.

Customs and service tax case law

Whether importer liable to pay demurrage/detention charges if not responsible for delay

In a recent judgment, the Supreme Court has dealt with a matter where the Directorate of Revenue Intelligence (DRI) had received specific intelligence that the importer firms had been importing consignments in violation of notifications issued by Customs to evade provisional duty imposed on their imports, and in pursuance of such intelligence, the DRI had issued a letter to the customs authorities to have the goods examined with the assistance of the Chartered Engineer with regard to the nature of the imported goods along with supporting safeguards. Until the investigation was completed, a significant amount of demurrage payable to the port authorities and detention charges payable to the shipping line were due.

Accordingly, the following two issues were raised before the Supreme Court, as the importers were not liable for any delay:

- Whether any direction could be given to the port authorities to waive the demurrage charges; and
- Whether the liability to pay the demurrage/detention charges in respect of the imported goods could be fastened upon the DRI/customs authorities.

With regards to the first issue, the Supreme Court referred to a number of previous judgments whereby it was held that the port trust is a statutory authority created under a separate statute of the Major Port Trust Act, and the rights of the port trust are not affected by the provisions of the Customs Act and regulations made thereunder. Further, it held that the board of trustees of the port were entitled to charge demurrage to the importer even when the importer was unable the clear the goods because of the detention of goods by the customs authorities, even if the inquiry is found to be unjustified at a later date.

Regarding the detention charges payable to the shipping line, it was held that the charges were to be paid on the basis of a private contract between the importers and the shipping line. Accordingly, the DRI/custom authorities cannot be directed to pay such detention charges unless it can be proved that the actions of the DRI/customs authorities are absolutely *mala fide* or a gross abuse of power, which was not proven in the present case.

Whether users of service provided in India by an Indian entity in India can be termed as service recipient where contract of provision of service is entered between Indian entity and an entity located outside India

The services provided by a service provider rendering connectivity services for the purpose of data transfer were classified under 'business support services', and were treated as export services pursuant to a master services agreement entered into with a telecommunications services provider situated outside India that enters into contracts with its customers located globally. The service provider had filed an application for refund for unutilized CENVAT credit on the ground that it had used various input services to provide output services that were exported out of India.

However, the Department of Revenue rejected the refund claims and issued a 'show cause' notice demanding service tax and interest in respect of amounts received from the telecommunications service provider on the grounds that the services rendered do not qualify as 'export of services', as they are provided in India to Indian entities of customers of the telecommunications service provider.

It was held by the Delhi High Court that the subscribers to the services, i.e. customers of the telecommunications service provider, may be the 'users' of the services provided by the service provider, but under the master services agreement it was the telecommunications service provider that was the 'recipient' of service who paid for such services.

Accordingly, the provision of such services by the service provider providing connectivity for data transfer to the telecommunications service provider complied with the conditions of export of services and therefore the same can be considered as 'export of service'.

Malaysia

Tax authorities clarify certain GST issues

GST filing penalties

During the recent GST Audit and Investigation Seminar organized by the Malaysian Institute of Accountants, an official from the Royal Malaysian Customs Department (RMCD) indicated that the penalty for late GST filing would be applied in the following manner:

- First offence – MYR 1,000;
- Second offence – MYR 2,000;
- Third offence – Subject to court action.

It was noted that the offences above are compoundable under section 121 of the GST Act 2014.

These penalties relate to the failure to file on time. If there is an underpayment arising due to late payment, late payment penalties (range of 10% to 40%) can apply.

Input tax credit from bills of demand

Based on recent discussions and meetings, the RMCD have reaffirmed their position that GST payable arising from the result of a bill of demand (BOD) would not be eligible as input tax credit.

This situation typically arises from the under-declaration of value on the importation of goods resulting in the under-declaration of GST, which is subsequently adjusted during an audit. When such payments are recovered by the RMCD, the company may not be entitled to an input tax credit. On the other hand, if disclosure of such under-declarations is made on a voluntary basis, the company may seek a concession from the RMCD to allow such input tax credit to be claimed. It is unlikely that there will be a revision of the valid documents, initially issued, to reflect these changes.

Deloitte Malaysia consider that a taxable person is entitled to an input tax credit if that person holds valid documents (i.e., form K1).

Nevertheless, it is important that taxpayers take note of the RMCD view and attempt to ensure that errors are detected early and corrected prior to an audit.

Group 2 of Minister's Relief 1/2017

There has been further clarification on the conditions to qualify for Group 2 of the Minister's Relief 1/2017, which provides a specific relief on the supply of services provided directly in connection with goods for export to an overseas customer (see the August 2017 edition of GITN for information on the Minister's Relief).

Condition (c) states that the overseas customer must not have a fixed establishment in Malaysia, including an agency. The RMCD have verbally clarified that the 'agency' also refers to overseas persons registered through a local agent under section 65 of the GST Act 2014. The rationale for disallowing the relief in these cases is that the overseas business (through its agent) is able to claim the GST paid as input tax.

Condition (e) requires the goods to be exported within 60 days after the completion of the service. The RMCD had verbally clarified that the 60 days are counted from the end of the contract period. It does not mean that goods can only be located in the free zone or bonded warehouse for 60 days.

GST treatment of recovery of repair costs under manufacturer warranty

As reported in the August 2017 edition of GITN, the RMCD announced that from 1 July 2017, any charges made by local distributors to overseas manufacturers with respect to the repair of goods covered under a warranty (provided by the overseas manufacturers) would no longer be subject to GST.

