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I. Normativa

1. Medidas para combatir el fraude del IVA en el comercio electrónico.

Directiva (UE) 2020/284 del Consejo de 18 de febrero de 2020 por la que se modifica la Directiva 2006/112/CE en lo que respecta a la introducción de determinados requisitos para los proveedores de servicios de pago.

Reglamento (UE) 2020/283 del Consejo de 18 de febrero de 2020 por el que se modifica el Reglamento (UE) n.º 904/2010 en lo que respecta a las medidas para reforzar la cooperación administrativa a fin de combatir el fraude en el ámbito del IVA.

Estas Directiva y Reglamento tienen como objetivo combatir el fraude del IVA en el comercio electrónico mediante el refuerzo de la cooperación entre las autoridades tributarias y los proveedores de servicios de pago.

Estas medidas serían aplicables a partir de 1 de enero de 2024.

2. Directiva (UE) 2020/285 del Consejo de 18 de febrero de 2020 por la que se modifica la Directiva 2006/112/CE, relativa al sistema común del impuesto sobre el valor añadido, en lo que respecta al régimen especial de las pequeñas empresas.

Esta Directiva contempla determinadas modificaciones en la Directiva 2006/112/CE, del IVA, en lo relativo al régimen especial de las pequeñas empresas (PYMES).

Las principales modificaciones podemos resumirlas de la siguiente forma:

- apertura de la franquicia para las PYMES a todas las empresas elegibles de la UE, estén o no establecidas en el Estado miembro en el que vaya a aplicarse el IVA y vaya a otorgarse dicha franquicia. A tal efecto, toda PYME susceptible de acogerse a la franquicia en un Estado miembro en el que no esté establecida, debe cumplir dos condiciones: i) su volumen de negocios anual en ese Estado miembro debe ser inferior al umbral para la franquicia aplicable en él; y ii) su volumen de negocios global en la Unión Europea no debe ser superior a 100.000 euros.
- fijación de un límite máximo de 85.000 euros para los umbrales nacionales previstos para la franquicia.
- introducción de un período transitorio durante el cual las PYMES que superen temporalmente en un año determinado el umbral previsto para la franquicia puedan seguir acogiéndose a ella en relación a ese año, a condición de que su volumen de negocios ese año no supere el umbral aplicable a las PYMES en más del 10 %.

- introducción de obligaciones simplificadas en materia de IVA (registro y declaraciones del IVA) para las PYMES que se benefician de la franquicia, aunque los Estados miembros conservan la posibilidad de dispensarlas de otras obligaciones (contabilidad, facturación o declaraciones recapitulativas).

Estas modificaciones serán aplicables a partir de 1 de enero de 2025.

II. Doctrina Administrativa

1. Tribunal Económico-Administrativo Central. Resolución 5047/2016, de 23 de enero de 2020.

Entidades aseguradoras - Sujeto pasivo – Requisitos que debe cumplir un establecimiento permanente para considerarse sujeto pasivo de IVA con base en la jurisprudencia del Tribunal de Justicia de la Unión Europea.

En la presente resolución el TEAC analiza la doctrina del TJUE relativa a los requisitos que debe cumplir un establecimiento permanente (EP) para que sea considerado sujeto pasivo a efectos del IVA.

El presente caso trata de una sucursal en España (EP) de una sociedad irlandesa que recibe de esta última diversos servicios entre los que se encuentra una cantidad atribuible a unos servicios prestados por una sociedad suiza a la matriz irlandesa. Asimismo, la Sucursal española también recibe servicios directamente de una sociedad suiza.

La Inspección entiende que el EP es el sujeto pasivo del IVA, debiendo autorepercutirse el Impuesto por los servicios recibidos, con base en tres argumentos:

1. El EP ejerce su actividad económica al margen de su casa central y asume los riesgos económicos derivados del ejercicio de ésta (se aplica el caso FCE).
2. Los servicios están sujetos en la medida en que el destinatario es una sucursal que forma parte de un grupo de IVA (se aplica la jurisprudencia del caso Skandia America Corp. USA).
3. Finalmente, la Inspección defiende que queda acreditado que el destinatario de los servicios es el EP puesto que éste no aporta pruebas suficientes que determinen que es la casa central quien percibe los servicios.

Por el contrario, el interesado defiende que el sujeto pasivo de las prestaciones de servicios es la casa central establecida en Irlanda quien, posteriormente realiza una imputación de costes a las sucursales que aprovechan los servicios. Asimismo, niega la existencia del hecho imponible al entender que no existe relación jurídica entre dos partes independientes pues el EP es dependiente de la matriz. Finalmente, rechaza la aplicación del caso Skandia dado que la Ley de IVA no subsume como sujeto pasivo un grupo de IVA.

A la luz de los argumentos presentado, el TEAC confirma la liquidación de la Inspección por los siguientes motivos:

- En cuanto a la interpretación del caso FCE Bank, en el presente caso el EP es un establecimiento diferente de la casa central porque asume los riesgos económicos de su actividad disponiendo de capital y fondos propios suficientes para llevar a cabo su actividad de manera separada e independiente de la matriz irlandesa.
- Respecto a la doctrina de Skandia, el TEAC señala que no debe confundirse la ausencia de personalidad jurídica propia con el hecho de no ser considerado una entidad separada de la casa central y considera que dicha doctrina es perfectamente aplicable a los grupos de IVA españoles sometidos al régimen avanzado del mismo.
- En cuanto a la sujeción de los servicios prestados en España a un EP español por una entidad no residente, el TEAC considera que ha quedado acreditado que el destinatario de los servicios era el EP y no su casa central.

2. Dirección General de Tributos. Consulta nº V0023-20, de 9 de enero de 2020.

Lugar de realización del hecho imponible y tributación de la operación a efectos de IVA. Servicios de mediación en la gestión de reservas de alquiler de parking. Facturación.

La consultante es una entidad mercantil establecida en el TIVA-ES que ha diseñado y gestiona una plataforma en línea para la reserva de aparcamientos tanto en el TIVA-ES, Islas Canarias, así como como en Portugal. Los aparcamientos pertenecen a empresas dedicadas a la prestación de servicios de parking y están radicados igualmente en los territorios mencionados. Los destinatarios de los servicios prestados por la entidad consultante pueden ser agencias de viajes o directamente usuarios finales españoles o portugueses. La entidad consultante no se responsabiliza del servicio de parking prestado ni se relaciona directamente con el cliente final.

Este Centro directivo establece que la intermediación en el arrendamiento de bienes inmuebles, ya el mediador actúe en nombre y por cuenta propia, prestando, por tanto, un servicio de arrendamiento, o actúe en nombre y por cuenta del destinatario del servicio, tiene la consideración, a efectos del IVA, de servicio relacionado con bienes inmuebles. En este sentido, entiende que existe una cesión de uso de un espacio físico y de uso exclusivo para los usuarios de forma que el servicio de aparcamiento tendría la naturaleza de servicio directamente relacionado con un bien inmueble, y, por tanto, los servicios de mediación en relación con el mismo deben considerarse, igualmente, como servicios relacionados con un bien inmueble.

De este modo se plantean tres posibles escenarios:

- El primero, en caso que se utilice la plataforma de la consultante para contratar servicios de parking en Portugal, el consultante estaría prestando un servicio relacionado directamente con bienes inmuebles situados fuera del TIVA-ES y, por tanto, no sujetos al IVA español y ello con independencia de la condición del destinatario como empresario o profesional o consumidor final, establecidos o no, en el TIVA-ES.
- El segundo, en caso que se utilice la plataforma de la consultante para contratar servicios de parking en el TIVA-ES, la consultante estaría prestando un servicio relacionado con bienes inmuebles situados en aquel territorio y, por tanto, sujetos a IVA español. Por tanto, en este caso, la entidad consultante debería facturar tanto a las agencias de viajes portuguesas como a clientes finales portuguesas repercutiendo las cuotas del IVA correspondiente a sus servicios de mediación.
- El tercero, en caso que se utilice la plataforma de la consultante para contratar servicios de parking en las Islas Canarias, hay que tener en cuenta que no corresponde a este Centro directivo la competencia para determinar la tributación de la operación objeto de consulta en el IGIC.

En lo que respecta a las obligaciones de facturación, con carácter general, las obligaciones de facturación se regirán por lo dispuesto en el Estado Miembro en donde se considere realizada la operación en cuestión. En consecuencia, cuando las plazas de parking radiquen en Portugal, las obligaciones de facturación del consultante, se regirán en todo caso, por la normativa portuguesa.

Por el contrario, cuando las plazas de parking se encuentran situadas físicamente en el TIVA-ES, y bajo la premisa de que el consultante actúa en nombre de la empresa de parking como intermediario, el sujeto pasivo del citado servicio sería la propia empresa de parking sin perjuicio de que la obligación de facturación que le incumbe pueda ser cumplida por un tercero, como la entidad consultante, tal como parece desprenderse del escrito de consulta.

3. Dirección General de Tributos. Contestación nº V0064-20, de 15 de enero de 2020

Si la consultante puede emitir en formato electrónico los canjes de facturas de los proveedores a sus clientes, aun cuando estos proveedores hayan emitido las facturas simplificadas en papel.

La consultante facilita a sus clientes la recuperación de las cuotas del IVA soportadas y solicita el canje, en nombre y por cuenta de éstos, de las facturas simplificadas recibidas por facturas completas.

Además, la consultante dispone de acuerdos de facturación en nombre y por cuenta de terceros con un gran número de proveedores de sus clientes, y hasta ahora ha emitido los canjes de facturas simplificadas por facturas completas en formato papel.

En la presente contestación la DGT reconoce la facultad de que los proveedores de los clientes autoricen a la entidad consultante para que ésta emita las facturas de canje de las facturas simplificadas siempre y cuando se cumplan los requisitos previstos en el artículo 5 del Reglamento por el que se regulan las obligaciones de facturación. Asimismo, el artículo 17 del Reglamento de facturación permite que las facturas emitidas por la consultante en nombre de los proveedores sean objeto de remisión por la propia consultante.

Por tanto, concluye la DGT que las facturas emitidas por la consultante en nombre de los proveedores de sus clientes podrán ser emitidas en formato electrónico, siendo necesario en todo caso que los destinatarios de estas facturas, hayan dado su consentimiento.

Con independencia de lo anterior, debe tenerse en cuenta que la garantía de la autenticidad del origen y la integridad del contenido de la factura electrónica no precisa de condiciones o requisitos adicionales respecto de la expedida en papel.

4. Dirección General de Tributos. Contestación nº V0116-20, de 21 de enero de 2020.

Si dicho inmueble puede considerarse un establecimiento permanente a efectos del IVA.

La consultante es una persona física no residente en el territorio de aplicación del Impuesto que es propietario de una vivienda radicada en dicho territorio y que la destina a su arrendamiento durante los meses del año en los que no vive en la misma. Para ello, contrata diversos servicios externos como los de mantenimiento de la piscina y el jardín, así como el de una agencia que se encarga de atender a cualquier imprevisto que pudiera surgir durante los arrendamientos, de la limpieza antes y después de cada arrendamiento y de la entrega y recogida de llaves a los arrendatarios.

En la presente contestación, la DGT trae a colación la resolución de 20 de octubre de 2016 del TEAR, en la que reitera el criterio ya señalado en su Resolución de 19 de julio de 2012 en el que estableció que una entidad no establecida en el TAI no dispone de un establecimiento permanente por ser destinataria de servicios de almacenamiento sin ser propietaria de un derecho de uso o arrendamiento del propio almacén. Este criterio ha sido reiterado por este Centro directivo entre otras, en su contestación vinculante de 22 de abril de 2008, consulta V0842-08, o la más reciente de 12 de mayo de 2017, consulta V1145-17.

En consecuencia, en supuestos similares a los establecidos en la referida Resolución deberá entenderse que no será de aplicación lo dispuesto en la letra g) el artículo 69.Tres de la Ley del IVA, de tal forma que el hecho de que un sujeto no residente mantenga bienes inmuebles explotados en arrendamiento o por cualquier título no determina necesariamente que el mismo mantenga un establecimiento permanente en el TAI cuando la cesión o el arrendamiento del

inmueble se efectúe sin disponer en el TAI de un conjunto de medios materiales y humanos necesarios para prestar los servicios de arrendamiento de forma independiente, sean estos medios propios o subcontratados.

Por tanto, en el supuesto objeto de consulta, si como parece deducirse de la información contenida en la misma, el consultante mantiene en el TAI de forma permanente medios materiales y humanos, en este caso subcontratados, para el ejercicio de la actividad de arrendamiento de la vivienda, debe concluirse que sí dispondrá en dicho territorio de un establecimiento permanente a efectos del IVA.

5. Dirección General de Tributos. Contestación nº V0136-20, de 21 de enero de 2020.

Exenciones. Tributación de la operación y forma de cumplimentar el modelo 349.

La entidad consultante es una sociedad mercantil establecida en el territorio de aplicación del impuesto que vende bienes a otra entidad con sede en el Reino Unido y no está identificada a los efectos del impuesto en dicho país, pero sí en Polonia siendo los bienes expedidos a este país desde el territorio de aplicación del impuesto. En dichas ventas, la adquirente comunica a la consultante su Número de Identificación Fiscal a efectos del Impuesto sobre el Valor Añadido (NIF-IVA) asignado por las autoridades fiscales polacas a donde son transportados los bienes.

De cara a analizar la tributación de la operación, este Centro comienza citando los artículos 25 de la LIVA y el 13 del RIVA cuyo contenido hace referencia a los requisitos necesarios para que una operación sea calificada como una entrega de bienes intracomunitaria exenta. En esta línea, reitera doctrina señalando que dicha exención requiere, entre otros requisitos, que el adquirente comunique al transmitente un NIF-IVA asignado por las autoridades fiscales de un Estado miembro de la Comunidad distinto del Reino de España.

No se requiere, por contra, que el NIF-IVA suministrado por el adquirente haya sido asignado por el Estado miembro en el que el adquirente haya establecido la sede de su actividad económica.

Por tanto, la entrega efectuada por la consultante estará exenta cuando los bienes sean efectivamente expedidos a otro Estado miembro y el adquirente hubiera comunicado un NIF-IVA asignado al mismo por un Estado miembro distinto del Reino de España.

Finalmente, dicha operación deberá ser reportada en el modelo 349 de la forma establecida por la Orden EHA/769/2010, de 18 de marzo por la que se aprueba el modelo 349 de declaración recapitulativa de operaciones intracomunitarias.

6. Dirección General de Tributos. Contestación nº V0153-20, de 21 de enero de 2020.

Penalizaciones – Indemnizaciones – Determinación de la base imponible.

La consultante es una entidad mercantil que suscribe contratos con clientes por los que presta servicios de "back office" relacionados con determinados procesos internos. En dichos contratos se pactan determinadas condiciones de "nivel de servicio" de forma que cuando no se constata ese nivel de calidad como consecuencia de errores o retrasos, la entidad consultante debe hacer frente a penalizaciones que se aplican en la facturación siguiente a la detección de los mismos.

Sobre la base de la jurisprudencia del TJUE y anteriores pronunciamientos de la DGT, dicho Centro Directivo subraya que, con carácter general, para determinar si existe una indemnización a los efectos del IVA, es preciso examinar en cada caso si la cantidad abonada tiene por objeto resarcir al perceptor por la pérdida de bienes o derechos de su patrimonio o, por el contrario, si su objetivo es retribuir operaciones realizadas que constituyen algún hecho imponible del Impuesto.

Así, entiende la DGT que las penalizaciones objeto de la consulta tienen una finalidad coercitiva como medida de presión para lograr el adecuado cumplimiento de sus obligaciones por parte de la entidad consultante de forma que ciertos incumplimientos conllevan una corrección a la baja del importe a abonar por el cliente.

En esta línea, la DGT entiende tales penalizaciones no constituyen indemnizaciones dado que no tienen por objeto la restitución de daño alguno, no se refieren o vinculan a un daño objetivado, ni lógicamente se gradúan o cuantifican con la finalidad de resarcir el mismo. De hecho, según se manifiesta en el escrito de la consulta, las penalizaciones se acuerdan expresamente sin perjuicio de la obligación de resarcimiento de los daños y perjuicios que hubieren ocasionado.

En este sentido, la DGT concluye que las penalizaciones objeto de consulta forman parte indisoluble del servicio mismo y, por tanto, forman parte de la base imponible de la operación, distintas de aquellas otras indemnizaciones que, en su caso, pudieran estipularse y que por su naturaleza y función, no constituyan contraprestación o compensación de entregas de bienes o prestaciones de servicios sujetas al mismo.

7. Dirección General de Tributos. Contestación nº V0170-20, de 22 de enero de 2020.

Inversión del sujeto pasivo – Entrega de bienes inmuebles en ejecución de la garantía constituida.

La consultante es una entidad mercantil que va a adquirir un solar que se encuentra gravado con una hipoteca cuya cancelación dineraria y registral se producirá, de acuerdo con lo estipulado en el contrato de compraventa, de

manera simultánea al otorgamiento de la escritura pública de compraventa. Dicha cancelación se producirá mediante la entrega por el comprador de parte del precio del inmueble, a través de un cheque bancario, al banco hipotecante por cuenta del vendedor.

El consultante plantea si, en este caso, sería aplicable la regla de inversión del sujeto pasivo establecida por el artículo 84.Uno.2º.e), tercer guion de la Ley del IVA.

En su análisis, la DGT reitera su doctrina previa establecida en la contestación vinculante V1415-13. En aplicación de dicho criterio, esta regla de inversión del sujeto pasivo resulta aplicable cuando se cumplan los siguientes requisitos:

El destinatario de las operaciones sujetas al IVA actúe con la condición de empresario o profesional.

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

Tales operaciones consistan 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 IVA.

Las entregas realizadas sean 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.

Finalmente, la DGT concluye que en este supuesto resulta aplicable la inversión del sujeto pasivo, en la medida en que el adquirente se compromete contractualmente a la extinción de la deuda y de la hipoteca que recae sobre el solar objeto de transmisión, al tiempo de otorgar la escritura pública de compraventa mediante la entrega, en nombre del vendedor, frente al banco hipotecante del importe de la referida hipoteca.

8. Dirección General de Tributos. Contestación nº V0208-20, de 31 de enero de 2020.

Modificación de la base imponible – Sujeto pasivo que ha cesado su actividad.

La consultante es una entidad mercantil que adquirió una cartera de clientes de una asesoría por un precio determinado sujeto a revisión si en el plazo de un año dicha cartera disminuía. Habiéndose producido dicha disminución y debiendo rectificarse el precio de venta de la misma.

El transmitente de la cartera ya no ejerce actividad económica alguna.

La consultante se plantea la posibilidad de rectificar la cuota del IVA repercutida inicialmente en dicha operación como consecuencia de la disminución del valor de la cartera y su consecuente rectificación del precio de venta de la misma.

En su análisis, la DGT realiza un análisis preliminar al planteamiento de la consulta en el que concluye, prácticamente al final de su resolución que, en virtud del artículo 4 de la Directiva del IVA que no se pierde automáticamente la condición de sujeto pasivo por el mero cese en la actividad, si como consecuencia del ejercicio de la misma se incurre posteriormente en gastos directamente relacionados con aquélla, permitiendo la deducción de las correspondientes cuotas soportadas de concurrir los restantes requisitos exigidos legalmente.

Consecuentemente, la condición de sujeto pasivo a efectos del IVA del transmitente de la cartera se mantiene hasta que cumpla con los compromisos derivados de sus actuaciones previas.

Por otro lado, la DGT establece que, en virtud del artículo 80 de la Ley del IVA y del artículo 42 del Reglamento del impuesto, el cambio de valor en el precio de la cartera objeto de análisis, después del momento en que la operación se haya efectuado y siempre que sea conforme a Derecho, supondrá la modificación de la base imponible y de las cuotas del IVA a través de la correspondiente expedición de la factura rectificativa por el sujeto pasivo de la operación.

En este sentido, la DGT concluye que el transmitente de la de la cartera objeto de consulta, aunque se encuentre jubilado y haya cesado en su actividad económica, deberá proceder a la modificación de la base imponible de la operación y la rectificación de la cuota del Impuesto repercutida originariamente.

9. Dirección General de Tributos. Contestación nº V0213-20, de 31 de enero de 2020.

Ejecución de obra y pagos anticipados – Establecimiento permanente.

La consultante es una entidad mercantil establecida en Francia que suscribe con una entidad establecida en el territorio de aplicación del Impuesto un contrato de maquila.

Una vez ensamblada la mercancía, esta es entregada al propietario de dichos bienes a través de entregas interiores como entregas intracomunitarias. Tanto las cajas y neceseres para el proceso de maquila como los productos propiedad de su cliente son depositados en el almacén de la maquiladora sin que se transfiera el poder de disposición a la misma.

La consultante percibirá pagos anticipados de su cliente desconociéndose en ese momento si los productos resultantes serán objeto de una entrega interior o intracomunitaria.

La consultante cuenta con una filial en el territorio de aplicación del Impuesto con fines informativos y administrativos sin que disponga de capacidad de negociación o contratación.

La consultante plantea si las operaciones realizadas deben calificarse, como una operación única de entrega de bienes, el tratamiento a efectos del Impuesto de los pagos anticipados recibidos y la posibilidad de disponer de un establecimiento permanente en el territorio de aplicación del Impuesto.

Respecto de la primera cuestión, la DGT recuerda que, de acuerdo con el criterio mantenido en resoluciones previas a consultas vinculantes (véase, entre otras, la V1182-16 de 23 de marzo), las operaciones de montaje o ensamblaje de bienes muebles, con una significativa aportación de materiales o cuantitativamente poco importante, pero por la calidad de los materiales aportados el bien que se entrega es significativo para el cliente, tendrá la consideración de entrega de bienes en conformidad con lo dispuesto en el artículo 8 de la Ley del IVA.

En lo relativo a la sujeción al Impuesto de los pagos anticipados, la DGT concluye en base a la jurisprudencia del TJUE, en particular, su sentencia de 19 de diciembre de 2018, asunto C-422/17, Skarpa Travel, y su sentencia de 19 de diciembre de 2012, asunto C-549/11, que dicho devengo no se producirá en el momento de recibir dichos pagos en la medida que, al tiempo de recibirlos, no resultan conocidos todos los elementos relevantes para determinar su devengo.

Finalmente, con respecto a la posibilidad de disponer la consultante de un establecimiento permanente, la DGT recuerda que de conformidad con la jurisprudencia del TJUE (véase entre otras, sentencias de 17 de julio de 1997, asunto C-190/95, ARO Lease BV, de 20 de febrero de 1997, asunto C-260/95, DFDS A/S y de 28 de junio de 2007, asunto C-73/06, Planzer Luxembourg) es necesario que el mismo se caracterice por una estructura adecuada en términos de medios humanos y técnicos, propios o subcontratados, con un grado suficiente de permanencia.

Asimismo, tampoco debe de entenderse la disposición de un establecimiento permanente cuando únicamente se mantiene en dicho territorio agencias o representaciones autorizadas sin capacidad para contratar en nombre y por cuenta del sujeto pasivo, en los términos establecidos en el artículo 69.Tres.2º.a) de la Ley del IVA.

III. Country Summaries

COVID-19 updates

The situation at the moment is fast-moving as governments take measures in response to COVID-19. The below tax@hand items represent the situation at the time of writing.

Australia

State and territory COVID-19 tax relief and business support measures

Australia

Tax and business relief in response to COVID-19

The global COVID-19 pandemic is having a significant impact on all of us: business, families, the economy, the health system, our broader communities are all affected. In response, the Australian government has released various economic stimulus packages and other support measures.

A first round of AUD 17.6 billion stimulus measures was announced by the federal government on 12 March 2020 and a further AUD 66.1 billion of economic support measures were announced on 22 March 2020. In addition, further support will be provided by way of federal government loan guarantees, AUD 15 billion of support for smaller lenders and Reserve Bank measures. Legislation to implement the federal stimulus measures quickly was introduced into parliament on 29 March 2020.

The Australian Taxation Office (ATO) also has announced a series of administrative measures to assist in meeting their tax obligations as a result of the disruption to business.

In addition, various state governments introduced tax relief measures for businesses within their states.

We have issued an updated Tax Insights, designed to provide business with a consolidated view of all the relevant government tax and business reliefs introduced to help Australian taxpayers. It also includes the ATO's administrative positions in respect of certain tax issues that have emerged to-date. The publication is current as of 29 March 2020, but we expect that the tax and business-related responses will continue to evolve.

Belgium

VAT credit refund possibility announced in response to COVID-19

On 29 March 2020, the Belgian tax administration published an additional measure to support the liquidity of businesses following the COVID-19 outbreak. The new measure allows VAT registered businesses that submit monthly VAT returns to request a refund of their credit VAT balance through the February 2020 VAT return. The tax authorities subsequently published an update, clarifying that the return must be submitted by 3 April 2020.

The refund also is available to businesses that normally do not qualify for monthly VAT refunds. The refund request in the February 2020 VAT return will allow a business to recover the outstanding VAT credit balance available on its VAT current account with the tax authorities, before taking account of the balance resulting from its February 2020 VAT return.

The refund will be made to the business' bank account by 30 April 2020.

To qualify for the refund, the following conditions must be satisfied:

- The VAT credit must amount to at least EUR 245;
- All VAT returns for the current calendar year must have been submitted; and
- The VAT authorities must have the bank account details of the business requesting the refund. Businesses that did not provide their bank account details at the commencement of their activities must do so through the submission of Form 604B (Heading IV), signed by a person authorized to legally bind the company.

A refund application may be made regardless of whether the business activities are negatively affected by COVID-19.

How can a business request a refund?

Businesses that have not yet filed their February 2020 VAT return

The filing deadline for the February 2020 VAT return was extended to 6 April 2020 by previously announced measures in response to COVID-19.

To obtain a refund, the VAT taxpayer must file the VAT return by 3 April 2020, and the refund request box (Aanvraag tot terugbetaling/Demande de restitution) must be checked.

Businesses that already have filed their February 2020 VAT return

A VAT taxpayer that already has filed their February 2020 VAT return, without checking the refund request box, still may obtain the refund by filing an amended VAT return by 3 April 2020.

Filing an amended return may be done by selecting the option to correct a previous document on the first page of the VAT return in Intervat. The reference number of the initial return must be provided, and may be found by consulting previous filings in the Intervat dashboard, in the "General information – Intervat return reference" section of the submission confirmation.

The amended return must contain the same data as the previous VAT return, and the refund request box must be checked.

Belgium

VAT relief for medical and other protective equipment donated in response to COVID-19

On 24 March 2020, the Belgian VAT authorities published a new circular letter (Dutch | French) clarifying that no VAT is due on medical and protective equipment donated to hospitals by VAT registered businesses.

In principle, when supplying goods for free, VAT taxpayers who deduct VAT on purchases, or other production costs of those goods should make a correction and pay output VAT in the form of a so-called "self-supply." This obligation is temporarily waived for supplies made between 1 March and 30 June 2020, provided specific conditions are met.

Conditions

Goods in scope

The exception applies to the following products, regardless of the applicable VAT rate:

- All medical equipment defined under the Royal Decree of 18 March 1999; and
- Protective equipment (e.g., mouth/face masks, protective clothing, anti-bacterial products, etc.).

Medicines are explicitly excluded from the scope of the circular letter.

Beneficiaries

The exception applies to supplies made directly to healthcare institutions as defined in the coordinated law of 10 July 2008. Broadly, these are institutions within the scope of the VAT exemption in article 44, §2, 1^o, a) of the VAT Code (i.e., hospitals, associations or groups of hospitals, etc.). Donations to institutions providing care for the elderly are not covered.

Donors

All taxpayers may qualify, including taxpayers who specifically purchased the goods to donate them in response to the COVID-19 outbreak.

Procedure

A specific must be prepared, in which the healthcare institution confirms that the goods were obtained free of charge, and commits either to use the goods, or make them available to other healthcare institutions free of charge.

In principle, a document should be drafted for each donation, although a single document that covers a series of donations, or all donations made during a month, is acceptable.

Direct tax implications

Corporate income tax and nonresident income tax

Donations covered by the new guidance will not give rise to an abnormal or benevolent advantage for corporate or nonresident income tax purposes, as defined under article 26 of the Belgian Income Tax Code.

Personal income tax

Individuals donating equipment within the scope of the new guidance, will be entitled to a tax deduction of 45% of the donation's value in their personal income tax return, subject to certain conditions.

Belgium

COVID-19 tax measures to support businesses and individuals announced

On 18 March 2020, the Belgian tax administration (FOD/SPF Finance) announced various measures (Dutch | French) that aim to mitigate the economic and financial effects of the COVID-19 outbreak. The measures include extensions to tax filing and payment deadlines and other support measures.

Automatic extension of tax filing and payment deadlines

Various upcoming tax reporting and payment deadlines are automatically extended. The extensions depend on the type of tax and are available in the case of companies regardless of whether the company's activities are adversely affected by COVID-19.

Direct taxes

The filing deadline for all tax returns with a due date between 16 March and 30 April 2020 is extended until 30 April. This applies to corporate income tax, legal entities tax, and nonresident tax returns.

The payment deadline for taxes assessed as from 12 March 2020 that relate to the tax year 2019 is extended by two months. No penalties or late payment interest will be charged.

This applies to corporate income tax, legal entities tax, personal income tax, and nonresident tax.

For taxes assessed prior to 12 March, taxpayers may request support measures as outlined below.

VAT

The extended filing deadlines are as follows:

- Periodical VAT returns:
 - February monthly return: 6 April 2020;
 - March monthly return and quarter 1 (Q1) quarterly return: 7 May; and
 - If a company qualifies as a "starter" or has a monthly refund license, the maximum extension to maintain the benefit from a monthly refund is until the 24th day of the month following the return period.
- European Sales Listing:
 - February listing: 6 April; and
 - March and Q1 quarterly listings: 7 May.
- Annual Sales Listing:
 - 30 April rather than 31 March; and
 - Where an activity has been terminated: no later than the end of the fourth month after the activities have ceased.

An automatic two-month extension is granted for the following VAT payments:

- February monthly return: 20 May; and
- March monthly return and Q1 quarterly return: 20 June.

Taxpayers may request support measures for VAT payable per VAT returns for January 2020 or earlier periods.

Payroll withholding tax

An extended payment date applies as follows, depending on the taxable period:

- February monthly return: 13 May 2020; and
- March monthly return and 2020 Q1 quarterly return: 15 June.

Taxpayers may request support measures for tax payable before 12 March.

Other support measures

All individuals and legal entities with an enterprise number and able to demonstrate that they are negatively affected by the COVID-19 outbreak may request the deferral of payment of corporate income tax, legal entities tax, payroll withholding tax, personal income tax, and/or VAT.

Taxpayers may request a payment plan (potentially allowing payment by installments), an exemption from late payment interest, and/or a remission of fines for nonpayment.

Taxpayers wishing to apply for some form of relief must submit a form (one per tax debt) by email or in hardcopy to the competent regional centre (Regionaal Invorderingscentrum or Centre régional de Recouvrement).

More information can be found on the FOD/SPF Finance website (Dutch | French).

Requests must be filed by 30 June 2020.

Brazil

Emergency economic measures approved by government in response to COVID-19

On 16 March 2020, the Brazilian Minister of the Economy announced a set of temporary economic measures to limit the negative effects of the coronavirus (COVID-19) on the economy, including the deferral of the deadline for certain tax payments. A variety of other tax and non-tax measures have since been issued or announced in response to COVID-19, including a provisional measure (PM No. 927/2020) containing provisions relating to employment and public health and measures from the tax authorities suspending certain activities and deadlines.

Temporary economic measures announced on 16 March

The measures announced on 16 March aim to protect individuals (particularly the elderly) and maintain the current rates of Brazilian employment. The measures focused on the maintenance of employment in the country include the following, among others:

- A three-month extension of the deadline for the payment of federal taxes for entities that have elected to be taxed under the simplified tax regime (which covers corporate income tax and certain other taxes and social contributions) and a three-month extension for all entities of the deadline for employers to contribute to the severance pay indemnity fund (FGTS), to support companies with limited working capital;

- A total BRL 5 billion credit from the income generation program/employee assistance fund (PROGER/FAT) to be granted to micro and small companies;
- A 50% reduction of certain mandatory social contributions (SENAI, SESI, SESC, and SENAC); and
- Simplified requirements to obtain credit and elimination of the requirement to have a debt and federal tax clearance certificate to renegotiate the terms of credit.

An amount of BRL 4.5 billion also will be transferred from the traffic accident insurance (DPVAT) fund for necessary improvements to the public health system.

Provisional Measure No. 927

PM No. 927, which was published on 22 March 2020, provides for labor and public health measures in response to COVID-19. The PM has immediate effect, but must receive Congressional approval within 120 days or it will cease to be effective. The main provisions are the following:

- Employers have the option to suspend the employment relationship, with pay (following the publication of PM No. 928 on 23 March, which amended PM No. 927) during the state of emergency period, which began on 20 March 2020. PM 928 repealed an article (No. 18) of PM 927 that included provisions that would have allowed the employer to offer participation in virtual professional qualification courses as consideration for suspending the employment relationship and would not have required employers to pay employees participating in such courses a monthly wage during the suspension period (although the employer would have had the option to provide employees monthly financial assistance in an amount negotiated with the employee).
- The terms of suspensions may be determined through individual or collective agreements and must be registered in the work permit (Employment and Social Security Record Card (CPTS)).
- Healthcare programs should be maintained for suspended employees.

As a consequence of the repeal of article 18, Brazilian senators have stated that there are still other changes to be made to PM 927 before it will become effective.

Other provisions of PM No. 927 include that individual agreements between the employer and the employee that are in line with the PM will be given greater weight than the Brazilian labor law during the period when PM No. 927 is effective, since the provisions of the PM do not conflict with the Brazilian federal constitution.

In addition, PM No. 927 provides for the following:

- Employees may be required to work from a home office (where possible);
- A special regime is available for compensating overtime in the case of interruptions of the standard working hours during the state of emergency period;

- Vacation may be suspended for healthcare employees and those providing essential services;
- Other individuals may be required to use vacation time, provided 48 hours' notice is communicated to the employee;
- Payment is required for mandatory vacations;
- Employees may be required to take holidays;
- Administrative exigencies regarding labor safety and health may be suspended;
- Employers are required to provide employees assistance in maintaining their qualifications (e.g., through online courses); and
- Employees' rights to receive distributions of FGTS payments previously made by the employer to the individual employee's FGTS account are suspended.

Other measures

The following additional measures that have been provided for during the state of emergency in Brazil aim to have a direct impact on the Brazilian health system:

- Reduction of the federal import duty (II) rate to 0% for medical/hospital goods until the end of 2020;
- A federal excise tax (IPI) exemption for imported and locally manufactured goods that are on a list of goods considered necessary to fight COVID-19;
- Alternative options to companies for discharging debt: repayment, renegotiation, payment in installments, special programs, and payment in kind; and
- Other measures including tariff preferences and priority customs clearance for medical/hospital goods.