To access the concession, local distributors are required to seek written approval from the RMCD and must provide certain documents to the RMCD.

For further details and Deloitte Malaysia's comment, see GST Chat: August 2017.

EMEA

European Union – Canada

Comprehensive Economic and Trade Agreement

As of 21 September 2017, the Comprehensive Economic and Trade Agreement (CETA) between the European Union (EU) and Canada provisionally entered into force. This means that almost all provisions under CETA, comprising 95% of its benefits, will be available to companies and consumers.

One of the main benefits of CETA is that EU- and Canadian-origin goods can be traded between the two signatories at a reduced or zero import duty rate, subject to origin conditions. As CETA is a 'Mixed Agreement', ratification by all EU Member State parliaments and the Canadian parliament will be required for the full entry into force. Some provisions, related to the Investment Court System and financial services, will only become applicable once CETA fully enters into force.

Comprehensive and ambitious

CETA exemplifies the new form of trade agreements, going beyond tariff liberalization through far-reaching collaboration on matters often referred to as 'behind the border' issues, and addressing non-tariff barriers.

Hence, apart from cheaper imports and exports consequent to the abolition of customs tariffs, CETA offers complementary benefits such as the reduction of 'behind the border' issues through IP or standards cooperation, or allowing transfers of employees through services commitments. More information on the wider benefits of CETA can be found in the Deloitte Belgium Customs Flash of 30 November 2016.

Implications

Considering CETA from a sector perspective, the benefits of tariff elimination are substantial and possibly CETA's most significant effect on eligible goods, subject to conditions.

With CETA, approximately 98% of all import duties in trade between the EU and Canada will be eliminated. Another 1% of import duties will be phased out over a period of up to seven years. For a small number of products, no elimination is foreseen or tariff rate quota will apply, especially in the agricultural sector.

When importing into Canada, goods originating from the EU can benefit from CETA's preferential tariff treatment if conditions on rules of origin are met, as stipulated in the Origin Protocol. A so-called origin declaration is required. The same applies for goods originating from Canada imported into the EU. Origin declarations must be stated in specific wording on invoices or any other commercial documents, describing the originating product in enough detail to enable identification.

Exporters should keep the below two points in mind.

REX system registration

Firstly, to benefit from the preferential tariff treatment under CETA and obtain a valid origin declaration, registration in the Registered Exporter System (REX system) is required for exporters dealing with a value above a EUR 6,000 threshold. For importers, this brings a greater responsibility to validate the information provided. For consignments that do not exceed the EUR 6,000 threshold, a so-called invoice declaration will suffice.

Once a REX number has been assigned, the exporter must refer to it when providing an origin declaration to benefit from the CETA preferential tariff treatment.

For transitional purposes, until the exporter is registered in the REX system and doing so before 31 December 2017, the exporter can continue to use their approved exporter number on documents of origin, without the need for a signature, for free trade agreements (FTA) with third countries where the exporter would otherwise need to be registered.

Binding Origin Information (BOI)

Secondly, under CETA, BOI can be applied for. To obtain a BOI, which is normally valid for three years in the EU, a business should apply to the competent authorities in the country where the BOI will be used (or in the EU country where said business is established). Under the terms of the Union Customs Code, a BOI will be binding on the authorities as well as on the holder of the BOI.

Next steps

In the short term, the following steps are recommended for anticipating the preferential tariff reductions created by CETA:

- Assessing whether the goods a company is dealing with could benefit from CETA's preferential tariff treatment;
- Assessing whether the goods that a company is dealing with have EU preferential origin (if imported into Canada) or Canadian preferential origin (if imported into the EU) and all origin requirements are met;
- Assessing whether a valid proof of origin is available;
- When exporting from the EU to Canada and when the prescribed threshold is exceeded, ensuring that a company is registered in the REX system so that a valid origin declaration can be made;
- When appropriate, making sure that the REX number is included in the origin declaration.

In the medium- to long-term, FTA optimization for CETA (and other FTAs) requires an in-depth understanding of a global supply chain. Data and the analysis thereof provide valuable input to reassess sourcing strategies, identify new export opportunities, or ensure that customs and trade compliance processes are 'FTA proof and optimized'.

The following actions are recommended to optimise global FTA usage:

- Conducting a global supply chain FTA review, to assess possible risks and opportunities;
- Using a data collection tool for FTA risk and opportunity analysis, such as the Deloitte Global Trade Radar, which provides insight into the import profile and identifies FTA cost-saving opportunities and tariff classification risks.

Denmark

Practical simplification scheme for call-off stock – foreign supplier not required to VAT register when transferring goods to Danish warehouse only accessible by Danish customer

The tax authorities have via a binding ruling accepted that a foreign EU supplier did not register for VAT purposes in Denmark when transferring goods to a Danish warehouse. The supplier kept the legal ownership to the goods until the goods were taken by the buyer from the stock.

The tax authorities based their ruling on the fact that the right to dispose of the goods was transferred to the Danish customer even though the legal ownership did not transfer, and even though payment did not take place at the time of the transfer. Also, the Danish customer held all of the costs related to the warehouse (as the warehouse belonged to a third party subcontractor). The Danish customer was the only party with access to the goods once they were placed in the warehouse.

At the time when the goods were transferred from the other EU country to Denmark, the foreign supplier would issue an invoice for VAT purposes, which stated that the right to dispose of the goods transfers from the supplier to the Danish customer. When the goods were taken from the warehouse an invoice 'for payment' was issued.