The National Monetary Council also has allowed companies to renegotiate their credit operations by prohibiting banks from raising their interest rates in cases where the renegotiations happen within the next six months.

Additional tax-related guidance that has been issued by the National Treasury Attorney's Office (PGFN) or the Brazilian federal tax authorities (RFB) includes the following:

- The PGFN published an ordinance (No. 7,820/20) on 19 March 2020 establishing the procedures, requirements, and conditions related to extraordinary transactions involving the collection of tax debts at the level of the PGFN. The ordinance provides, among other measures, that transactions should be carried out exclusively through the PGFN's online platform ("Regularize") and payments may be deferred until the last working day of June 2020.

- The PGFN also published an ordinance (No. 7,821/20) on 18 March 2020 providing for a 90-day suspension for appeals, administrative collection, and installment payments without taxpayers being considered noncompliant.
- The RFB published an ordinance (No. 543/2020) on 20 March 2020 suspending its deadlines for administrative procedures and restricting face-to-face services until 29 May 2020.

Several administrative measures are under development that are similar to the suspension of procedural deadlines by the Brazilian tax authorities. The administrative tax appeal council (CARF) issued an ordinance (No. 7,519/20) suspending its trial sessions for April 2020 until May and July 2020.

The National Council of Justice (CNJ) issued a resolution (No. 313) on 19 March 2020 establishing an extraordinary duty regime for judicial services, to ensure access to justice and limit the spread of COVID-19. The temporary regime suspends on-site work for judges, servants, trainees, and other staff members in the judicial units, maintaining only essential services for each tribunal.

The Minister of Economy has announced that new measures responding to COVID-19 may be issued every 48 hours by the government.

Canada

COVID-19 – More support measures announced

COVID-19 continues to have a profound effect on Canadians. The federal and provincial governments continue to respond by adding and enhancing measures to support individuals and businesses facing hardship.

In this update, we highlight recent announcements from the federal government and the governments of British Columbia, Quebec, and New Brunswick.

Of particular note today was the increase in the federal wage subsidy from 10% to 75%. Readers may recall that nearly two weeks ago, the federal government unveiled the 10% wage subsidy as a central plank of Canada's emergency economic response to COVID-19. Since then, over 60 business groups across the country have called on the federal government to change course. Today's announcement that the subsidy has increased to 75% is a reflection of this imperative.

Deloitte's Future of Canada Centre suggests that businesses had cited the initial prioritization of a new post-employment tool, the new Canada Emergency Response Benefit (CERB), as opposed to a higher wage subsidy up-front to prevent people losing their jobs in the first place, as a policy that needed to be reconsidered.

In the past days, officials in Ottawa have also absorbed the scope of the economic shock, with nearly one million Canadians filing for Employment Insurance (EI) last week alone, an all-time record. In addition, officials now expect nearly four million Canadians will apply for the CERB when it begins accepting applications on 6 April 2020. That new benefit will pay CAD 2,000 a month to workers who have lost income because of the COVID-19 pandemic, even as the existing EI program is struggling to cope with the surge in applications.

Combined with the actions of other major economies such as the UK and Denmark, each of which announced a wage subsidy above 70%, it has become increasingly clear in the past 48 hours that the federal government was examining enhancing support for business, with the Prime Minister promising that “we will have more to say in the coming days” on this specific topic during his press conference on 25 March 2020. Today’s announcement that the subsidy has increased from 10% to 75% fulfills that commitment.

Federal measures – 27 March 2020

- Changes to wage subsidy for small and medium sized business (SMEs)
 - The wage subsidy for SMEs previously announced on 18 March 2020 is being increased from 10% to 75%, for qualifying businesses.
 - This increased subsidy will be retroactive to 15 March 2020.
 - The government is expecting to release more details on this subsidy in the coming days.
- Establishment of the Canada Emergency Business Account (CEBA)
 - The CEBA represents a CAD 25 billion program in which the government will guarantee bank loans up to CAD 40,000 interest-free for the first year for small businesses and non-profit organizations.
 - To qualify, these organizations will be required to demonstrate that they paid between CAD 50,000 to CAD 1 million in total payroll in 2019. Repaying the balance of the loan on or before 31 December 2022 will result in loan forgiveness of 25% (up to CAD 10,000).
 - Organizations should contact their financial institutions to apply for these loans.
 - The government is expecting to release more details in the coming days.
- New EDC loan guarantee for SMEs
 - The EDC will guarantee new operating credit and cash flow term loans that financial institutions extend to SMEs, up to CAD 6.25 million.
 - The new loan program will have a total cap of CAD 20 billion for the export sector and domestic companies.
- New BDC co-lending program for SMEs
 - This program will bring together the BDC and financial institutions to co-lend term loans to SMEs.
 - Eligible businesses may receive incremental credit amounts up to CAD 6.25 million. The BDC’s portion of this program is capped at CAD 5 million per loan. Eligible financial institutions will interface with loan applicants and conduct the underwriting. The program’s potential for lending will be CAD 20 billion.

- GST/HST remittance deferral
 - The government has extended time to remit collected amounts for GST/HST until 30 June 2020. This applies to:
 - Monthly filers that are required to remit for the February, March, and April 2020 reporting periods
 - Quarterly filers that are required to remit for the 1 January 2020 through 31 March 2020 reporting period
 - Annual filers, whose GST/HST returns or instalments are due in March, April, or May 2020, for amounts collected and owing for their previous fiscal year and instalments of GST/HST in respect of the current fiscal year.
- Deferral of customs duty and sales tax for importers
 - Payments deadlines related to GST and customs duties on imports for statements of accounts for March, April, and May are now deferred to 30 June 2020.
- Lowering of overnight rate to 0.25%
 - The Bank of Canada lowered its target for the overnight rate by 50 basis points, to 0.25%. The bank rate is correspondingly 0.50% and the deposit rate is 0.25%.
- New debt buying programs by the Bank of Canada
 - The Commercial Paper Purchase Program will restore short-term funding for businesses.
 - The Bank of Canada will also begin acquiring federal government securities and bonds in the secondary market at a minimum of CAD 5 billion/week.
- New COVID-19 Challenges Procurement Program
 - The National Research Council of Canada's Industrial Research Assistance Program (NRC-IRAP) and Innovation Solutions Canada (ISC) will post procurement-based challenges provided by the Public Health Agency of Canada and Health Canada to correspond to the needs of the health care industry to tackle COVID-19. The applicable federal department or agency will purchase the product from successful applicants.
 - SMEs may apply to the posted challenges. Two phases of funding are available: 1) proof of concept, and 2) prototype development. Details on funding amounts to be awarded per challenge are still to come.
- New Pandemic Response Challenge Program
 - The NRC has received CAD 15 million to form teams to address the greatest R&D needs to fight COVID-19. The program will fund projects around 1) rapid detection and diagnosis, 2) therapeutics and vaccine development, and 3) digital health.

- The NRC is looking for researchers from Canadian and international universities, government departments, colleges, and highly innovative firms with relevant expertise to register their interest to work on these challenges.
- Funding will help cover research costs. Specific R&D challenges will be posted in the coming weeks.
- New biomanufacturing capacity at NRC Human Health Therapeutics Research Centre
 - The NRC's biomanufacturing facility will receive a CAD 15 million investment to fund certification of the facilities to produce material for humans, particularly vaccines and therapeutics.
- Administrative measures
 - The Canada Revenue Agency announced a number of deadline extensions, as noted below in an excerpt from the Minister of Finance's press release today.

Excerpt from Department of Finance document:

Canada Revenue Agency's Additional Measures for Individuals and Businesses

The Canada Revenue Agency (CRA) understands that individuals and businesses might be dealing with difficulties filing their income and benefit returns, and could experience cash-flow challenges in the coming months. In response, the CRA will be applying these additional measures:

Administrative tax measures

In addition to the income tax filing and payment deadline extensions, unless otherwise noted, administrative income tax actions required of taxpayers by the CRA that are due after March 18, 2020, can be deferred to June 1, 2020. These administrative income tax actions include returns, elections, designations and information requests. Payroll deductions payments and all related activities are excluded.

Trusts, Partnerships and NR4 Information Returns

The deadlines for trusts, partnership and NR4 information returns are all extended to May 1, 2020. This is due to administrative requirements in advance of the June 1, 2020 deadline for filing individual income tax and benefit returns.

Objections

Any objections related to Canadians' entitlement to benefits and credits have been identified as a critical service and will continue to be processed during the COVID-19 crisis. As a result, there should not be any delays associated with the processing of these objections.

With respect to objections related to other tax matters filed by individuals and businesses, the CRA is currently holding these accounts in abeyance. No collection action will be taken with respect to these accounts during this period of time.

Extending the deadline for filing an objection

For any objection request due March 18 or later, the deadline is effectively extended until June 30, 2020.

Canada Pension Plan/Employment Insurance (CPP/EI) appeals to the Minister

In cases where taxpayers wish to file an appeal in relation to CPP/EI rulings decision, they are encouraged to do so through MyAccount to avoid potential delays.

The CPP/EI appeals program is currently only actioning appeals that are related to cases where EI benefits are pending. These cases will be treated on a priority basis. All other appeals will be actioned when normal services resume.

In addition, the CPP/EI Appeals to the Minister program will exercise discretion on a case-by-case basis when additional time is required to respond to a request.

Deadlines for charities

CRA is extending the filing deadline to December 31, 2020, for all charities with a Form T3010, Registered Charity Information Return due between March 18, 2020 and December 31, 2020. This will allow charities more time to complete and submit their T3010.

Suspending audit activities

CRA will not initiate contact with taxpayers for audits, with certain exceptions, This includes:

no new audits being launched, and

no requests for information related to existing audits.

No audits should be finalized and no reassessments should be issued.

Suspending collections on new debt

Collections activities on new debts will be suspended until further notice, and flexible payment arrangements will be available.

Payment arrangements are also available on a case-by-case basis if you can't pay your taxes, child and family benefit overpayments, Canada Student Loans, or other government program overpayments in full.

If you have concerns and require contact with a Collections Officer, please contact our toll free number 1-800-675-6184  between 8:00 a.m. and 4:00 p.m. your local time.

Requirement to pay (RTP)

Banks and employers do not need to comply or remit on existing RTPs during this time.

Taxpayer relief requests

Taxpayers who are unable to file a return or make a payment by the tax-filing and payment deadlines because of COVID-19 can request the cancellation of penalty and interest charged to their account. Penalties and interest will not be charged if the new deadlines that the government has announced to tax-filing and payments are met. For more information about deadlines, see [Helping Canadians with the economic impact of the COVID-19 Pandemic](#).

For more information about taxpayer relief and how to make a request to the CRA to have interest and/or penalties cancelled, please go to Canada.ca/taxpayer-relief.

For more information, visit [Helping Canadians with the economic impact of the COVID-19 Pandemic](#).

Federal measures – 16-19 March 2020

- Measures concerning the importation of goods
 - Certain actions have been taken to modify and/or expedite requirements in order to promote access to imported COVID-19 medical and related products, and to allow for the importation of drugs and medical devices not otherwise authorized for sale in Canada to prevent shortages of therapeutic products, such as personal protective equipment or drugs required to treat COVID-19.
- Customs Notice 20-08 - imported goods for emergency use in response to COVID-19
 - This notice provides for the relief of duty and tax on the importation of goods required for an emergency by or on behalf of federal, provincial, or municipal entities involved, such as health care centres, as well as by or on behalf of members of first response organizations. Relief is granted for certain goods that will be exported from Canada when they are no longer required unless consumed or destroyed in the emergency.
- Customs Notice 20-09 - changes in requesting an extension to the 90-day period to submit corrections
 - Effective 18 March 2020, where a CBSA trade compliance verification was performed and resulted in the need to file/submit corrections of errors that were found, the 90-day period for submitting such corrections has been extended by an additional 30 days.
- Customs Notice 20-10 - waiver of late accounting penalties (COVID-19)
 - The application of late accounting penalties applied against importers when they do not submit the required accounting declarations within specified timeframes (generally within five business days following release) will be delayed for a 45 business days grace period for transactions released from 11 March 2020 to 14 May 2020 (inclusively); no special application is required for this late accounting penalties waiver.

- Customs Notice 20-11 - extension of timeframes for payment of customs duties and GST (COVID-19)
 - The due date for payments owing to the CBSA is extended to 30 June 2020. This extension applies to customs duties and GST on regular imports, reassessments, penalties, etc. In effect, the payment deadlines for amounts owing on a Statement of Account for March, April, and May of 2020 are being deferred to 30 June 2020.

British Columbia measures – 25 March 2020

- Support for landlords and tenants
 - The province is suspending evictions and freezing rent increases until the COVID-19 crisis passes. Measures include:
 - Tenants who have lost jobs and/or wages will be eligible for a monthly rebate of CAD 500 for three months, to be paid directly to landlords.
 - There will be a ban on evictions (some extraordinary exceptions apply).
 - Annual rent increases are frozen during the state of emergency.

Quebec measures – 27 March 2020

- Alignment with the federal government
 - The Quebec government is aligning with the federal government in order to allow businesses to defer filing returns and making payments for their QST remittances for 31 March, 30 April, and 31 May, until 30 June 2020.
 - No interest or penalties will be applicable to these remittances.
- Accelerating treatment of business tax credit and tax refund applications
 - The government announced that the treatment of business tax credits and tax refund applications will be accelerated.

New Brunswick measures – 24-26 March 2020

24 March 2020

- Deferring payments on existing loans
 - As an immediate measure, and on a case-by-case basis, the government will defer loan and interest repayments for up to six months on existing provincial loans with a Government of New Brunswick department. The deferral can be requested by contacting the department that issued the loan.
- Working capital for small businesses
 - The government will provide working capital loans up to CAD 200,000 to help companies respond to challenges associated with COVID-19.

- Opportunities New Brunswick (ONB) will work with a trusted partner to administer the application process.
- Working capital for mid-to-large employer
 - ONB will also provide working capital loans in excess of CAD 200,000 for mid-to-large sized employers.
 - Large employers will be able to apply for this assistance directly from ONB.

26 March 2020

- New income support bridge program for workers.
- CAD 4.5 million for a bridge program will provide a one-time CAD 900 benefit to workers and self-employed individuals who have lost their jobs due to the province's state of emergency over COVID-19. The benefit will be administered through the Red Cross to bridge the time before 6 April 2020 when individuals will receive federal benefits.

Canada

COVID-19 – New fiscal measures

Over the past few days, further government measures were announced to support Canadians and stimulate the economy in response to the COVID-19 pandemic. Canada's plan to mobilize industry in the COVID-19 battle and to support farmers was announced, and a number of provinces added measures to support individuals and/or businesses in their jurisdictions. Our Tax and Legal team continues to closely monitor all government announcements, and will provide regular updates on any Canadian government support available.

In this update, we highlight recent announcements from the federal government and the governments of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Prince Edward Island.

In addition, we would like to advise that, on 23 March 2020, the province of Ontario ordered the closure of all non-essential businesses by 11:59 PM on 24 March 2020 for a period of at least two weeks. As well, the province of Quebec ordered the closure of all non-essential businesses until 13 April 2020.

Federal – 20-23 March 2020

On 20 March 2020, Navdeep Bains, Minister of Innovation, Science and Industry, announced Canada's plan to mobilize industry to fight COVID-19. The plan is to build the industrial capability to manufacture critical supplies at scale, by either re-tooling manufacturing lines of existing Canadian businesses or rapidly scaling up the production of others that already produce these products. The plan involves refocusing Canada's existing industrial and innovation programs, by adding a mandate to prioritize the fight against COVID-19. This includes:

- A Strategic Innovation Fund to deliver direct support to Canadian companies for large-scale projects;
- National Research Council of Canada to expedite research and development with small and medium-sized enterprises;
- Innovation Superclusters to tap into a national network of 1,800 members; and
- Innovative Solutions Canada to help companies commercialize products more quickly.

The government is delivering direct support to key Canadian companies that are working on large-scale and later-stage research and development projects aimed, in the immediate term, at producing countermeasures to COVID-19. The government also is looking to support more Canadian companies that can help supply goods and services to address COVID-19 immediately and in the near future.

On 23 March 2020, the federal government announced the following measures:

- Support for farmers and processors
 - Farm Credit Canada provided CAD 5 billion in additional lending capacity to producers, agribusiness, and food processors.
 - Where loan/advance payment deadlines are 30 April 2020 or earlier, the deadline will be extended by six months.
- Mobilizing industry to fight COVID-19
 - Innovation, Science and Economic Development Canada (ISED) has created a new stream in the Strategic Innovation Fund, allocating CAD 192 million in funding to support large-scale countermeasures to battle COVID-19. These will include potential vaccines and treatments.
 - Under this stream, ISED has announced funding to the University of Saskatchewan's Centre for Vaccines, Medicago in Quebec, AbCellera in British Columbia, and the National Research Council's Human Health Therapeutics facility in Montreal.

British Columbia – 23 March 2020

On 23 March 2020, the government announced support in the amount of CAD 2.2 billion for businesses and CAD 2.8 billion for individuals.

Support for businesses

- Defer Employer Health Tax (EHT) payments - Effective immediately, businesses with a payroll of over CAD 500,000 can defer their EHT payments until 30 September 2020. Businesses with a payroll under this threshold are already exempt from the tax.
- Tax filing and payment deadlines extension - This extension until 30 September 2020 applies to the PST, municipal and regional district taxes, tobacco tax, motor fuel tax, and carbon tax. The scheduled 1 April 2020 increase to the carbon tax, as well as the

new PST registration requirements on e-commerce and the implementation of PST on sweetened carbonated drinks, will be delayed and their timing will be reviewed by 30 September 2020.

- School tax - Business and light-and major-industry property classes benefit from the reduction of school tax by 50%. This will provide CAD 500 million in immediate relief.
- Long-term recovery plan - CAD 1.5 billion has been allocated to support economic recovery for particularly hard-hit sectors of the economy, such as the tourism and hospitality and culture sectors.

Support for individuals

- A new Emergency Benefit for Workers will provide a tax-free one-time CAD 1,000 payment to individuals whose ability to work has been affected by COVID-19 and who also receive federal Employment Insurance (EI) or the new federal Emergency Care Benefit or Emergency Support Benefit.
- The BC Climate Action Tax Credit will be increased in July 2020, which the government projects will assist 86% of British Columbians.
 - Eligible families of four will receive up to CAD 564 and eligible individuals will receive up to CAD 218. This increases the regular climate action tax credit payment by up to CAD 112.50 per family of four and up to CAD 43.50 per adult.
- CAD 1.7B has been allocated for critical services, including:
 - Housing and shelter supports.
 - Income and disability assistance programs and crucial health services, such as:
 - Funding for the BC Centre for Disease Control hotline;
 - Quarantine costs;
 - Lab tests; and
 - Work underway at the First Nations Health Authority and the United Way's Better at Home program for seniors.
- Support for non-profit organizations, service delivery agencies, and child care providers:
 - Funding will be provided even if these agencies are closed or their regular operations have been disrupted.
 - Licensed child care providers staying open will receive enhanced funding to keep operations going. These centres are eligible to receive seven times their average monthly operating funding from government, which is expected to cover approximately 75% of a group facility's average monthly operating expenses.
 - Student loan payments are being suspended for six months, starting 30 March 2020.

- The Insurance Corporation of British Columbia (ICBC) and BC Hydro are allowing bill payment deferrals for up to 90 days. People dealing with job loss, illness, or loss of wages due to COVID-19 may also qualify for BC Hydro's Customer Crisis Fund grant program for up to CAD 600.

Alberta – 23 March 2020

- Education property tax freeze - The government will immediately cancel the 2020 budget measure that provided for a 3.4% population and inflation adjustment to the property tax, and will freeze education property taxes at 2019 level. This will result in approximately CAD 87 million in savings for Alberta households and businesses in 2020-21.
- Six-month education property tax and non-residential property tax deferral for businesses - This is estimated to represent savings of CAD 458 million for businesses.
 - The government expects municipalities to set education property tax rates as they normally would, but defer collection. Deferred amounts will be repaid in future tax years.
- Workers' Compensation Board (WCB) premiums deferral for private sector businesses:
 - Private sector employers of all sizes may defer WCB premiums until early 2021, effective for one year.
 - Employers who have already paid their WCB premiums for 2020 are eligible for a rebate or credit.
 - For small and medium businesses, the government will cover 50% of the premium when it is due. This represents a cost of CAD 350 million to the government.

Saskatchewan – 20 March 2020

On 20 March 2020, the government announced the following measures:

Support for businesses

- PST remittance deferral and audit suspension
 - Businesses that cannot remit their PST due to financial concerns will have relief from penalties and interest charges for three months, a deferral of approximately CAD 750 million in PST collections.
 - Businesses unable to file their provincial tax returns on time can submit a request for relief from any penalties and interest charges.
 - Saskatchewan's audit program and compliance activities have been suspended for three months.
- Crown utility interest deferral program
 - Bill payment deferrals will be available to all crown utility customers.

- Interest on late bill payments will be waived for up to six months.
- Improved accessibility to new federal EI programs
 - Companies will no longer have to provide lay-off notice or pay in lieu of notice when they lay off staff if it is for a period of 12 weeks or less in a 16-week period.
 - If companies lay off employees intermittently for more than 12 weeks in a 16-week period, the employees are considered to be terminated and are entitled to pay instead of notice as outlined in the Saskatchewan Employment Act.

Support for individuals

- Self-isolation support program
 - CAD 450/week for two weeks (CAD 900 total) is available to individuals forced to self-isolate and who are not covered by the recently announced federal EI programs and supports.
 - People who recently returned from travel are also eligible for this program.
- Student loan repayment holiday
 - A six-month student loan repayment moratorium is effective immediately.

Manitoba - 19-22 March 2020

On 19 March 2020, the following was announced:

- A COVID-19 emergency amount of CAD 300 million was introduced as a supplement to the 2020 Budget.
- The province has indicated that it has nearly CAD 1 billion of financial flexibility to address this challenge.
- The PST will be cut by 1 percentage point using revenues from the carbon tax (CAD 25/tonne carbon tax).

On 22 March 2020, the following was announced:

- Tax filing extension for small and medium enterprises (SMEs)
 - The province will extend the April and May filing deadlines for SMEs with monthly remittances of less than CAD 10,000.
 - Businesses will have up to two additional months to remit retail sales and payroll taxes.
 - The government will also work with businesses regarding flexible payment options that are above the CAD 10,000 cap.

Ontario – 20 March 2020

Premier Ford announced that stimulus measures will be announced on 25 March 2020.

New Brunswick – 19-20 March 2020

On 19 March 2020, the government made the following announcements:

- All licenses, registrations, certificates, and permits issued by the Province of New Brunswick that are valid as of 16 March 2020 shall remain valid until 31 May 2020 unless suspended by a court or by other authority under provincial act.
- The right of landlords under section 19 of the Residential Tenancies Act to require tenants to vacate for non-payment of rent, and the authority of residential tenancies officers under section 22 of that act to evict tenants for the same reason, are suspended until 31 May 2020.

On 20 March 2020, the government made the following announcements:

- WorkSafeNB
 - WorkSafeNB is waiving premiums for businesses for three months.
- Business property taxes
 - Though business property taxes must be paid by 31 May 2020, late penalties will be reviewed on a case-by-case basis to see whether the penalty can be waived in recognition of undue financial challenges, such as having to close a business due to COVID-19.
- List of businesses affected by state of emergency
 - The government has posted online an extensive list of businesses that may remain open under the province's state of emergency.

Nova Scotia – 19-20 March 2020

On 19 March 2020, the government made the following announcements:

- Boost in income assistance for low income individuals and families
 - Every individual and family member currently receiving income assistance (under an existing provincial program) will receive an additional CAD 50 monthly beginning 19 March to help pay for essentials. No application is required.
 - This CAD 2.2 million in increased funding will help support approximately 26,000 families and more than 40,000 people per government estimates.
- Increase in food bank funding
 - CAD 1 million is committed to support food banks across the province, through Feed Nova Scotia, to supply more food and hire more staff to address increased demand.

- Senior Safety Programs and Community Links funding
 - CAD 230,000 in emergency funding is being allocated for Senior Safety Programs (community-based program to promote education and awareness about safety and health issues) and Community Links (an organization that supports the establishment of age-friendly, inclusive communities by linking with others to promote needed changes).
- Eviction freeze
 - No tenants that have had their income impacted by COVID-19 can be evicted from their home. This is effective immediately for the next three months.

On 20 March 2020, the government made an announcement providing CAD 161 million in cash and credit to businesses, as follows:

- Deferral of government payments
 - Payments on loans and business-related fees will be deferred for the coming months. This will include fees such as Worker Compensation fees, payments to Nova Scotia credit unions, and loans to fisheries and farming operations.
- Support for business loan guarantees
 - For businesses needing a loan but that may not have sufficient financial guarantees, the government will guarantee the first CAD 100,000.
- Funding for rural internet projects
 - Recognizing that internet access is critical to homes and businesses in rural areas, the government is providing an additional CAD 15 million to speed up internet-related projects in rural areas.
- Student loans
 - Student loans payments will be suspended after 30 March 2020 until September 2020.

Prince Edward Island – 21 March 2020

- Emergency Relief Worker Assistance Program (Amendment)
 - The previously announced assistance program for workers who continue to work but experience a considerable reduction in their working hours will be enhanced to provide for a temporary allowance of CAD 250/week (instead of CAD 200/week as originally announced on 18 March 2020).
 - Employers must fill out an application to identify workers who have experienced a reduction in their working hours.
 - This measure is not applicable to self-employed individuals.

- There is no deadline to apply to the program.
- Early learning centre support
 - CAD 2 million in funding is being provided to support early learning centres, workers, and parents while the facilities are closed due to COVID-19.
 - Families will not be required to pay early learning centre fees over the next six weeks.
- Deferred student loan repayments
 - Student loan repayments will be paused for the next six weeks, effective 20 March 2020.
 - Students will not be required to reapply for loans.

Canada

Fiscal measures to support the economy

Over the past few days, the Government of Canada and certain provincial governments have introduced measures to support Canadians and stimulate the economy. We anticipate that more incentives to support businesses and individuals are to come as Canada navigates through the evolving COVID-19 crisis. Our Tax and Legal team is closely monitoring all government announcements, and will provide regular updates on any Canadian government support available.

In this update, we highlight the recent announcements from the federal government, Quebec, and Prince Edward Island governments.

Federal measures – 18 March 2020

The federal government announced a number of measures on 18 March to help stabilize the economy and provide support to Canadians. An additional CAD 82 billion (CAD 27 billion in direct support to people and businesses and CAD 55 billion through tax payment deferrals) in funding/support was provided, on top of the previously announced CAD 11 billion in measures (CAD 10 billion through the Export Development Canada (EDC) and Business Development Bank of Canada (BDC) Business Credit Availability Program and CAD 1 billion for healthcare). This brings the total committed federal government support to CAD 93 billion.

Canada-US border closed to non-essential travel

The Canada-US border will be closed to all tourism and non-essential travel, effective as soon as is practicable.

Travel for trade or commerce, including trucking will not be affected. Supply chains, which Prime Minister Trudeau described as essential for the health of the economy and cross-border trade, will be protected.

Support for businesses

- Extended income tax payments
 - Allow all businesses to defer, until after 31 August 2020, the payment of any income tax amounts that become owing on or after 18 March and before September 2020.
 - This relief would apply to tax balances due, as well as instalments under Part I of the Income Tax Act.
 - No interest or penalties will accumulate on these amounts during this period.
- New temporary business wage subsidy
 - Provide eligible small businesses a 10% wage subsidy for the next 90 days, up to a maximum of CAD 1,375/employee and CAD 25,000/employer.
 - Employers benefiting from this measure would include corporations eligible for the small business deduction, as well as NPOs and charities.
 - This will help employers keep people on their payroll and help Canadians keep their jobs.
 - Total funding approximately CAD 3.8 billion.
- Launch Business Credit Availability Program
 - Increase the credit available to small and medium Canadian businesses.
 - As announced on 13 March 2020, the program will provide more than CAD 10 billion of additional support to businesses experiencing cash flow challenges through the BDC and EDC.
- Canada Account flexibility
 - Provide flexibility on the Canada Account limit, to allow the federal government to provide additional support to Canadian businesses, when deemed to be in the national interest, to deal with exceptional circumstances.
- Farm Credit Canada (FCC)
 - Augment credit available to farmers and the agri-food sector through FCC.
- Launch Insured Mortgage Purchase Program
 - To purchase up to CAD 50 billion of insured mortgage pools through the CMHC.
 - As announced on 16 March 2020, this will provide stable funding to banks and mortgage lenders and support continued lending to Canadian businesses and consumers.

- CMHC stands ready to further support liquidity and the stability of the financial markets through its mortgage funding programs, as necessary.
- The Government will enable these measures by raising CMHC's legislative limits to guarantee securities and insure mortgages by CAD 150 billion each.

Support for individuals, families, and workers

- Extend tax filing deadline
 - Extend the tax filing deadline for individuals to 1 June 2020 and allow all taxpayers to defer, until after 31 August 2020, the payment of any income tax amounts that become owing on or after 18 March and before September 2020.
 - This relief would apply to tax balances due, as well as instalments under Part I of the Income Tax Act.
 - No interest or penalties will accumulate on these amounts during this period.
 - For trusts having a taxation year ending on 31 December 2019, the return filing due date will be deferred until 1 May 2020.
- Enhanced Canada Child Benefit (CCB)
 - Additional assistance to families with children by temporarily boosting CCB payments.
 - Approximately CAD 1.9 billion in total extra support.
 - Increase the maximum annual Canada Child Benefit (CCB) payment amounts, only for the 2019-20 benefit year, by CAD 300 per child. The overall increase for families receiving CCB will be approximately CAD 550 on average; these families will receive an extra CAD 300 per child as part of their May payment.
- Launch Emergency Care Benefit
 - Up to CAD 900 bi-weekly for up to 15 weeks to provide income support to workers who must stay home and do not have access to paid sick leave. This is a new program available in April 2020.
 - This measure could provide up to CAD 10 billion to Canadians, and is aimed at:
 - Workers, including the self-employed, who are sick, quarantined, or who have been directed to self-isolate but do not qualify for EI sickness benefits.
 - Workers, including the self-employed, who are taking care of a family member who is sick with COVID-19, such as an elderly parent or other dependent who is sick, but do not qualify for EI sickness benefits.
 - EI-eligible and non EI-eligible working parents who must stay home without pay because they have children who need care or supervision because of school closures.

- Launch Emergency Support Benefit
 - Delivered through the CRA to provide up to CAD 5 billion in support to workers who are not eligible for EI and who are facing unemployment.
 - More details to follow but it is expected that this program will target self-employed workers in particular. Effective in April 2020.
- Increased GST Credit
 - Provide additional assistance to individuals and families with low and modest incomes with a special top-up payment under the GST credit.
 - On average, close to CAD 400 for single individuals and close to CAD 600 for couples will be provided, starting in May.
 - This measure would inject CAD 5.5 billion into the economy.
- Improved access to EI
 - Waive, for a minimum of six months, the mandatory one-week waiting period for EI sickness benefits for workers in imposed quarantine or who have been directed to self-isolate, as announced on 11 March and effective as from 15 March 2020.
 - Waive the requirement for a medical certificate for quarantined workers to access EI sickness benefits.
- Deferred mortgage payments
 - Provide increased flexibility to lenders to defer mortgage payments on homeowner government-insured mortgage loans for borrowers who may be experiencing financial difficulties related to the outbreak.
 - Insurers will permit lenders to allow payment deferral beginning immediately.
 - Up to six months of payment deferral.
- Registered Retirement Income Funds (RRIFs)
 - Reduce minimum withdrawals from RRIFs by 25% for 2020 to limit the impact on many seniors' retirement savings.
 - Total support approximately CAD 495 million.
- Canada student loan payment extension
 - Implement a six-month, interest-free, moratorium on Canada Student Loan payments for all individuals who are in the process of repaying these loans.
 - Total funding approximately CAD 190 million.

- Indigenous Community Support Fund
 - Provide CAD 305 million for a new distinctions-based Indigenous Community Support Fund, to address immediate needs in First Nations, Inuit, and Métis Nation communities.
- Women and domestic violence shelter funding
 - Support women and children fleeing violence by providing up to CAD 50 million to women's shelters and sexual assault centres to help with their capacity to manage or prevent an outbreak in their facilities.
 - This includes funding for facilities in Indigenous communities.
- Homeless shelters – Reaching Home program funding
 - Provide an additional CAD 157.5 million to address the needs of Canadians experiencing homelessness through the Reaching Home program.

Previously announced measures

- Changes to the Work Share Program
 - Temporary special measures extend the maximum duration of Work-Sharing agreements from 38 weeks to 76 weeks across Canada for those businesses affected by the downturn in business due to COVID-19, ease eligibility requirements, and streamline the application process.
 - The Work-Sharing Program supports workers who agree with their employer to a reduction of normal working hours.

Quebec measures – 17 and 18 March 2020

Administrative extensions

The Quebec Minister of Finance announced that the province will harmonize with the federal government tax filing and tax payment extensions.

Temporary Aid for Workers Program (PATT COVID-19)

A new program (PATT COVID-19) offers financial assistance to meet the needs of workers who, because they are in isolation to counter the propagation of the COVID-19 virus, cannot earn all of their work income and are not eligible for another financial assistance program (e.g., compensation from employer, private insurance, and EI).

The PATT COVID-19 program covers workers who are in isolation for one of the following reasons:

- i. They have contracted the COVID-19 virus or present symptoms;
- ii. They have been in contact with an infected person; or

- iii. They have returned from abroad and are in self-isolation (as per the Québec government's requirement).

The PATT COVID-19 program intake opens 19 March 2020 and eligible applicants will be entitled for lump-sum payments of CAD 573 per week, for a period of 14 days of isolation. If justified by an individual's state of health, the coverage period for an eligible person could be extended to a maximum of 28 days (i.e., CAD 2,292 in total).

Prince Edward Island measures - 16 March 2020

Measures under development

PEI executive council committees for Economy and Business Supports, Labour and Social Support, and Government Operations are actively working to develop measures to address the economy and the community. The first step is announcement of a new Emergency Contingency Fund. A highlight of measures currently being implemented include:

- Establishing a CAD 25 million COVID-19 Emergency Contingency Fund;
- Establishing a toll-free number to assist employers in addressing their concerns and support needs;
- Actively monitoring the supply chain impacts;
- Exploring compensation plans for childcare staff;
- Moving provincial government departments and agencies to essential services; and
- Cancelling all government initiated public consultation sessions.