The binding ruling has clarified:

- That the authorities now approve a simplification scheme for call-off stock under specific preconditions in Denmark;
- The preconditions that must be met regarding the setup between the foreign supplier and the Danish customer for the simplification scheme to apply.

It is recommended that foreign businesses with a Danish VAT registration only for consignment stock evaluate whether de-registration may be possible.

Increasing focus on VAT issues for foreign webshops selling goods to Danish customers

In their 2017 action plan, the tax authorities announced an increased focus on foreign websites selling to Danish customers, for the purpose of ensuring equal competition between Danish websites and foreign websites selling into Denmark where Danish legislation applies.

It is therefore necessary for foreign businesses to ensure they are registered for VAT in Denmark if they are required do so (with respect to the distance selling of goods above the requisite threshold), and to ensure that electronically supplied services are being correctly accounted for under the mini one-stop shop.

New regulations were introduced in 2015 to enable the tax authorities to VAT register foreign internet companies, however the tools under these regulations have not yet been fully implemented by the tax authorities. The rules include an option for the tax authorities to detect a foreign internet company when Danish payment or credit cards are used on the company's website. These powers may be relevant for achieving the results intended by the 2017 action plan.

New VAT regulation on private use of company's assets by employees

The tax authorities have issued new guidance to specify the rules for VAT deduction when employees use company's assets for private use.

The guidance specifies that when an employee uses the assets of a company, the company can choose between two different schemes for VAT deduction. Either, the VAT deduction can be based on an estimate when the goods are purchased, and the company deducts VAT taking into account any partial private use. Or, as not previously practiced in Denmark, it is possible to make a full or partial deduction

when goods are purchased and then treat the private use of the company's assets as the supply of goods, for which the company must account for the VAT, as there is a supply of goods for consideration.

According to Danish legislation, there is a supply of goods where a company sells to employees goods or services that the company normally supplies, where the company sells goods in canteens for consideration, and where a company acts as a middleman and supplies goods and services to employees that the company does not normally supply.

The second option for deduction does not have any consequences for goods not considered to be a supply of goods for consideration, such as employee benefits, and the acquisition and operation of passenger cars. Finally the guidance will not have any effect for capital goods where the deduction is regulated on a yearly basis.

Restructure of tax authorities into seven new agencies

The tax authorities (SKAT) have announced a restructuring. The department will be devided into seven new agencies by June 2018, with the restructuring to be finalized by 2021. Accordingly the previous department will cease to exist and instead the following seven agencies will be:

1) Debt agency
2) Valuation agency
3) Tax agency
4) Customs agency
5) Vehicle agency
6) Development and simplification agency
7) Administration/service agency.

The restructuring will lead to geographic changes, with the main location in Copenhagen moved to other areas and cities of Denmark. Thereby 1,500 jobs will either be created outside Copenhagen or the location of work for employees will be moved from the capital.

By 2019 the citizens of Denmark will receive their 2018 tax returns from the new tax agency. Furthermore, it will be possible from 2019 to review further information regarding property evaluations and receive new evaluations that can be used to reclaim money if the previous evaluation was set too high from 2011.

Finland

Supreme Administrative Court decision on VAT deduction for costs relating to sale of shares

On 11 March 2016, the tax administration issued guidance on the VAT recoverability of costs in relation to, for example, share transfers. The guidance states that costs resulting directly from sales of shares are not VAT deductible. Examples of such costs mentioned in the guidance include due diligence costs and contract negotiation costs. However, the guidance also states that not all costs incurred in relation to share transactions are directly related to the sale of shares and, hence, non-deductible, but when, for example, a parent company sells the shares of its 'daughter' company, the parent company may incur costs relating to, for example, group reorganizations prior to the sale of the shares. Such costs do not directly relate to the sale of shares, but are considered overhead costs and are recoverable in proportion to the taxable activities of the seller.

In this context, on 14 August 2017 the Supreme Administrative Court (SAC) issued a decision (KHO:2017:129) that can be considered to confirm the recoverability of transaction costs as overhead costs provided certain preconditions are met. The decision concerned a parent company's right to deduct VAT on costs relating to the sale of its subsidiaries' shares. The parent company in question provided taxable services to the subsidiaries. As part of closing down its business, the parent company sold the subsidiaries to a third party. It was clarified in the decision that the professional costs (such as legal costs) incurred were not included in the sales price of the shares sold. The court ruled that the parent company was entitled to recover the VAT on the costs relating to the sale of the shares insofar as the parent company's business before closing was taxable and entitled to VAT recovery. The costs were, thus, considered the parent company's overhead costs.

Following this decision, the tax authorities published a bulletin stating that the above SAC decision only applies where the costs relate specifically to the sale of shares in the context of closing down a business. The interpretation of the tax authorities in this respect is controversial.

France

Case concerning meaning of 'establishment' for VAT purposes

On 12 July 2017, the Paris tax court issued a decision concerning Google Ireland Limited (GIL). The court held, in favor of GIL, that there was no deemed VAT establishment in France resulting from advertising sales related to the research engine AdWords. The tax authorities had argued that GIL, having its head office in Ireland, was supplying advertising services from France, as it had an establishment through the French affiliate of the group, Google France SARL.

It is expected that the tax authorities will appeal this first level decision.