Chile

Tax measures in response to COVID-19 announced

On 19 March 2020, Chile's president announced a series of tax measures to help mitigate the financial consequences of COVID-19 for businesses and individuals. Key measures include the following:

- Suspension of monthly provisional payments of corporate income tax for the next three months. This measure is expected to ease the cashflow situation for around 700,000 companies, and to require additional government resources of up to USD 2.4 billion over the period.
- Suspension of VAT payments for the next three months for all companies with sales below (unit of account) UF 350,000, with the option to pay the tax in 12 monthly installments, with no interest charge. This is expected to provide additional liquidity of up to USD 1.5 billion for around 240,000 companies during the second quarter.
- Postponement until July 2020 of the corporate income tax payable by small and medium-sized enterprises (SMEs) based on the annual tax return for 2019 due to be submitted in April 2020. This is expected to release cash resources in the region of USD 600 million for around 140,000 SMEs.

- Postponement of the April property tax payment for companies with sales below UF 350,000 and individuals owning properties with a value of less than CLP 133 million for property tax purposes. Payment is allowed at any time during 2020, with no interest charge. This is expected to require additional government funding of around USD 670 million dollars, and the government will compensate municipalities for the temporary reduction in income.
- A temporary reduction in stamp tax (imposed on documents evidencing loans or credit transactions, and on foreign loans whether or not they are documented) to 0% for all credit operations during the next six months. This will reduce the cost of obtaining finance for businesses, at an expected fiscal cost of up to USD 420 million.
- Relief for outstanding national tax liabilities, focussed on SMEs and people with lower incomes, including the flexibility to agree tax payment arrangements with the General Treasury of the Republic (Tesorería de la Republica), without interest or penalties, and the temporary suspension of legal action to collection unpaid tax and auctions of tax debts.
- All additional expenses incurred by companies in dealing with the issues arising from COVID-19 will be tax-deductible.

Colombia

COVID-19 measures include increased powers for local government, VAT exemptions

The latest in the series of measures implemented by the Colombian government to mitigate the financial and economic effects of the COVID-19 virus on taxpayers include delegating some powers to local government, extending specific compliance deadlines, and introducing VAT exemptions for certain medical equipment.

The most recent measures are as follows:

- Via Decree 417 of 2020 that was issued and entered into force on 17 March 2020, the national government declared an economic and social emergency throughout Colombia for 30 days as from 17 March. The national government subsequently issued Decree 461 granting some temporary powers to regional mayors and governors for the duration of the emergency period. Under Decree 461, such public officials may redirect resources to take measures to mitigate the causes of the COVID-19 outbreak and help limit the spread of the virus, and reduce tax rates at the municipal or departmental level.
- Decree 438 issued on 19 March 2020 extends the deadline for carrying out the annual confirmatory process necessary for taxpayers under the special income tax regime (broadly applicable to non-profit making entities) to remain within the regime, and for holding the board of directors' meeting to approve the investment of the surplus of such entities. The revised deadline for both procedures is 30 June 2020.
- Decree 438 also introduces a temporary VAT exemption for the duration of the emergency period, under which sales of certain medical equipment will be exempt from VAT with no entitlement to a VAT refund or input tax credit. Equipment subject to the exemption includes nebulizers, vital sign monitors, and oxygen cylinders. To qualify for

the exemption: i) the seller must state on the relevant invoices "Exempt goods – Decree 417 of 2020," ii) the sale and delivery of the equipment must be made within the emergency period, and iii) the seller must submit a sales report and a report of returns of equipment imported and subject to the exemption.

Colombia

Additional tax measures announced in response to COVID-19

On 19 March 2020, the Colombian government announced in Decree 435 of 2020, further tax measures to mitigate the financial effects of the COVID-19 virus on businesses and individuals subject to the "SIMPLE" regime applicable to small taxpayers. The measures are in addition to those contained in Decree 401 issued on 13 March 2020 that extended a number of tax filing and payment deadlines for specific business sectors. Decree 435 introduces deferred tax filing and payment deadlines more generally. Colombia's National Tax Authority (DIAN) also has announced the suspension of various tax administrative services.

The key features of Decree 435 are as follows:

- The deadlines for filing the corporate income tax return for 2019 and paying the first and second installments of tax payable are extended to between 21 April and 5 May 2020 for taxpayers categorized as "large" for tax years 2019 and 2020. This is an extension to the normal deadline of between 11 and 24 February for paying the first installment of tax, and between 14 and 21 April for filing the tax return and paying the second tax installment.
- For entities other than large taxpayers, the deadlines for filling the income tax return and paying the first installment of tax are extended from between 14 April and 12 May to between 21 April and 19 May.
- For taxpayers providing food and beverages (e.g., restaurants, bars, etc.):
 - The deadline for payment of VAT for the bimonthly return period of March and April 2020, or the four-month period from January to April, as applicable, is extended from 12-26 May to 30 June; and
 - The deadline for payment of national consumption tax due for the bimonthly period of March and April is extended from 12-26 May to 30 June.

Additionally, via Executive Order No. 022 issued on 18 March 2020, the DIAN has suspended all administrative procedures concerning tax, customs, and foreign exchange regime matters between 19 March and 3 April, inclusive.

In respect of customs, the suspension affects services provided by the DIAN, including authorization requests; responses to ordinary summons; deadlines for inspection visits; and deadlines for reimporting temporarily exported goods.

The suspension also includes dealing with all requests through the electronic services of the PQRS (petitions, requests, and complaints) system, special requests of the National Tax Registry, and other requests made via the DIAN's electronic portal.

Colombia

The Colombian government has implemented a series of initiatives, including tax measures, to mitigate the financial and economic effects of the COVID-19 virus on business and individual taxpayers with immediate effect.

The initial measures contained in Decree 401 of 2020 issued on 13 March 2020 extend a number of tax filing and payment deadlines as follows:

- Taxpayers filing a normalization tax return (in accordance with the tax amnesty) that includes overseas assets may file the associated annual return of overseas assets by 25 September 2020. This is an extension to the normal deadline of 14-27 April for large taxpayers, and 14 April–12 May for other taxpayers.
- Deadlines for making advance payments of tax under the "SIMPLE" regime applicable to small taxpayers corresponding to the bimonthly periods of January-February and March-April 2020 are postponed. The new deadlines are 5-28 May for the first bimonthly period, and 9-24 June for the second bimonthly period. The specific date will depend on the taxpayer's ID number.
- Special provisions are introduced for entities involved in commercial air passenger transport, the hotel industry, and taxpayers in the entertainment industry whose main activity is theatrical performances, live music, and similar live entertainment. For large taxpayers, the deadline for the payment of the second income tax installment is extended from 14-27 April 2020 to 31 July, and for the third installment from 9-24 June to 31 August. For other taxpayers, the deadline for the payment of the first income tax installment is extended from 14 April-12 May to 31 July, and for the second installment, from 9-24 June to 31 August. The VAT payment deadline for VAT payable per the VAT return for the March-April bimonthly period is extended to 30 June from 12-26 May (depending on the taxpayer's ID number).

Decree 398 of 2020 issued on 13 March 2020 by the Commerce, Industry, and Tourism Ministry amends the provisions of article 19 of Law 22 of 1995 to allow all types of entity to hold virtual board meetings. The entity's legal representative must guarantee that the persons involved in the meeting are the board members or their agent. The decree also permits mixed board meetings (a combination of virtual and face-to-face attendees).

Cyprus

COVID-19 tax and VAT measures voted

Following the preliminary tax and VAT measures announced by the Cyprus Government in response to the coronavirus, the Cyprus Parliament proceeded with the voting of the relevant tax and VAT laws on 27 March 2020.

General healthcare system (GHS) law: Decreased GHS contributions for April, May and June 2020

As per the amending law, the contribution rates to the GHS that were applicable in the first phase (1 March 2019 to 28 February 2020), will also apply for the months of April, May and June 2020 (i.e. from 1 April 2020 until 30 June 2020).

The increased contribution rates to the GHS that are applicable from 1 March 2020 (as per the second phase), will apply for the whole of March 2020, and then from 1 July 2020 onwards.

The below table clarifies the period of application of the relevant contribution rates to the GHS per contributor's category:

Contributor category	March 2020 (%)	1 April 2020 to 30 June 2020 (%)	1 July 2020 onwards (%)
Employees, pensioners, income earners, persons holding an office	2.65	1.70	2.65
Employers	2.90	1.85	2.90
Self-employed individuals	4.00	2.55	4.00
The Republic or natural/legal person responsible for the remuneration of officers	2.90	1.85	2.90
The Republic	4.70	1.65	4.70

Law regulating the settlement of overdue social contributions: Deferral of payments that are due for the months of March and April 2020

The above law is amended so that the payment of overdue social contributions (including social insurance contributions) in instalments for the months of March and April 2020, for taxpayers who were included in a scheme (as at 1 March 2020) for their settlement, is suspended and the repayment period is extended by two months.

VAT law: Temporary deferral of VAT payable

The initial VAT measures (decrease in VAT rates) announced on 15 March 2020 have been withdrawn. The final VAT measures are reflected in the amending VAT law, which provides for the deferral of the VAT payable amounts for the periods ending 29 February 2020, 31 March 2020 and 30 April 2020, until 10 November 2020.

The temporary deferral would apply provided that:

- The taxable person submits the relevant VAT return by the statutory due date; and
- The VAT payable amount for the above periods is settled by 10 November 2020.

As long as these conditions are satisfied, the following will not be applicable for the above-mentioned periods:

- Additional tax of 10% on VAT payable amounts;
- Annual interest of 1.75%; and
- Criminal sanctions against taxable persons for failure to make VAT payments and submit tax returns.

The deferral shall not apply to businesses with economic activities that belong to the following codes of economic activity in accordance with their registration certificate:

Code of economic activity	Description
35111	Producers of electricity power
36001	Collection and distribution of water (for the supply of water)
47111	Grocery and supermarkets mainly for food
47112	Kiosks - Mini markets
47191	Retail trade of a variety of goods in department stores where food, beverages and tobacco do not prevail
47211	Retail trade of fruits and vegetables
47221	Retail trade of meat and meat products including poultry
47231	Retail trade of fish and seafood
47241	Retail trade of bread and other bakery goods
47242	Retail trade of confectionery
47301	Retail trade of fuel
47411	Retail trade of computers, peripheral equipment and video games
47611	Retail trade of books
47621	Retail trade of newspapers and stationery
47651	Retail trade of toys of any kind other than video games
47731	Pharmacies
61101	Cyprus Telecommunications Authority (CYTA)
61201	Internet services
61301	Satellite telecommunications services
61901	Telecommunications services other than those provided by CYTA

The amending laws will be effective as of the date of their publication in the Official Gazette.

Cyprus

Direct tax and VAT measures in response to COVID-19 announced

In light of the business disruption caused by COVID-19, the Cyprus government has announced a number of measures to support the country's economy. The final package of financial support measures is being finalized and is expected to be submitted to the parliament for approval in the week beginning 16 March 2020.

Key direct tax and VAT measures include the following:

Direct tax measures

- A two-month extension to the filing deadline for income tax returns due by 31 March 2020. The new submission deadline for 2018 corporate income tax returns (Form T.D.4) and personal income tax returns (Form T.D.1) of individuals preparing audited financial statements is 31 May 2020;
- Special arrangements to support taxpayers included in the scheme regulating the settlement of overdue taxes; and
- The non-payment, for a period of two months in April and May 2020, of the increase in contributions (effective from March 2020) to the general healthcare system (GHS contributions) by employers, employees, and the state. The increased GHS contribution rates will apply as planned during March 2020, as follows.

Contributor category	GHS contribution up to 29 February 2020, and from 1 April–31 May 2020	GHS contribution during March 2020, and as from 1 June 2020
Employees, pensioners, income earners, office holders	1.7%	2.65%
Employers	1.85%	2.9%
Self-employed individuals	2.55%	4%
The state or natural/legal person responsible for the remuneration of officers	1.85%	2.9%
The state	1.65%	4.7%

VAT measures

- A temporary two-month suspension of payment of VAT without the imposition of penalties as a measure to enhance liquidity for businesses. This measure would apply to businesses with turnover not exceeding EUR 1 million based on the VAT returns submitted during 2019, and businesses whose turnover has been reduced by more than 25%. Arrangements would be made for the VAT liability to be paid in installments until 11 November 2020; and
- A temporary reduction in the standard rate of VAT from 19% to 17% for two months, and in the reduced rate of VAT from 9% to 7% for 3½ months. The rate reductions would apply immediately following the approval of the relevant bill by the House of Representatives.

Czech Republic

Stabilization package for taxpayers approved in response to COVID-19

The Czech Ministry of Finance published relevant documents (in Financial Newsletter No. 4/2020) on 16 March 2020 to implement a stabilization package approved by the government to mitigate the effects of the coronavirus (COVID-19), and the measures are effective immediately. The package includes measures to provide relief from penalties and interest for late tax filings or the late payment of taxes, some of which are general measures available to all taxpayers, while others require a reason related to COVID-19 to obtain relief.

According to the approved version of the package, the following relief will be available:

- General remission of penalties and default interest for late filing of the personal and corporate income tax returns (which generally are due by 1 April) if the returns are filed by 1 July 2020;
- Remission of fines for other late tax filings in all cases when taxpayers request a waiver of default interest, tax deferral, or a payment schedule and demonstrate that they have a reason related in any way to COVID-19;
- General remission of the CZK 1,000 penalty for the first late filing of local sales/purchases reports for periods from 1 March to 31 July 2020 (without the need to demonstrate a reason related to COVID 19);
- Remission of penalties for any additional late filings of the local sales/purchases report for periods from 1 March to 31 July 2020 if a connection to COVID-19 is demonstrated;
- General remission of administrative fees for a request for waiver of penalties and interest or tax deferral;
- Relaxation of the imposition of penalties relating to the introduction of the requirement for taxpayers to maintain electronic sales records, which will apply to the third and fourth waves of taxpayers (comprising all remaining taxpayers) from 1 May 2020; and
- Remission of default interest and interest on the deferred amount of tax, in line with a decree from the General Financial Directorate (D-44) on procedures for the remission of interest and penalties.

The tax package provides that, in general, the tax authorities should be as accommodating and flexible as possible in a situation where a decision relating to tax compliance depends on administrative discretion.

It is important to note that to obtain a successful remission of penalties or interest, it often is necessary for taxpayers to meet a variety of conditions (e.g., no outstanding tax debts and a history of compliance with tax payment obligations), which are not always fulfilled in practice. However, there also may be other ways to effectively obtain relief relating to tax filings and payments, e.g., using existing options available under the tax code that include the following, if the relevant conditions are fulfilled:

- A reduction in advance payments of tax liability, including the complete elimination of advance payments;
- An extension of the deadline for filing the tax return, which extends the tax due date (by as much as three months, or as much as 10 months from the end of the tax period if the tax base includes income taxed abroad);
- The ability to request tax deferral, the deferral of a due date, or to set up a payment schedule (with a favorable reduction of the interest rate from 14% plus the repo rate to 7% plus the repo rate, which may be further reduced under certain circumstances); and
- Other possibilities for remission of penalties or interest based on the tax authorities' current guidelines, under which extraordinary reasons often may lead to a reduction of potential sanctions (including remissions beyond the normal scope of the guidelines).

Certain options for relief also are available in the provisions regulating social security and health insurance.

In addition to tax measures, the Czech government has approved an option to obtain zero-interest loans as part of a new program of the Czech–Moravian Guarantee and Development Bank (ČMZRB): the “COVID loan.” The zero–interest loans primarily are intended for the self-employed and small and medium-sized enterprises whose economic activities are limited as a result of COVID-19 and related preventative measures, and primarily are intended to be used for the acquisition of low-value tangible or intangible assets, the acquisition and financing of inventory, and other operating expenses.

The basic parameters for the loans are as follows:

- Applications are accepted from 16 March 2020.
- The loans have a zero interest rate and there are no fees.
- Loans up to CZK 15 million are available to finance up to 90% of eligible costs of a project.
- The term may be up to two years.
- Payment of installments of principal may be deferred by up to 12 months.

It also is possible for taxpayers to use additional ČMZRB programs, such as the expansion program (under which a zero-interest loan of up to CZK 45 million may be obtained) or the guarantee program (under which guarantees from the ČMZRB for operations and investments may be obtained). In addition, the Czech government is considering transferring additional funds from operational programs to help businesses affected by COVID-19.

It should be noted that it is possible to request compensation for damages arising from the measures adopted by the government in response to COVID-19 (e.g., restrictions requiring temporary closures of businesses). The request must be made within six months of the origination of the damage. In this respect, the taxpayer must be able to provide evidence of the damage and its causes, but it currently is unclear how the state or courts will approach these requests.

El Salvador

Special decrees and laws on tax matters issued in response to COVID-19

A number of special and temporary legislative decrees and laws on tax and other matters were approved by El Salvador's government between 14 March and 21 March 2020 as part of the measures that the central government is implementing in response to the coronavirus (COVID-19), including an extension of the deadline for paying the 2019 annual income tax (but no extension of the deadline for filing the annual income tax return) for small taxpayers and taxpayers in specific sectors. In addition, the tax authorities published an announcement on 23 March 2020 indicating that there have been no changes to the deadlines for tax filings.

The decrees and laws that have been issued in response to COVID-19 include the following:

- Provisions to suspend periods and deadlines in administrative and judicial proceedings, under Decrees 593 and 599;
- A special temporary law on the payment of income tax applicable to small taxpayers and those providing tourism, electricity, television, internet, and telephone services, and on the special contribution for the promotion of tourism, under Decree 598;
- A temporary law to defer the payment of bills for water, electricity, and telecommunications services (phone, cable, and internet), under Decree 601;
- Temporary provisions simplifying the procedure for donations of goods by companies regulated under the Law of Industrial and Commercial Free Trade Zones, under Decree 603;
- Modifications to the Central American Import Tariffs for El Salvador, under Decree 604; and
- A law facilitating online purchases, under Decree 605.

In addition, there are other proposals that are being analyzed by the government authorities:

- Bill for a legislative decree authorizing the treasury to apply to the International Monetary Fund for a loan of USD 2 billion; and
- Bill for a legislative decree to regulate remote work (telework).

It is important for taxpayers to review the provisions of the decrees so that they can properly apply them to their organizations, where applicable. Some important aspects of the provisions are described below.

Decrees 593 and 599

A 30-day suspension of legal periods and deadlines is granted to individuals and public administrative entities involved in administrative and judicial proceedings, with respect to any matter and regardless of the stage of the proceeding.

The period of suspension begins as from 14 March 2020, the date of publication of Decree 593 in the official gazette. Decree 599 extended the suspension to the periods and deadlines for criminal matters.

This suspension is in response to the national state of emergency that was declared through Decree 593 and the escalation of the measures that are being taken to slow the progression of the effects of COVID-19, to prevent fundamental rights or guarantees from being affected.

Decree 598

There are some concessions and postponements of deadlines for certain corporate and individual taxpayers:

- Taxpayers engaged in the tourism sector are not required to collect payments of the special contribution for the promotion of tourism for the three-month period from March through May 2020.
- The deadline for paying income tax for the 2019 tax year is extended from 30 April until 31 May 2020, and no interest, surcharges, or penalties will be applied, where:
 - The taxpayer is engaged in the tourism sector;
 - The income tax to be paid is no more than USD 25,000; and
 - The taxpayer does not benefit from any tax incentives or partial tax incentives.
- The deadline for paying income tax for the 2019 tax year is extended for taxpayers that request to pay income tax in a total of eight monthly installments, with the first installment being due by 31 May 2020, and no interest, surcharges, or penalties will be applied in any of the following cases:
 - The tax payable is no more than USD 10,000;
 - The taxpayer is engaged in the generation, transmission, and distribution of electricity; or
 - The taxpayer is engaged in providing at least two of the following services: cable television, residential and commercial internet, telephone (landline) services, or mobile telephone services.
- For taxpayers that are engaged in providing at least two of the telecommunications services mentioned above, the deadline for making advance income tax payments related to March, April, and May 2020 is extended; taxpayers will be able to request to make the relevant payments in a total of six monthly installments, with the first installment being due by 31 July 2020.

To make installment payments , the taxpayer must request permission from the Directorate General of the Treasury (DGT).

Decree 601

The payment of bills for water and electricity services may be deferred. The amounts due on invoices for the months of March, April, and May 2020 will be billed for in equal installments between July and December 2020, in addition to the normal invoice charge for the relevant month. The measure applies to individuals, legal persons, and municipal bodies that have experienced a decrease in their income directly or indirectly from the partial or total closures in response to COVID 19. Providers of such services may not cut off services for the duration of the national state of emergency.

Decree 603

Goods that are removed from industrial and marketing free zones by companies regulated under the Law on Industrial and Marketing Free Zones to be donated to the government, public or private institutions, or nonprofit organizations for the benefit of those affected by COVID-19 are exempt from VAT, as well as any other levy.

Decree 604

Temporary modifications are made to the Central American Import Tariffs for El Salvador, for the tariff codes for essential foodstuffs, respiratory medicine, and hygienic and cleaning products only.

Decree 605

The final import into the Salvadoran territory of non-commercial goods with a value of less than USD 200 purchased online by individuals from the US and delivered through "fast delivery" or courier, postal shipments, small family shipments, or air delivery managers will not be subject to compliance with non-tax customs obligations.

Announcement from tax authorities

The announcement published by the tax authorities on their website on 23 March 2020 with respect to the filing of tax returns and reports with upcoming deadlines states the following:

- The filing of tax returns and reports must be carried out through the DGT's online services, available through its website.
- The deadlines for filing tax returns and reports have not been modified, and thus the deadlines established in the relevant tax laws remain in effect.

The announcement indicates that the DGT is monitoring the actions and guidance of the central government and the expanded health cabinet. Although there have been no changes to the filing dates for tax returns and reports, it is important that taxpayers remain alert to any developments, in case special decrees are passed by the legislative assembly and the government regarding COVID-19.

Germany

Two decrees with tax relief measures to boost liquidity published

On 19 March 2020, the German Ministry of Finance (MOF) published a decree and the state tax authorities also published a joint decree announcing administrative measures to boost liquidity in response to the coronavirus (COVID-19).

The MOF decree implements measures that were announced on 13 March 2020 as part of a broader package of tax and non-tax measures. The measures that have now been implemented provide taxpayers the option of applying to defer making (corporate) income tax payments without being charged interest and with the suspension of enforcement measures. Taxpayers that are "directly and seriously affected" by COVID-19 may apply for deferral until 31 December 2020. An adjustment of advance payments of income tax under a simplified procedure also will be possible for such taxpayers. The decree provides that approval for these measures will be granted even if affected taxpayers cannot yet quantify the economic damage resulting from COVID-19. Enforcement measures will be suspended until 31 December 2020 for taxpayers that are directly and seriously affected by COVID-19. Taxpayers that are affected only indirectly will not be able to rely on the measures in the decree.

The joint decree issued by the state tax authorities provides similar guidance with regard to the municipal trade tax. Taxpayers directly and seriously affected by COVID-19 may apply for a reduction of advance payments of trade tax until 31 December 2020. Approval for the reduction should be granted even if affected taxpayers cannot yet quantify the economic damage resulting from COVID-19. Applications for the deferral of trade tax payments and trade tax abatements generally must be addressed to the relevant municipalities, and not to the tax authorities. Only in states where the administration and assessment of the municipal trade tax has not been assigned to the municipalities (the states of Berlin, Hamburg, and Bremen) must applications be addressed to the responsible tax office.

The tax authorities of the various states already have started implementing these measures and issuing further guidance and application forms to support affected taxpayers.

In addition to the measures described above, the tax authorities also have implemented similar administrative measures for VAT, customs duties, and energy tax.

Indonesia

New fiscal measures announced in response to COVID-19

The COVID-19 pandemic has severely affected the global economy, including Indonesia. On 21 March 2020, the Minister of Finance issued Regulation Number 23/PMK.03/2020 (PMK-23) introducing a number of tax reliefs designed to support businesses and individuals.

PMK-23 will come into force as from 1 April 2020 and provides the following tax reliefs to certain selected sectors:

- Article 21 employee income tax (EIT) will be borne by the government;
- An exemption for article 22 income tax on imports;

- A 30% reduction of article 25 income tax (monthly tax installment); and
- Preliminary refund of VAT overpayments.

The following table summarizes the reliefs:

Relief terms	EIT	Article 22 income tax on imports	Monthly tax installments	VAT
Tax relief	<p>EIT will be borne by the government on income received by employees who fulfil the following criteria:</p> <ul style="list-style-type: none"> • The income is received from: <ul style="list-style-type: none"> - An employer whose Business Classification (Klasifikasi Lapangan Usaha (KLU)) is included in the list provided in attachment A of PMK-23 (there are a total of 440 KLUs for manufacturing industries), and the KLU was reported in employer's fiscal year (FY) 2018 corporate income tax return (CITR); and/or - The employer who is a KITE company (i.e., a company who is entitled to relaxation of conditions for import of goods for export purposes); and • The employee has a tax identification number; and • The annual equivalent of the fixed and regular gross employment income for the month is less than IDR 200 million <p>The amount of EIT borne by the government must be paid to the employee, and is not regarded as part of the employee's taxable income</p>	<p>The exemption facility for article 22 income tax on imports will be available to taxpayers that fulfil the following criteria:</p> <ul style="list-style-type: none"> • The KLU is included in the list provided in Attachment F of PMK-23 (there are a total of 102 KLUs for manufacturing industries), and the KLU was reported in the FY 2018 CITR; and/or • A KITE company 	<p>A 30% reduction of monthly tax installments for taxpayers who fulfil the following criteria:</p> <ul style="list-style-type: none"> • The KLU is included in the list provided in Attachment F of PMK-23; and/or • A KITE company. 	<p>Preliminary VAT refund following low-risk VAT entrepreneur (PKP) procedures (i.e., one-month refund process) where the PKP fulfils the following criteria:</p> <ul style="list-style-type: none"> • The KLU is included in the list provided in Attachment F of PMK-23; or • A KITE company. <p>The maximum amount of VAT overpayment stated in the VAT return for which preliminary VAT refund may be made is IDR 5 billion</p> <p>The refund request must be submitted by 31 October 2020 at the latest</p>
Period covered under the reliefs	From the fiscal period stated in the notification letter, for which the earliest is April 2020, until September 2020	From the date of issuance of the tax exemption letter (Surat Keterangan Bebas ("SKB")), for which the earliest date is April 2020, until 30 September 2020	From the fiscal period stated in the notification letter, for which the earliest is April 2020, until September 2020	Applies to original and amended VAT returns for fiscal periods from April to September 2020
How to apply	Submit a notification letter directly to the tax office where the employer is registered	Submit a request letter for SKB directly to the tax office where the taxpayer is registered	Submit a notification letter directly to the tax office where the taxpayer is registered	Request for refund via submission of VAT return
Approval/rejection of tax relief by tax office	<p>The tax office issues a non eligibility notification letter within five working days if the employer:</p> <ul style="list-style-type: none"> • Does not meet the KLU requirement; or 	The tax office issues a decision to grant or reject the provision of the exemption facility within three working days	The tax office issues a non eligibility notification letter within five working days if the taxpayer:	N/A

Relief terms	EIT	Article 22 income tax on imports	Monthly tax installments	VAT
	<ul style="list-style-type: none"> Is not a KITE company 		<ul style="list-style-type: none"> Does not meet the KLU requirement; or Is not a KITE company 	
Reporting requirement	The employer must submit the EIT borne by the government realization report, enclosed with the tax payment slip (Surat Setoran Pajak (SSP)) or billing code print-out stamped/written with "EIT borne by the government as per PMK-23"	Taxpayer must submit the import realization report	Taxpayer must submit the realization report for monthly tax installment reduction	N/A
Reporting deadline	Reports must be submitted to the tax office quarterly by the following dates: <ul style="list-style-type: none"> 20 July 2020, for the fiscal period April to June 2020; and 20 October 2020, for the fiscal period July to September 2020. 			N/A

Based on an initial high-level review of PMK-23, we would make the following observations:

1. The tax reliefs mainly are targeted at selected industrial sectors and are not available for certain sectors that also are directly impacted by COVID-19 (e.g., tourism/hospitality industries as the number of tourists decrease significantly, and other service industries (except for selected repair services eligible for EIT relief)).
2. The notification letters for the tax reliefs for EIT and monthly tax installments have to be submitted directly to the relevant tax office. However, the document submission desk (Tempat Pelayanan Terpadu (TPT)) currently is closed until 5 April 2020 and no further announcements have been made whether the closure period will be extended.
3. For EIT and Article 22 Income Tax on imports, employers and taxpayers who wish to utilize the tax reliefs under the KLU criteria must already have submitted their FY 2018 CITR. Those who have not, or who registered for their tax ID number after FY 2018 may not be able to meet the KLU criteria.

The tax reliefs generally should ease the cash flow burden for taxpayers affected by COVID-19.

Indonesia

Changes in working practices in response to COVID-19 affect tax services

As part of the effort to contain the outbreak of COVID-19 in Indonesia, the government is encouraging people to work from home (WFH). The WFH initiative applies to some government institutions, including the tax court and the Directorate General of Tax (DGT). Various circular letters issued from 15-18 March 2020 clarify the effect of this measure on the services available to taxpayers.

Tax court services from 17 March to 3 April 2020

Circular Letter Number SE-01/PP/2020 issued on 16 March 2020, and subsequently amended by Circular Letter Number SE-02/PP/2020 issued on 18 March, confirms that the following court services will be postponed or temporarily suspended from 17 March until 3 April:

- Tax court hearings;
- Receipt of appeal and/or lawsuit request letters;
- Receipt of judicial review request letters;
- Helpdesk services other than requests for appeals, lawsuits, or judicial review; and
- Delivery of tax court and judicial review decision letters.

The period 17 March to 3 April will not be taken into account in determining the deadlines related to the filing of tax appeals, lawsuits, and judicial reviews, or the delivery of tax court and judicial review decision letters.

DGT services from 16 March to 5 April 2020

Circular Letter Number SE-13/PJ/2020 issued by the DGT on 15 March 2020 confirms the DGT's services available during the DGT WFH period from 16 March to 5 April 2020. The various units of the DGT will continue to operate as usual, but services that require direct contact between DGT officials and taxpayers will be temporarily withdrawn. These include services provided by the:

- Integrated Service Desk (Tempat Pelayanan Terpadu or TPT) in all tax offices;
- Service Desk Outside Tax Office (Layanan di Luar Kantor or LDK) (e.g., Tax Corner (Pojok Pajak), and Tax Mobile Service (Mobil Pajak)); and
- One Door Integrated Service (Pelayanan Terpadu Satu Pintu or PTSP), such as Public Service in Malls (Mal Pelayanan Publik or MPP).

VAT refund desks in airports will continue to operate with certain limitations.

The circular letter also provides guidance on other tax compliance obligations as follows:

Type of tax or service	Procedure during WFH period
Individual annual income tax return (SPT OP) submission for fiscal year 2019	Individual taxpayers are encouraged to submit their tax returns online. The deadline for filing and payment of any tax due is extended to 30 April 2020 (from 31 March) without penalties
Corporate annual income tax returns (SPT Badan) for which the filing deadline falls within the WFH period	The circular letter does not address these and it appears that the deadline remains unchanged
Reporting	Taxpayers are encouraged to submit tax returns online or via the post office
Monthly tax return submission	The deadline for submission of withholding tax returns for the February 2020 tax period is extended to 30 April (from 20 March) without penalty, other than for VAT returns
Monthly tax payment	The deadline is unchanged
Tax administrative services (e.g., requests for a tax exemption certificate (Surat Keterangan Bebas or SKB), or for overpaid tax to be offset against other tax underpayments (Pemindahbukuan) etc.), submitted before the start of the WFH period	Requests will be processed without direct contact with taxpayers
Tax supervision, audit, collection, enforcement, and objections	<p>Communication by telephone or email is encouraged</p> <p>Tax audit notification letters (Surat Perintah Pemeriksaan or SP2) will not be issued or delivered during the WFH period, other than the delivery of SP2s for tax overpayments</p> <p>Tax audit closing meetings should be conducted via video/teleconferencing where possible. The closing conference acknowledgment letter may be signed and shared via the postal service, or each party may present their own approval or rejection statement letter</p>
Active tax collection activities	Activities are temporarily suspended, unless the tax arrears are close to the statute of limitations
Other activities	Other activities requiring direct contact with taxpayers are temporarily suspended

India

Tax and regulatory compliance deadlines extended in response to COVID-19

At a press conference on 24 March 2020, India's Finance Minister, Nirmala Sitharaman, announced various relief measures proposed to be implemented by the government on statutory tax and regulatory compliance matters in response to COVID-19. This article provides a summary of the measures provided in the press release issued by the Ministry of Finance, General Circular No. 11/20 2020 issued by the Central Board of Indirect Taxes and Customs, and Notification No. S.O. 1205(E) issued by the Ministry of Corporate Affairs.

Reference should be made to the circular and subsequent legislative amendments announced following the press release for details of the precise revisions to the respective sections of the legislation. In addition, on 23 March 2020, the Supreme Court announced the removal of any time limits for bringing proceedings before the court from 15 March 2020 until further notice.

Income tax

- The due date for filing late and revised returns of income for financial year (FY) 2018-19 (relevant to assessment year 2019-20), would be extended from 31 March to 30 June 2020.
- Under section 139AA of the ITA, read in conjunction with Rule 114AAA(1) of the Income-tax Rules, 1962, individuals with a permanent account number (PAN) must link their Aadhaar number with their PAN by 31 March 2020. Failure to do so will result in the PAN being inoperative after that date. The 31 March deadline would be extended to 30 June 2020.
- Where a taxpayer opts to withdraw an appeal in accordance with the provisions of the Vivad se Vishwas Act (which provides for an alternative means of resolving direct tax disputes), the taxpayer must pay 100% of the disputed tax if paid by 31 March 2020, and 110% of the disputed tax if paid after that date. The relief measures would eliminate the requirement to pay the additional 10% of the disputed tax, provided the amount is paid by 30 June 2020.
- The deadlines for a number of compliance obligations that otherwise would expire between 20 March and 29 June 2020, would be extended to 30 June 2020. These include the issuance of a notice, intimation (summary assessment order issued after the submission of an income tax return), notification, approval order, or sanction order; filing an appeal, return, statement, application, or report; and the time limit for completion of proceedings by the revenue authorities and any compliance by the taxpayer (including investment in saving instruments or investments in rollover capital gains); under the ITA, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, Securities Transaction Tax (STT) Law, Commodity Transaction Tax (CTT) Law, Equalization Levy law, and Vivad Se Vishwas Law.
- Late payments of advance tax, self-assessment tax, regular tax, tax collected at source, the equalization levy, STT, and CTT normally attract interest of 1% per month. Late payments of tax deducted at source normally attract interest at 1.5% per month. For late payments made during the period 20 March to 30 June 2020, interest at 9% per annum (0.75% per month) would be charged for the period.
- The deadline for filing applications for advance pricing agreements due by 31 March 2020, and country-by-country reports on Forms 3CEAC and 3CEAD due between 20 March and 29 June 2020 (depending on the accounting year of the parent entity) would be extended to 30 June 2020.
- The deadline for filing reporting statements on Form 61 (statement of Form 60 received), 61A (statement of financial transactions), or 61B (statement of reportable accounts), etc., would be extended from 31 May to 30 June 2020.