The court referred to the Court of Justice of the European Union judgments in *Berkholz* and *ARO Lease* to confirm that the supply of services is first connected to the head office as a matter of principle (Ireland). It also held that another place of establishment could be taken into consideration if the head office does not lead to a valid place of taxation. Also, an establishment exists only if there are human and technical means, in a permanent manner, with a structure capable of rendering the services in the local jurisdiction.

More precisely, the court analyzed the way the AdWords sales were made, the business to business agreements with customers, the intercompany agreements between Google France and GIL, and the functions performed by the people employed by Google France, so as to determine if these factors created an establishment of GIL in France. It held that those employees were not involved in the actual making of the sales with customers as they were not empowered to directly put the advertising online.

Furthermore, the court considered that the technical means (switch routers and backbones) held by Google France as well as other data centers on French territory were only ancillary to the four main servers exploiting the google.fr internet site in the USA. Thus, it concluded that GIL had no technical means at its disposal capable of supplying the advertising services in an autonomous way.

Clarifications on mandatory certification of cash register software

The tax authorities recently published a FAQ specifying the scope of the anti-fraud legislation requiring a certification for cash register software, applicable as from 1 January 2018. (The FAQs have no binding legal effect.)

This mandatory certification initially targeted all accounting, management, and cash register software in order to fulfill conditions of immutability, security, storage, and archiving of data. The FAQs specify that the legislation should apply to cash register systems only. Thus, accounting and management software, such as ERPs, should fall outside the scope of the certification requirement, as should payment terminals. As regards multi-function software, only the cash register features they include should be subject to the requirement.

Moreover, the FAQs announced a forthcoming relaxation of the provision; businesses benefitting from the VAT exemption regime due to their low turnover as well as businesses performing only VAT-exempted activities should fall outside the scope of the certification requirement.

This change in the scope of the law should apply to all businesses without distinction, including branches and subsidiaries of foreign businesses established in France. Foreign businesses VAT-registered in France but non-established in the country should fall outside the scope of the new law by way of administrative tolerance.

The tax code should be amended accordingly in the future.

The comprehensive list of certified cash register software can be found on the websites of the two organizations accredited for the certification: the AFNOR and the *Laboratoire National de Métrologie et d'Essais* (LNE).

Customs provides information regarding export documentation requirements for non-established companies

In an attempt to alleviate the difficulties experienced in cases of exports undertaken by non-established companies, further details have been provided by the customs authorities concerning formalities to be completed on the Delta electronic procedure (customs export document).

When a non-established company or its representative appears in box 2, the seller should appear in box 44, followed by the VAT registration number to justify the exemption on the basis of the customs export document.

However, when a non EU-established company appoints an indirect representative, its name may be reported in box 2 and the indirect representative's name in box 14 until 31 December 2020.

Gulf Cooperation Council

VAT update

Among the six Member States of the Gulf Cooperation Council, the United Arab Emirates (UAE) and Kingdom of Saudi Arabia (KSA) continue to lead the way towards the GCC-wide implementation of VAT, scheduled for 1 January 2018. Both countries have recently seen rapid developments on VAT as well as excise taxes.

The UAE VAT law was released on 27 August 2017. The law confirmed that the UAE will be implementing VAT on the scheduled date of 1 January 2018. The law also specifies that VAT will be applicable on all imports and the local supply of goods and services at the standard rate of 5%, with a few exceptions granted to the supply of goods and services related to certain sectors that will either be zero-rated (for example, healthcare, education etc.) or exempt (such as financial services). The Federal Tax Authority (FTA) website also went live on 22 August 2017 and it was announced that businesses that meet the registration requirements in the UAE will be able to register for VAT purposes through the website.

Also, after a round of public consultation over the draft laws and implementing regulations published earlier in the year, the KSA published its final VAT law on 27 July 2017 and the final implementing regulations on 29 August 2017, thereby making the complete VAT legislation now available to businesses in KSA. Accordingly, VAT will be implemented in the KSA on 1 January 2018 and will be applicable on all imports and the local supply of goods and services at the standard

rate of 5%, with exception granted to certain specified goods and services that will either be zero-rated or exempt from VAT. Additionally, commencing 28 August 2017, the electronic filing system in the KSA (ERAD) is expected to be made available to businesses to file their registration applications online ahead of the VAT implementation date, if they expect to meet the registration requirements under the KSA VAT Law.

On 31 July 2017, the UAE released the federal tax procedures law, which outlined the mutual rights and obligations between the FTA, taxpayers and any other person dealing with the FTA with regards to VAT, excise taxes and any other taxes that may be implemented in the UAE at a future date. The Ministry of Finance in the UAE (MoF) also launched the second phase of its VAT awareness sessions, focused on delivering sector-specific guidance on the application of VAT, to educate local businesses about their obligations and compliance requirements under the new VAT law expected to be implemented in the country.

With regards to excise taxes, the UAE has released its Excise Tax and Federal Tax Procedures (FTP) Executive Regulations. The Cabinet has also issued Cabinet Decision No. (38) of 2017 on Excise Goods, Excise Tax Rates and the Method of Calculating the Excise Price, which confirms the information previously announced that excise tax will apply to carbonated drinks at a rate of 50%, and energy drinks and tobacco products at a rate of 100%. It also provides details of how to calculate the value on which excise tax should be calculated, and indicates that the FTA will publish a standard price list specifying the value on which excise tax should be calculated for excise goods. The Excise Tax Law was due to be effective from 1 October 2017. There will be a requirement to have an audited record of stock on 30 September 2017 for anyone holding excise goods.

The KSA implemented a similar excise tax on 11 June 2017.

Italy

Extension to due date for submission of invoice data

On 25 September 2017, the tax authorities published a press release announcing that the deadline for the e-communication of the data on invoices (including custom bills) issued and received (new *Spesometro*) for the period January to June 2017 has been postponed to 5 October 2017.

The authorities may evaluate the possibility of imposing reduced penalties for material errors or late submission, provided certain conditions and timing are met.

Simplification to Intrastat reporting obligations

On 25 September 2017, the tax authorities and the customs authorities jointly issued official Act n. 194409/2017 concerning Intrastat form obligations. Based on this Act, from January 2018, the following simplifications will apply:

- Removal of the quarterly Intrastat forms related to intra-Community purchases of goods and services;
- Submission of the monthly Intrastat forms for statistical purposes only, when the amount of intra-Community purchases made by the taxpayer, for one of the previous four quarters, is equal to or more than EUR 200,000 (for goods)/100,000 (for services);
- For intra-Community supplies of goods and services, there is a new threshold of EUR 100,000 of intra-Community supplies of goods and services made on a quarterly basis, beyond which the taxpayer must declare also statistical data in the monthly Intrastat forms (in addition to fiscal data).

Applications for comprehensive guarantee authorization

On 22 August 2017 the customs agency clarified the operative procedures to be followed by a third person (other than the debtor) in order to apply for a comprehensive guarantee authorization.

Netherlands

VAT reverse charge for telecommunications services obligatory from 1 September 2017

On 31 August 2017 the Government confirmed that the obligatory VAT reverse charge mechanism will apply to business to business (B2B) supplies of telecommunications services in the Netherlands beginning on 1 September. The legislative change to the Dutch VAT rules was presaged in a decree issued on 1 June 2017 that allowed taxable persons to immediately apply a voluntary VAT reverse charge rule for telecommunications services between taxable persons.

Under the reverse charge, the supplier of the services is not required to charge or pay VAT on the service; instead, the liability for the VAT payment shifts to the buyer, who applies the standard VAT rate to its purchases and sales and includes the VAT amount in its VAT return.

VAT carousel fraud

The change in legislation is due to recently detected VAT carousel fraud in the form of the sale of call time packages. Under Dutch rules, the tax authorities can deny a taxpayer the right to deduct input VAT where a tax inspector determines, based on objective factors, that the taxable person knew or should have known that it was participating in a transaction connected with VAT carousel fraud. This has created uncertainty for VAT taxpayers that purchase telecommunications services regarding their right to deduct input VAT charged to them, and could hinder the conduct of regular transactions regarding these services.

Scope

In order to eliminate these uncertainties, VAT-taxable purchasers in the Netherlands must apply the VAT reverse charge rule for telecommunications services. The rule is applicable only to transactions between taxable persons that also supply telecommunications services and where the place of supply is in the Netherlands. The supply of telecommunications services to end-users (i.e., private individuals and entrepreneurs who purchase telecommunications services for use in their own businesses) falls outside the scope of the rule.

Operator transfer station with park and ride facilities supplies two services

A municipality operates four transfer stations with park and ride facilities and provides both parking services (at the standard VAT rate of 21%) and public transport services (at the reduced VAT rate of 6%) to the visitors of these stations. The municipality supplies the visitors who want to park their car at the transfer station a day ticket which they can exchange for a so-called combination ticket giving them also a right to use the urban public transport for a maximum of five persons throughout the day. According to the municipality, the parking services can be regarded as ancillary to the public transport services, which forms a single supply subject to the reduced VAT rate of 6%.

Recently a Higher Court judged that by offering a combination ticket the municipality, from a VAT perspective, supplies two distinct services. According to the Court, the purchase of a combination ticket is a conscious choice made by the 'average consumer' to opt for the possibility to safely park the consumer's car at an attractive rate taking into account the important feature of using public transport to the desired destination.

According to the Court the two services are easily distinguishable due to the fact that the services are provided by different suppliers. Besides, parking tickets and public transport tickets can be purchased separately. Furthermore, the purchase can be made easily. As a result, the municipality must break down the consideration for the combination ticket into a part subject to the 21% VAT rate for parking services and a part subject to the 6% VAT rate for public transport.

The Court did not agree with the view of the tax authorities that the services of the municipality can be regarded as a single complex supply of services and that the public transport services can be regarded as ancillary to the parking services. In support of this view, the tax authorities referred to the Order of the Court of Justice of the European Union in the case of *Purple Parking*. However, according to the Court this Order does not affect its judgment, as the facts in that case were different and justify a different outcome from the case at hand.

2018 Tax Plan: Definition of medicine refined for VAT purposes

In the 2018 Tax Plan, the Government included a proposal for a refinement of the definition of medicine for the application of the reduced VAT rate as of 1 January 2018.

Background

The direct reason for the proposal was the judgment of the Supreme Court of 11 November 2016 that sunscreen lotions containing UVA and UVB filters and toothpaste containing fluoride qualify are medicines according to the VAT definition of the word, and are therefore subject to the reduced VAT rate of 6%.

As reported in the August 2017 edition of GITN, between 17 July and 14 August 2017 the Ministry of Finance held an internet consultation on the stricter definition of medicines for the application of the reduced VAT rate. However, the 2018 Tax Plan includes the proposal for a refinement of the definition of medicine without any changes.

The broad interpretation by the Supreme Court of the term medicine also creates opportunities for other products to be subject to the 6% VAT rate. The purpose of the proposal is to prevent this broad interpretation.