Goods and services tax (GST)

Unless otherwise stated, the required legal circulars and legislative amendments to give effect to the GST proposals will be issued once approved by the GST council.

- The deadline for filing Form GSTR-3B for taxpayers with aggregate annual turnover of more than INR 50 million would be extended until the last week of June 2020 for returns due in March, April, and May. No fees or penalties for late submission would be payable but interest would be imposed at 9% (as opposed to the current 18%) as from 15 days after the relevant due date. The same extensions are proposed for taxpayers whose annual turnover does not exceed INR 50 million, and for these taxpayers no fees, interest, or penalties would be imposed.
- The due date for filing the annual return Form GSTR-9 for FY 2018-19 is extended until 30 June 2020 by Notification No. 15/2020 – Central Tax issued on 23 March 2020.
- The due date for the issuance of a notice, notification, approval order, sanction order; filing an appeal, return, statement, application, or report; and the time limit for compliance with any other obligations under GST legislation that otherwise would expire between 20 March and 29 June 2020, would be extended to 30 June 2020.

Customs

- The “24x7” customs clearance facility would be available at all sea and air ports until 30 June 2020.
- The due date for the issuance of a notice, notification, approval order, or sanction order; filing of an appeal, application, or report; and the time limit for compliance with any other obligations under the Customs Act and related legislation that otherwise would expire between 20 March and 29 June 2020, would be extended to 30 June 2020.

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

- The payment date under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 to expedite closure of service tax and excise tax-related litigation would be extended to 30 June 2020, and no interest would be imposed where payment is made by that date.

Corporate laws

- Additional fees for a delay in filing any form, document, return, statement, etc. with the Ministry of Corporate Affairs between 1 April and 30 September 2020 are waived. This should allow noncompliant companies and limited liability partnerships to clear their backlog of pending filings.
- The maximum permitted period of 120 days between two consecutive meetings of a board of directors prescribed by the Companies Act, 2013 (CA 2013) is extended by 60 days for the quarters ending 30 June and 30 September 2020 (i.e., consecutive board meetings for this period may be 180 days apart).
- The recently notified Companies (Auditor’s Report) Order, 2020 applies as from FY 2020-21, instead of FY 2019-20.

- The inability to hold separate meetings of independent directors (without the attendance of other directors and members of the management team) in FY 2019-20 is not considered as noncompliance with the provisions of schedule IV of the CA 2013. Independent directors may discuss matters between themselves by telephone, e-mail, or other agreed means of communication.
- The deadlines for creating a deposit repayment reserve of 20% of deposits maturing during FY 2020-21, and for investing 15% of debentures maturing during FY 2020-21 in specified instruments, both are extended from 30 April to 30 June 2020.
- The deadline for newly incorporated companies to file a declaration for commencement of business (Form INC-20A) is extended by six months to one year after incorporation.
- The inability to meet the minimum residency requirement that at least one director must be present in India for 182 days or more during the financial year will not be treated as a violation for FY 2019-20.
- To prevent triggering of insolvency proceedings against micro, small, and medium-sized enterprises, the threshold for default under section 4 of Insolvency and Bankruptcy Code, 2016 (IBC 2016) is raised from INR 100,000 to INR 10 million. If the COVID-19 outbreak continues beyond 30 April 2020, the government may consider suspending sections 7, 9, and 10 of the IBC 2016 for six months to prevent companies from being forced into insolvency proceedings in light of a “force majeure” cause of default.

Financial services

The following relaxations have been made with respect to banking related transactions for three months:

- No charges on cash withdrawals via debit card from another bank’s ATM;
- The waiver of fees imposed where a minimum account balance is not maintained; and
- A reduction in bank charges for digital trade transactions for all trade finance consumers.

Comments

In view of the difficulties being faced by businesses in meeting compliance deadlines for tax and company law purposes, the government’s announcements are welcomed.

Italy

Clarification provided on deferral of Intrastat reporting obligations

The Italian customs authorities issued a press release dated 20 March 2020 that confirms that Intrastat reporting obligations are among the tax obligations postponed in response to the coronavirus (COVID-19).

A law decree (No. 18) dated 17 March 2020 provided for the postponement of tax obligations (other than tax payments) for taxpayers that have their tax residence, legal seat, or center of operations in Italy. In particular, tax obligations due in the period from 8 March 2020 to 31 May 2020 are postponed to 30 June 2020, and no penalties will be applied.

The press release dated 20 March 2020 officially confirms that Intrastat reporting obligations fall within the list of the tax obligations subject to postponement to 30 June 2020 without the application of penalties.

Italy

Clarification provided on businesses eligible for extended deferral of tax payments

The Italian tax authorities issued a resolution (No. 12/E) dated 18 March 2020 providing the first official clarifications regarding the extension of deadlines for tax payments due to the coronavirus (COVID-19).

Law Decree No. 18/2020, dated 17 March 2020, provided for:

- A general postponement to 20 March 2020 of tax payments due on 16 March 2020 (for all taxpayers); and
- A specific postponement to 31 May 2020 of tax payments due in the month of March 2020 (only for taxpayers operating businesses in certain sectors).

To identify more specifically the sectors of businesses to which the extended postponement to 31 May 2020 applies, the resolution provides a complete list of the ATECO (classification of economic activity) codes related to the economic activities that are entitled to benefit from the postponement to 31 May 2020.

Italy

Highlights for VAT payers of measures introduced in response to COVID-19

A law decree (No. 18/2020) that is effective as from 17 March 2020 includes measures to support Italian businesses, professionals, and VAT payers affected by the coronavirus (COVID-19).

The most relevant measures from a VAT perspective are the following:

- **General postponement of deadline for VAT payments due on 16 March 2020 for all taxpayers:** The deadline for payments to public authorities (including VAT payments) due on 16 March 2020 is postponed to 20 March 2020.
- **Postponement of deadline for VAT payments due from entities operating in certain sectors:** The aim of this provision is to grant assistance to entities operating in sectors more heavily affected by COVID-19. In particular, the decree postpones the VAT payment deadline for entities that have their legal seat or center of operations in Italy and that operate in sectors including sports, theatres, cinemas, conventions and exhibitions, restaurants, bars or pubs, assistance for the elderly or disabled, childcare,

thermal sites (hot springs), and tour guides. For these entities, the deadline for VAT payments due in the month of March 2020 is postponed to 31 May 2020; payment may be made in up to five equal monthly installments if the first installment is paid by 31 May 2020. The deadline is 30 June 2020 for payments by entities in the sports sector.

- **Postponement of deadline for VAT payments due from certain other entities:** The deadline for VAT payments due in the month of March 2020 is postponed to 31 May 2020 for certain other entities (payment may be made in up to five equal monthly installments if the first installment is paid by 31 May 2020):
 - Entities carrying out business, artistic, or professional activities that have their legal seat or center of operations in Italy and that had turnover below EUR 2 million in the prior fiscal year; and
 - Entities with their legal seat or center of operations in the municipalities of Bergamo, Cremona, Lodi, or Piacenza, regardless of the entity's level of turnover.
- **Postponement of deadlines for other tax obligations:** All other tax and social contribution obligations (with the exception of tax payments and withholding) due from 8 March to 31 May 2020 are postponed. Any postponed obligation must be fulfilled by 30 June 2020, and if this is accomplished no penalties will be applied.
- **Suspension of deadlines related to certain activities of tax authorities:** All periods (such as deadlines or statutes of limitations) relating to liquidation, audit, collection, and litigation activities carried out by the tax authorities are suspended from 8 March to 31 May 2020. The same suspension applies to the periods relating to tax ruling requests filed before or during the suspension period.

Italy

Tax authorities suspending certain activities in light of COVID-19

The Italian tax authorities published a press release on 12 March 2020 announcing that their offices are suspending certain activities relating to the assessment and collection of tax liabilities—including liquidation, control, assessment, access to information, inspections and verifications, collection, and tax litigation—unless the expiration of the relevant statute of limitations is fast approaching. This is one of the restrictive measures that Italy is implementing to fight the spread of the coronavirus (COVID-19).

Italy also is planning to enact a new decree containing other urgent measures in response to COVID-19. As reported by the tax press, the draft decree is expected to provide for a suspension of VAT payments for certain taxpayers.

Japan

Tax filing and payment deadlines extended in response to COVID-19

In an effort to mitigate the spread of COVID-19 by reducing the number of people visiting tax offices in March 2020, Japan's National Tax Agency (NTA) announced on 27 February 2020 an extension of the filing and payment deadline for the following taxes until 16 April 2020:

Type of tax	Original due date
Individual income tax	16 March 2020
Consumption tax for personal business	31 March 2020
Gift tax	16 March 2020

There has been no specific announcement regarding the filing and payment deadlines for corporate income tax, consumption tax for corporations, and other corporate related taxes. Therefore, at this time, corporations should expect to file and pay taxes by the original due dates (including normal extensions).

However, under existing disaster relief measures, all taxpayers may apply for a grace period to pay national taxes and file the associated tax returns (including corporate tax) if the taxpayer is having difficulty paying or filing due to a disaster, or other unavoidable reason (including COVID-19), without penalties and interest, provided the required conditions are met and the application is submitted on time. Granting of the grace period is at the discretion of the tax authorities. A similar measure exists for local taxes.

On 25 March 2020, the NTA published FAQs (Japanese only) responding to common questions taxpayers may have on the measures.

Korea

Tax measures in response to COVID-19 announced

The Korean Ministry of Economy and Finance, tax authorities, and customs authorities in February and March 2020 announced a series of initiatives, including tax measures, to mitigate the financial and economic effects of COVID-19. The key tax administrative measures implemented include the following targeted at particular sectors of the economy:

- For small and medium-sized companies affected by COVID-19:
 - Extension of the tax filing and payment deadlines for up to nine months;
 - Suspension of tax collection activities (including the appropriation of taxpayers' assets by the National Tax Service in lieu of payment of tax arrears) for up to one year;
 - Deferral of tax audits (in respect of national and local tax); and
 - Application of sea transport costs instead of air transport costs in determining the customs base for parts imported by air.
- For export companies located in Daegu and Gyeongsan-si, Bonghwa-gun, and Cheongdo-gun:
 - Extension of the payment deadline for custom duties and the ability to pay the duty in installments;

- Refunds of customs duty on the day the application is received; and
- Deferral of customs audits.
- For tourism and catering businesses:
 - Exemption from property tax on accommodation facilities; and
 - Extension of the payment deadline for the patent fee payable by duty-free shops and the ability to pay the tax in installments.

In addition, the following incentives apply as set out in the revised Special Tax Limitation Law:

- A corporate income tax deduction for landlords in financial year (FY) 2020 for 50% of rent discounts voluntarily granted to qualifying small businesses for the period from January through June 2020;
- A tax exemption for small and medium-sized companies operating in designated "special disaster areas" declared as the result of the spread of COVID-19;
- An income tax exemption (subject to certain limitations) for income derived from the expansion of domestic business facilities arising from the closure of business operations overseas; and
- A general increase in the limit of tax-deductible entertainment expenses for FY 2020 (with exceptions for certain businesses) to help stimulate sales growth. The sales revenue based limits are increased as follows:

Sales revenue	Limit on deductible entertainment expenditure (% of sales revenue)	Increased limit on deductible entertainment expenditure for FY 2020 (% of sales revenue)
Less than KRW 10 billion	0.3%	0.35%
Between KRW 10 billion and KRW 50 billion	0.2%	0.25%
Over KRW 50 billion	0.03%	0.06%

Kosovo

Extension of tax filing deadlines in response to COVID-19

In response to COVID-19, Kosovo's Ministry of Finance has extended the deadline for filing a range of tax declarations, reports and the payment of respective taxes that were due in March until 30 April 2020. The extended deadline also covers the treatment and decisions on requests for reimbursements.

The types of taxes and the respective periods covered by the extension have been presented below in tabular form.

Tax/Contribution Type - Form	Abbreviation	Period
Declaration of withholding and payment of tax	WM	03/2020
Statement of pension contributions and payment form	CM	03/2020
Statement of withholding and payment of interest, property right, rent, lottery winnings and non-resident person	WR	03/2020
VAT declaration and payment form	TV	02/2020 and 03/2020
Annual Declaration of Personal Income Tax	PD	2019
Annual Declaration of Corporate Income Tax	CD	2019
Annual Declaration of Partnerships	DO	2019
Request for Reimbursement/Refund	TV	02/2020 and 03/2020
Quarterly tax and contribution statement for individual large businesses	IL	TM1/2020
Quarterly statement of advance payments for large corporations	QL	TM1/2020
Quarterly tax and contribution statement for individual small businesses	IS	TM1/2020
Quarterly statement of advance payments for small corporations	QS	TM1/2020
Reporting of Purchase and Sales Books		02/2020 and 03/2020
Reporting of transactions over 500€		2019

Luxembourg

New tax measures implemented in response to COVID-19

Following Prime Minister Xavier Bettel's speech on 17 March 2020 regarding the COVID-19 outbreak, the Luxembourg government is implementing a series of new direct and indirect tax measures, which are welcome and pragmatic. It is possible that additional measures could be announced in the coming days.

The following summarizes the measures already published, as well as some tax considerations relevant to cross-border workers.

Extension of the tax return filing deadline

The deadline to submit tax returns has been extended to 30 June 2020 for both legal entities and individuals, whether they are Luxembourg resident or nonresident.

The deadline to submit, revoke, or amend a taxpayer's filing status election (i.e., individual taxation) also is extended to 30 June.

The tax authorities have confirmed in recent exchanges that the current deadline (and payment) extension is also applicable to Form 931 for tax year 2019, which covers the taxation of credit interest paid by EU agents.

Business tax measures

Direct taxes

New payment deadlines for direct taxes are granted to companies and self-employed individuals.

Specifically, legal entities and individuals carrying out activities that generate a commercial profit, an agricultural and forestry profit, or a profit from the exercise of a liberal profession in Luxembourg, and who are experiencing liquidity problems due to the COVID-19 outbreak, may request the cancellation of tax prepayments for the first two quarters of 2020. The tax authorities have provided a template for this request on their website (in French only). This measure applies only to tax prepayments for income tax and municipal business tax; it does not apply to net wealth taxes or wage tax withholding. Also, a taxpayer may request a reduction in the amount of tax prepayments for the first two quarters of 2020 instead of a cancellation.

In addition, legal entities and individuals may apply for a four-month extension for payment of income tax, municipal business tax, and/or net wealth tax without being charged late payment interest. The tax authorities have provided a template for this request on their website (in French only). This measure applies to taxes due after 29 February 2020.

Taxpayers may submit cancellation or extension requests to the competent tax office by mail or email and the Luxembourg direct tax authorities will approve the requests automatically. If a taxpayer wishes to obtain a reduction of tax prepayments, the request should be sent by letter and include the desired reduction amount.

Indirect tax measures

The VAT administration (AEDT) will refund all pending VAT credit balances up to EUR 10,000 shortly. This measure aims to address the liquidity needs of businesses and should apply to approximately 20,000 taxpayers established in the Grand Duchy. The AEDT has indicated—although not confirmed—that, until further notice, no penalty will be applied for the late filing of VAT returns.

Article 55.3 of the Luxembourg VAT law provides a procedure for ad-hoc VAT refunds. However, under the current circumstances, the AEDT may announce additional measures allowing the extension of VAT payment deadlines and the reimbursement of VAT balances greater than EUR 10,000, subject to certain conditions.

Potential impact on cross-border workers

Individual taxation impact

Working from home (remote working or teleworking) potentially can trigger additional tax liability in a nonresident individual's state of residence). In light of the current situation, nonresident individuals working remotely for a Luxembourg employer potentially can exceed the relevant presence threshold established in the income tax treaty between their state of residence and Luxembourg. As a result, such individuals could be subject to tax in their home country on part of their employment income.

For example, French tax residents who normally work full-time and for an entire year in Luxembourg but who work more than 29 days in the year outside of Luxembourg could become subject to tax in France on the employment income related to their remote work (and likely work performed in other countries as well), although those days would be exempt from Luxembourg payroll taxes. In similar work patterns, Belgian tax residents who work more than 24 days per year, and German tax residents who work more than 19 days per year, outside of Luxembourg could face the same tax exposure.

Discussions are ongoing with respect to the potential impact of COVID-19 on these presence thresholds. The crucial question is whether the work performed from home by employees to comply with global COVID-19 preventive measures would affect these thresholds.

The Belgian government has confirmed that, as from 14 March 2020, the COVID-19 situation could be treated as a *force majeure* for purposes of the Luxembourg-Belgium income tax treaty. Consequently, remote working activities performed in Belgium will not be taken into account when assessing whether the 24-day threshold is exceeded such that the employment income should remain exclusively taxable in Luxembourg.

Similarly, the French and Luxembourg authorities consider that the current situation constitutes a case of *force majeure*, and have agreed that, as from 14 March 2020, the remote working activities of an individual in France will not be taken into account in calculating the 29-day limit under the France-Luxembourg tax treaty. This measure is applicable until further notice. How these decisions will be applied will be discussed at a later date.

As far as the tax treatment of wages of cross-border commuters are concerned, Luxembourg and Germany signed a Memorandum of Understanding on 3 April 2020 on the current Luxembourg-Germany tax treaty. This entered into force on 4 April 2020 and applies to workdays in the period from 11 March 2020 to 30 April 2020.

Both states have confirmed in this agreement that workdays for which wages are paid in Luxembourg but for which work is performed in the employee's home office in Germany solely due to measures to fight against the COVID-19 pandemic will be treated as if they had been worked in Luxembourg. Moreover, this requires that the portion of salary attributable to workdays worked in the employee's home office in Germany be effectively taxed by Luxembourg (i.e., included in the taxable basis on which the Luxembourg personal tax is calculated). German cross-border workers will have to keep appropriate records (i.e., a certificate from the employer certifying the number of workdays during which the employees performed their work in the home office due to the COVID-19 pandemic).