Proposal

By refining the VAT legislation, as of 1 January 2018 the reduced VAT rate of 6% will only be applicable to products for which a marketing authorization has been issued as stipulated in the Dutch Medicines Act (*Geneesmiddelenwet*) or which are specifically excluded therefrom. As of 1 January 2018, products that are currently subject to the reduced VAT rate of 6% due to their presentation, but which, from the perspective of the Dutch Medicines Act and the European regulations for cosmetics, medicinal products and medical devices, are evidently not allowed to be introduced into circulation as medicines, will no longer be subject to this reduced VAT rate. According to the Ministry of Finance the large majority of the products that currently qualify as medicines for VAT purposes will remain subject to the reduced VAT rate of 6%.

Impact

The proposal aims to achieve clarification, legal certainty, and unambiguous VAT treatment of products qualifying as medicine in relation to the current situation. By linking products to the marketing authorization as stipulated in the Dutch Medicines Act, or the explicit exclusion, cosmetic, cleansing and care products such as sunscreen lotions and toothpastes containing fluoride, and other pharmaceuticals for which an authorization as medical device has been issued, will no longer qualify as a medicine for VAT purposes.

Examples of these products are: certain (baby) creams; mouth wash; insect spray; anti-dandruff shampoo; certain products for hemorrhoids, acne, bladder inflammation, heartburn, gastrointestinal cramps, diarrhea, eczema, cough, head lice, lime, sore throat, scars, fungal infections, colds, blocked nose, warts; and kidney dialysis concentrates. As of 1 January 2018, these products will possibly no longer be subject to the reduced VAT rate.

As this involves a proposal for a change of legislation, the wording of the proposal will be subject to change during the parliamentary debate. It is therefore not yet clear what the final version of the proposal will be.

It should be noted that (i) the Supreme Court considers that the term 'medicine for VAT purposes' should be interpreted in accordance with the definition of the term 'medicine' in the Medicinal Products Directive, including a broad explanation of the presentation criterion on the basis of European case law and; (ii) a previous attempt to amend the law was unsuccessful.

Parties selling medicines and like products should monitor these developments, in order to process any changes in a timely manner.

AEO criteria mandatory for customs representatives

From 1 July 2017, the customs authorities will require mandatory Authorized Economic Operator (AEO) criteria for customs representatives.

As of this date, the Netherlands requires customs representatives to meet AEO criteria, with the intention of improving the quality of data supplied in customs declarations and facilitating communication between government authorities and importers and exporters.

The Union Customs Code (UCC) (Regulation no 952/2013) allows EU Member States to impose certain national conditions under which a customs representative, also known as a customs broker, may provide services in the Member State where it is established.

From 1 July, following consultations with the customs industry, the customs authorities in the Netherlands require customs representatives to meet AEO criteria.

AEO criteria under the UCC refer to financial solvency, no infringements related to customs legislation or taxation rules, compliance of commercial and transport records, standards of competence of professional qualifications, and security and safety standards.

AEO authorizations will be reassessed under the UCC conditions before 1 May 2019. If authorization is retained following the reassessment of an existing AEO certificate, this will be considered as an AEO authorization granted under the UCC.

The customs authorities expect, for example, that if a customs representative starts working for a new client, the representative will check whether the company exists. Also, if the customs representative drafts the customs declaration, the representative should check that the boxes in the customs declaration are correctly completed. The customs authorities also expect a more active interaction between the customs representative and the importer/exporter with regards to the correctness of information that is used to generate customs declarations.

Implications

As the UCC allows for the imposition of national conditions or requirements for the status of customs representatives and the Dutch customs authorities have already stated that customs representatives must comply with AEO criteria from 1 July 2017, this sets a precedent, and customs authorities in other Member States may also implement this requirement. It is expected that the European Commission may also encourage this.

This increases the importance for companies operating in Member States to be compliant with AEO criteria (or to be authorized as AEO). Accordingly, companies may need to re-evaluate their (internal) procedures.

Next steps

Companies with a customs broker authorization will need to assess the impact of these current and potential future changes on customs activity. Also, this requirement will require companies to review their internal procedures to evaluate whether they are aligned with the criteria set out by the Dutch authorities.

Poland

Proposal for mandatory daily SAF-T bank statement file withdrawn

The Ministry of Finance had previously proposed amendments to the tax provisions that were to impose on taxpayers (all taxpayers except for micro-enterprises and public sector units) the obligation to provide the tax authorities with bank statements in the form of SAF-T files on daily basis (by the end of the following day). For taxpayers holding bank accounts with Polish banks (seated/having a branch in Poland), this obligation would be shifted to the bank operating the account (based on respective authorization). With respect to bank accounts with a foreign bank (not seated/having a branch in Poland), the obligation would fall on the taxpayer. The structure of the bank statement SAF-T file to be provided was to be similar to the current on-demand bank account SAF-T file, and the proposal provided for detailed information to be included therein. The provisions were to enter into force as of 1 September 2017.

The Ministry of Finance recently confirmed that this proposal would be withdrawn, and the relevant section has been removed from the revised version of the Tax Ordinance Act.

Due diligence standards

The Ministry of Finance has finalized the first stage of consultations on developing standards for the due diligence of suppliers. At this stage opinions from individuals, companies, and business representatives have been collected and published on the official Ministry of Finance website.

These include, *inter alia*, verification of contractors in the excerpts from the commercial registers and the (EU) VAT payers registers, verification of whether contractors submit VAT and SAF-T files to the authorities, ensuring market level and conditions of the transactions performed, verification of the transaction process (including matching of serial numbers from orders and on the goods supplied), and verification of the level of funds in the special VAT account under the split payment mechanism (following its implementation in April 2018).

Currently a group of experts encompassing various bodies that participated in the consultation phase will take part in the legislative development with the Ministry of Finance, as a result of which a minimum set of due diligence requirements will be presented. It is expected that the guidelines will be published by the end of October 2017.

Retail sales tax postponed

In 2016 Parliament approved a bill to introduce a retail sales tax which, due to an investigation of the European Commission regarding its compliance with EU law (including state aid rules), was suspended until the end of 2017.

Recently, due to a prolonged dispute with the European Commission and application to Court of Justice of the European Union, the Ministry of Finance has decided to further suspend collection of retail sales tax until 1 January 2019.

Portugal

Tax authorities clarify VAT reverse charge on import of goods

With the intention of clarifying the new reverse charge mechanism for the VAT due on the import of goods (eliminating the associated financial impact), which came into effect on 1 September 2017 for the import of goods listed in Annex C of the VAT Code and will generally come into force for all goods on 1 March 2018 (see the August 2017 edition of GITN), the tax authorities have published on 11 August 2017, Circular Letter nr. 30193 for the uniform application of the regime.

Among the clarifications made by the tax authorities, it is important for taxpayers under a VAT quarterly regime to be aware that to opt for the new VAT payment method it is necessary to be in the VAT monthly regime. As a change to the monthly regime can only be made in January each year through the submission of a declaration, taxpayers intending to opt for the new reverse charge mechanism from 1 March 2018 must elect into the monthly regime in January 2018.

Digital unique address and general deadline for electronic notifications

On 1 August 2017, Decree-Law nr. 93/2017 was published: (i) introducing changes to the general deadline for electronic notifications; and (ii) creating the digital unique address (*Morada Única Digital*, also known as MUD) and the public electronic notifications service associated with the said digital address.

Although the Decree-Law states that it enters into force on 1 July 2017, it was only published in the Official Journal on 1 August 2017, so the legal effects of electronic notifications received before 1 August are not yet clear.

General deadline for electronic notifications

With respect to electronic notifications made to the electronic email box tax domicile, the time a taxpayer accesses the electronic mailbox, *ViaCTT*, has now become irrelevant. Notifications by electronic transmission of data are now considered to have taken place on the 5th day following the date on which the notification was issued. Previously, the notification was assumed to be made on the 25th day after its issuance date if it was not read before.

Digital unique address (Morada Única Digital/MUD)

The MUD and the public electronic notification service associated with the said address are created, and the sending and receiving of notifications through that public service are also regulated, through Decree-Law nr. 93/2017.

The system supporting the public electronic communications service associated with MUD will be available by the end of 2017, meaning that developments in this area are expected in the near future, including the definition of the time from which entities can join the system of electronic notifications.

When the practical implementation and use of this public electronic notification service associated with MUD becomes possible, all individual and legal persons, either national or foreign, will have the option to apply for a single email address that will become its unique digital (email) address and that will serve all Portuguese public administration bodies (not just the tax authorities) for the purpose of sending notifications.

It has been stated that the service will not apply to notifications or other communications sent by the courts.

Any person, singular or collective, who joins the digital unique address (MUD) will no longer be required to maintain the current mandatory, where applicable, use of the electronic mail box (*ViaCTT*).

Russia

Draft law introducing amendments to Tax Code submitted to State Duma

In accordance with draft law No. 249505-7 of 15 August 2017, a number of amendments have been suggested to be introduced into the Tax Code of the Russian Federation.

In particular, it is suggested that the period of the in-house tax audit should be decreased from three months to one month.

Further, the draft law suggests substantial changes to the conditions for application of the 0% VAT rate with respect to operations connected with the export of goods. Generally, the suggested amendments are aimed at simplifying the procedure for confirmation of a taxpayer's right to apply the 0% VAT rate. In particular, the following amendments are suggested:

- Exclusion of the legislative provision according to which the 0% VAT rate is applied only if a purchaser of exported goods is a foreign entity;
- Exclusion of the legislative provision according to which consignment documents should be provided to the tax authorities to support the right to apply the 0% VAT rate with respect to the supply of goods for export. The suggested wording envisaged by the draft law states that copies of transport, consignment or other documents confirming the removal of stores from the customs territory of the Customs Union and/or from Russian territory by aircraft and by seagoing and combined navigation vessels must be provided in case of shipment of stores for which declaration for customs purposes is not required under the customs law of the Customs Union;
- Amendment to Article 165 of the Tax Code under which agreements that have previously been submitted to the tax authorities would not have to be submitted again for the purpose of applying a 0% VAT rate. According to the explanatory note to the draft law, this would eliminate the need to re-submit copies of long-term contracts that have already been submitted to the tax authorities together with tax declarations for prior tax periods.

Amendments to rules for completion of VAT invoices, purchase ledgers, sales ledgers, journals of received and issued VAT invoices

The Resolution of the Russian Federation Government No. 981 of 19 August 2017 introduced a number of amendments to the rules for the completion of VAT invoices, purchase ledgers, sales ledgers, and journals of received and issued VAT invoices.

In particular, the following amendments were introduced:

- Introduction of the specifics of operations where there has been acquisition by a freight forwarder, a developer or a customer executing the functions of the developer, from one and more sellers of goods, work, services or property rights in their own name;
- Clarification of the details of information about goods exported from Russia to the territory of the Eurasian Economic Union;
- Clarification of the procedure for storing VAT invoices, including corrected and amended VAT invoices;
- Introduction of changes to the format of the VAT invoice, amended VAT invoice, journal of received and issued VAT invoices, purchase ledger, and sales ledger including:
    - Customs declaration registration number column added to the sales ledger;
    - Item type code column added to the VAT invoice;
- Clarification of the procedure of registration of VAT invoices in the purchase ledger related to goods, work and services acquired to be used in operations subject to the 0% VAT rate with respect to which a general procedure of VAT recovery is envisaged by the tax legislation.

The amendments came into effect from 1 October 2017.

Draft amendments to customs regulation

The Ministry of Finance has developed amendments to the law on customs regulation due to the introduction of a new Eurasian Economic Union Customs Code from January 2018.

It is planned to increase the validity period of preliminary classification decisions for goods (BTI analogue) from three years to five years. The right of a branch of a foreign legal entity to import goods for commercial purposes may be introduced. Additionally, exported goods may be exempt from customs clearance fees.

Decrease to export customs duty rates due to Russia's obligations to the WTO

Resolution of the Russian Government of 19 August 2017 No. 984 decreases export customs duty rates due to Russia's obligations to the World Trade Organization.

Export customs duty rates are decreased, in particular, with regard to woolfells, scrap and waste of several metals.

Resolution N 984 came into effect on 25 September 2017 and extends to the legal relations that have arisen since 1 September 2017.

Serbia

VAT calculation overview to be submitted with VAT return from 1 January 2018

A new rulebook on the form, contents, and manner of keeping VAT records, and on the form and contents of the VAT calculation overview is currently under deliberation by the competent authorities, and its application is planned as of 1 January 2018.

Namely, the new VAT calculation overview (Form POPDV) will have to be submitted along with the VAT for each tax period, so the tax authorities are provided with a more detailed overview of how the VAT return was populated, especially as some of the data that will be stated in the VAT calculation overview is not visible in the VAT return.

The underlying reason for introduction of this change is to provide the tax authorities with a more efficient tax audit mechanism which should decrease the 'grey economy' as well as reduce the frequency of field tax audits.

However, it should be expected that the envisaged change will increase internal VAT compliance processes and related costs for taxpayers.

South Africa

Rebate provision for stainless steel fasteners

The International Trade Administration Commission of South Africa (ITAC) invited responses to an application for the creation of a rebate facility for "*Screws, bolts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of stainless steel, classifiable in tariff heading 73.18"* in such quantities, at such times, and subject to such conditions as the Commission may allow by specific permit, provided the Commission is satisfied that the subject goods are not available in the Southern African Customs Union (SACU) region.

The applicant cited that there is no manufacturer of stainless steel fasteners in the SACU and as such, no industry to protect.

Comments on the application were to reach ITAC by 22 September 2017.

United Kingdom

Case on VAT treatment of loyalty scheme

Members who earn points under Tesco's (a retailer) Clubcard scheme receive periodic vouchers which can be converted into Reward Tokens. The tokens can be exchanged for a wide variety of services from third party 'Deal Partners'. As in the *LMUK* case (which dealt with the Nectar loyalty scheme) the tax authorities (HMRC)

argued that the Deal Partners were making supplies to the members, and that Tesco Freetime (which made payment to the Deal Providers) was not entitled to input tax recovery.

In *Tesco Freetime Limited*, the First-tier Tribunal disagreed. Adopting the approach of the Supreme Court in *LMUK*, it concluded that the correct focus was on the amount paid by the member – there was no 'untaxed consumption' as HMRC suggested. It did not reflect economic reality to treat payments by Tesco in connection with the loyalty scheme as third party consideration. Tesco's appeal was therefore allowed

Eurasian Economic Union

Decrease of import customs duty rates for certain goods

Decision of the Board of Eurasian Economic Commission of 18 August 2017 N 98 decreases import customs duties for certain components for the production of bicycles. In particular, a 0% import customs duty rate is introduced with regard to tires, chains, hubs, brakes, pedals, and crank mechanisms from 20 September 2017 to 31 August 2018. A 0% import customs duty rate for frames is introduced from 20 September 2017 to 31 August 2020. Decision N 98 came into effect on 20 September 2017.

Decision of the Board of Eurasian Economic Commission of 18 August 2017 N 99 extends a 0% import customs duty rate with regard to certain types of cacao products until 31 December 2019. Decision N 99 comes into effect on 1 January 2018.

Adoption of technical regulation on safety of packaged drinking water, including natural mineral water

Decision of the Council of Eurasian Economic Union of 23 June 2017 N 45 establishes technical regulation "On safety of packaged drinking water, including natural mineral water" (TR EEU044/2017).

The technical regulation establishes safety requirements for packaged drinking water; requirements for its import, production, storage, transportation, sale and disposal; and requirements for labelling and packaging effective on the customs territory of the Eurasian Economic Union.

Most of the technical regulation comes into effect on 1 January 2019.

Esperamos que esta información le sea de utilidad y, como de costumbre, quedamos a su disposición para aclarar o ampliar cualquier cuestión derivada del contenido de esta nota. A tal fin pueden comunicarse con su persona de contacto habitual en Deloitte, o enviar un correo electrónico a la siguiente dirección: deloitteabogados@deloitte.es

Sin otro particular, aprovechamos la ocasión para enviarle un cordial saludo.

Atentamente,
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