The above measure does not apply if, according to the provisions of their employment contract, employees are habitually working in their home office, or if they work in a third state (outside of Luxembourg or Germany).

The Memorandum of Understanding also foresees that the short-time working allowance paid in Germany, or in Luxembourg, will qualify as remuneration under the statutory social security scheme of the respective state within the meaning of article 17(2) of the Germany-Luxembourg tax treaty.

After 30 April 2020, the Memorandum of Understanding will be automatically extended from the end of one calendar month to the end of the next calendar month, unless it is terminated by the competent authority of one of the contracting states at least one week before the beginning of the respective following calendar month by written declaration to the competent authority of the other contracting state.

Remote workers should keep records (e.g., relevant documents such as certificates of work issued by an employer and/or emails) that prove that remote workdays were related to COVID-19.

Employers also may wish to review and revise their existing remote working policies.

Social security impact

The EU Social Security Regulations provide that cross-border commuters working for a Luxembourg employer must be registered with the Luxembourg social security system if less than 25% of their work (or remuneration) over a 12-month period is performed in their state of residence. In principle, remote work counts as work activity in the state of residence and, therefore, is taken into account in determining the 25% threshold.

Due to the current circumstances, some employees may be at risk of exceeding the 25% threshold. In such a case, the employer and the employee would be required to register with the employee's home country social security authority and remit social security contributions according to the home country's applicable rates.

However, working from home due to the COVID-19 outbreak can be considered as an exceptional situation (*force majeure*), which should in the best case drive discussions at the EU level to a conclusion based on which workdays linked to COVID-19 would not count toward the 25% threshold.

As far as Belgium is concerned, Belgian authorities have confirmed that remote working linked to COVID-19 will not be taken into account in the 25% threshold calculation for an initial period from 13 March 2020 until 19 April 2020 (subject to further possible extension). France confirmed on 20 March 2020 that an increase in the time spent in the French territory due to the increased use of remote working will not have any impact with respect to social security coverage. According to information posted on the German "DVKA" website, temporary remote working linked to COVID-19 will not have social security implications for German cross-border workers who work for a Luxembourg employer.

As such, cross-border employees will continue to be affiliated with the social security system of the state where they work.

The EU Commission has issued practical guidance to ensure the free movement of critical workers, as well as information for frontier workers and posted workers affected by the restrictions on free movement of people being imposed by a number of EU Member states as a result of COVID-19.

Immigration update

Given the current situation, the Luxembourg government has extended the term of the following documents that otherwise would expire on 1 March 2020 or later:

- Short-term and long-term visas;
- Temporary residence permits;
- Residence cards; and
- Other residence permits.

Similarly, nonresidents who are not subject to visa requirements and who have been in Luxembourg for longer than the 90 days allowed may remain in the country legally for the duration of the crisis.

Mexico

Various tax measures proposed to mitigate economic impact of COVID-19

To mitigate the economic impact of COVID-19, the government of Mexico City has extended certain local tax deadlines, working groups in the Mexican Senate are drafting and discussing a blueprint for tax incentives, and some business organizations have sent proposals to the president and the federal government for their consideration.

It is important to note that it is uncertain whether proposed federal tax incentives will be adopted as the president is reluctant to approve them.

The following summarizes the most important measures that have been adopted or proposed.

Mexico City

On 20 March 2020, the following tax relief provisions were published in the Mexico City official gazette:

- The deadline to file local tax returns and pay local taxes is extended from 17 April to 30 April 2020.
- The deadlines for administrative proceedings are suspended until further notice.
- The days between 23 March and 19 April 2020 will not be treated as business days for legal and administrative matters and the calculation of relevant terms and deadlines.
- The 31 March 2020 deadline to obtain a subsidy for the vehicle ownership tax is extended to 30 April.

These measures are effective as from 23 March 2020.

Senate tax incentive proposals

Working groups in the Senate are drafting a blueprint that proposes the following tax incentives:

- The value added tax (VAT) and excise tax payments due in March, April, and May 2020 would have to be paid in three equal installment payments in July, August, and September 2020, without interest but adjusted for inflation.
- An immediate 100% depreciation deduction would be allowed for new investments in fixed assets acquired between March and May 2020. This benefit would not apply to investments in office furniture, office equipment, vehicles, fixed assets that are not individually identifiable, and aircraft other than those used in agriculture.

- The withholding tax on wages and salaries that must be remitted to the tax authorities (SAT) in March, April, and May 2020 would have to be paid in three equal installment payments in July, August, and September 2020, without interest but adjusted for inflation.

Proposals from business organizations

The Mexican CPA Association, the Maquiladoras Association (INDEX), and other business organizations are holding discussions with the SAT, seeking the extension of certain tax filings, notices, and payments, as well as other tax benefits, in response to COVID-19.

On 20 March, INDEX submitted a letter to President López-Obrador requesting immediate and mid-term measures to mitigate the economic impact of the COVID-19 outbreak.

Overall, INDEX's proposals are in line with requests from other chambers of commerce and business organizations but also include maquiladora-specific measures, as follows:

- Extend the 2019 tax return filing deadline for corporations to 31 May at the earliest, and to 30 June for individuals.
- Extend the March and April 2020 monthly income tax payment deadlines (17 April and 17 May) to 17 May and 17 June, respectively.
- To foster investment, reduce the safe harbor profit margins that maquiladoras are required to report (article 182 of the Income Tax Law) from 6.5% to 4.5% on operating expenses and from 6.9% to 4.9% on operating assets.
- Resolve maquiladoras' advance pricing agreements (APA) applications by using the profit margins proposed above.
- Announce that the monthly employment subsidy granted to workers with the lowest wages will not be adjusted even if those workers receive bonuses or additional subsidies during the month. Similarly, adjust the minimum and maximum monthly employment subsidy amounts to update the nominal value of the (recently increased) minimum wage so that workers will not be affected by larger subsidy discounts.
- Implement a program for certified maquiladoras to receive VAT refunds immediately and freeze all VAT audits and examinations until the end of 2020.
- Increase the speed and efficiency of Maquiladora, Manufacturing and Export Services Industry (IMMEX) program procedures for VAT/IEPS-certified maquiladoras (e.g., new establishments, branches, warehouses, notices of shareholders change, etc.). (IEPS is a special excise tax on production and services.)
- To foster foreign investment, accelerate the review of new IMMEX programs for companies with a low-risk profile.
- Provide an income tax exemption for all individuals earning up to three times the minimum wage.

- Encourage Mexican states, with support from the federal government, to introduce a payroll tax exemption until the end of 2020.
- Grant a reduction between 5% and 10% for all social security premiums.

In addition, other business organizations have requested the following from the federal government:

- Establish a temporary countercyclical fiscal policy to allow an increase in the federal budget deficit of 0.5% of GDP.
- Allow accelerated tax depreciation of new fixed asset investments.
- Allow interest on loans to be fully deducted to expand production capacity.
- Make the days between 19 March and 19 April 2020 non-business days so that the SAT will not take them into account for purposes of terms and due dates.
- Temporarily freeze monthly income tax payments, especially for companies in the airline, hotel, tourism, logistics, and transportation industries.
- Temporarily freeze of all tax audits and examinations.
- Immediately issue a package of temporary tax incentives to support employment and investment.
- Temporarily freeze the special excise taxes on gas and diesel.
- Increase and expedite access to soft loans and credit lines from the National Finance Corporation (NAFINSA) and Mexico's Exim bank (BANCOMEXT).

It currently is uncertain whether any of these proposals will be included in a stimulus package to be enacted by the federal government.

The Netherlands

Measures announced in response to COVID-19 include tax deferrals

On 12 March 2020, the Dutch ministers of Economic Affairs and Climate, Finance, and Social Affairs and Employment announced measures to mitigate the economic impact of COVID-19 as effectively as possible. These measures were supplemented by a further support package announced on 17 March 2020 aimed at sustaining the economy and safeguarding jobs, and additional measures announced on 23 March. Businesses affected by the economic consequences of COVID-19 may apply for a special deferral of the payment of income tax, corporate income tax, VAT, and wage tax. The tax authorities also will not enforce penalties for late payment.

Key tax and related measures affecting businesses include the following:

Deferral of tax payments

Businesses experiencing payment difficulties may apply to the tax authorities in writing for a special deferral of payroll tax, VAT, income tax, and corporate income tax payable. The request must be sent to:

Belastingdienst
Postbus 100
6400 AC Heerlen

The request must state that the COVID-19 outbreak is the cause of the payment problems. As soon as the request for deferral has been received by the tax authorities, they will halt collection procedures, and payment automatically will be deferred for three months. A longer deferral is possible, but the tax authorities will request additional information (possibly in the form of a statement by a third party expert). The exact details still are under discussion, but the principle is to mitigate the administrative burden for businesses. Further information is available from the tax authorities' website.

The tax authorities will waive or reverse default penalties imposed for failure to pay, or late payment of, payroll tax and VAT, for an as yet unspecified period. Businesses that expect reduced profits as a result of COVID-19 also may apply for a lower provisional assessment of income tax or corporate income tax, and the tax authorities will agree to these requests.

Reduced working hours

In the 12 March announcements, the ministers indicated that companies affected by the COVID-19 outbreak could, in certain circumstances, be eligible to request reduced working hours for employees due to the reduction in business operations. The company would continue to pay an employee's salary, but would receive a benefit for the hours the employee did not work. In view of the high level of applications for relief under the scheme following the COVID-19 outbreak, the government subsequently clarified that a new procedure would be introduced under the Temporary Emergency Bridging Measure for the Retention of Work (NOW) scheme. Pending applications for reductions in working hours will be dealt with under the NOW scheme once launched.

Under the NOW scheme, employers facing a decline in revenue of at least 20% will be eligible to receive compensation for up to 90% of their payroll costs, related to their actual loss of revenue, for three months (with a potential extension for a further three months). This introduces a link between the actual loss of revenue and the compensation that would be received. The UWV (Employee Insurance Agency) will provide an advance payment equal to 80% of the expected compensation, based on the application. The compensation will be available in respect of revenue losses incurred as from 1 March 2020.

Guarantee of small and medium-sized enterprise (SME) credits

The ministers also stated that companies that experience liquidity problems will temporarily be eligible for favorable terms under the SME Credit Guarantee Scheme (Borgstelling MKB-kredieten, BMKB). A temporary scheme will apply until 1 April 2021 under which the

government will offer a higher guarantee share in the BMKB. Companies may use this measure, which is intended for bridging loans or increasing current account credits with lenders, for a maximum period of one year. A number of other conditions of the BMKB also will be relaxed.

Tax appeals and court cases

All courts and tribunals (with the exception of the Supreme Court) will be closed for all but urgent cases from 17 March until at least 6 April 2020. The Supreme Court will remain open, with limitations. The Supreme Court website (Dutch only) states that the statutory time limits for lodging appeals in cassation continue to apply. In the current absence of further information, it may be assumed that the same applies to proceedings before the lower courts, and compliance with the statutory time limits for submitting procedural documents to the courts remains essential.

All scheduled hearings before the different chambers of the European Court of Justice have been postponed until 3 April. In a 19 March press release, the Court of Justice of the European Union indicated that all procedural time limits for instituting proceedings and lodging appeals remain in force.

The Netherlands

Global Trade Advisory Update on the COVID-19 Measures

European Union and Dutch Customs Take Action

The European Union responded to the economic impact of the COVID-19 outbreak with a series of measures. The Dutch customs authorities decided to further postpone the enforcement of the amended definition of exporter.

Statement from the Dutch customs authorities on the enforcement of the amended definition of exporter

The Dutch customs authorities officially confirmed that they will further postpone the enforcement of the requirement for companies to be established in the EU in order to act as exporter. Previously, the enforcement of that requirement was set to begin on 1 April 2020. This date is now postponed to the 15th day of the month following the month in which the Dutch authorities will cease the COVID-19 measures. Until then, non-EU established companies may continue to be mentioned as the "exporter" of goods in Box 2 of the customs export declaration.

Commission COVID-19 guidelines for border management measures to protect health and ensure the availability of goods and essential services

The European Commission (Commission) issued the COVID-19 guidelines on border measures to the European Union (EU) Member States. The Commission Guidelines recognise that individual Member States are allowed to take protective measures against the COVID-19. However any such measures must be transparent, proportionate, relevant and mode-specific, as well as non-discriminatory.

Member States should preserve the free circulation of all goods and guarantee the supply chain of essential products such as medicines, medical equipment, essential and perishable food products and livestock. No restriction should be imposed on the circulation of goods in the Single Market, especially (but not limited to) essential, health-related and perishable goods, notably foodstuffs, unless duly justified. Member States should designate priority lanes for freight transport (e.g. via “green lanes”) and consider waiving existing weekend bans.

Professional travel to ensure transport of goods and services should be enabled. This concerns the facilitation of safe movement for transport workers, including truck and train drivers, pilots and aircrew, across internal and external borders.

Any planned transport-related restrictions should be notified to the Commission and other Member States.

No additional certifications should be imposed on goods legally circulating within the EU single market.

Commission guidance on the implementation of the Green Lanes under the Guidelines for border management measures

The Commission issued further practical guidance to the Members States on the implementation of the Green Lanes envisaged in its Guidelines for border management measures.

In case internal border controls exist or have been introduced, Member States should designate immediately the most important internal border-crossing points as “green lane” border crossings – for land (road and rail), sea and air transport.

Going through the “green lane” border crossings, including any checks and health screening of transport workers, should not exceed 15 minutes on internal land borders.

The “green lane” border crossings should be open to all freight vehicles carrying any type of goods.

Member States should act immediately to temporarily suspend all types of road access restrictions in place in their territory (week-end bans, night bans, sectoral bans, etc.) for road freight transport and for the necessary free movement of transport workers.

Export of certain medical protective products subject to an export authorisation

In order to combat the Coronavirus outbreak, the Commission made the exportation of certain personal protective equipment from the EU subject to an export authorisation. The measure entered into effect on 15 March 2020 and will remain in force for six weeks. The list of products covered by the measure is provided in Annex I of the Commission Implementing Regulation and includes such products as protective masks, garments and gloves.

In an amendment to its Implementing Regulation, the Commission exempted from the authorisation requirement exports to Norway, Iceland, Liechtenstein and Switzerland. A similar exemption is also being granted to Andorra, the Faroe Islands, San Marino and the Vatican, as well as the associated countries and territories that have special relations with Denmark, France, the Netherlands and the United Kingdom.

Export authorisations are issued by the Member States' authorities. The Commission provided practical guidance on the processes and procedures relevant for granting such authorisations. In principle, Member States may continue to grant export authorisations where no threat is posed to the availability of personal protective equipment on the market of the Member State in question or elsewhere in the EU.

Impact of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations

According to the announcement of the Commission, the COVID-19 outbreak will affect anti-dumping and anti-subsidy investigations. This particularly concerns on-spot verification visits and time-limits for responding to questionnaires and requests for information.

(i) On-spot verification visits. The Commission decided to suspend all non-essential travel to the affected areas and to postpone all face-to-face meetings with visitors from these areas.

(ii) Time-limits for responding to questionnaires and requests for information. For businesses affected by the COVID-19 outbreak, the Commission noted the possibility of extending the deadline by 7 days upon a reasoned request by the affected party. The Commission further recognized that the COVID-19 outbreak is an unforeseen event constituting force majeure likely to impede the affected economic entities from complying with the relevant deadlines for submission of information.

Saudi Arabia

Deadlines extended due to COVID-19 for filing tax returns and paying taxes

On 20 March 2020, Saudi Arabia's Ministry of Finance (MOF) published a statement on its website detailing economic relief measures for the business community due to COVID-19.

The following principal measures apply to tax obligations originally falling due between 18 March through 30 June 2020:

- Deadlines for filing all tax returns, including for income tax, zakat, withholding tax (WHT), and value-added tax (VAT), have been extended by three months from their original due date.
- Deadlines for making all tax payments, including for income tax, zakat, WHT, VAT, and excise tax have been extended by three months from their original due date.
- Zakat and tax certificates expiring for fiscal year 2019 will be issued without any restrictions.
- Payment will be waived for expatriate levies, fees on issued work visas, fees on the extension of exit and re-entry visas, and certain government services fees (e.g., municipal fees), subject to certain conditions.

The MOF statement does not address deadlines for filing tax objections and appeals. However, the General Authority of Zakat and Tax (GAZT) and the General Secretariat for Tax Committees (GSTC) previously issued notifications that hearings by the Internal Settlement Committee and the various appeal committees have been suspended until further notice. The GAZT is expected to issue additional guidelines soon.

Sweden

Financial measures in response to COVID-19 announced

As at 16 March 2020, the Swedish government had made two announcements setting out a package of financial measures, including tax measures, to mitigate the economic and financial consequences of the COVID-19 virus on businesses and individuals. The government highlighted Sweden's stable economic situation and indicated that if the action plan is fully implemented, the cost would be around SEK 300 billion.

Measures taken to date by the government include the following:

Financial support for employers and employees

On 16 March 2020, a short-time furlough (korttidspermittering) was implemented. This had been requested by a number of Swedish companies and should provide an effective means to avoid termination of employment contracts. Where employers and employees agree to reduce the number of working hours as an alternative to the termination of a contract, the government will support employers by bearing part of the salary costs. The reduced number of working hours may be 20%, 40%, or 60%. An employee with a monthly salary of SEK 32,700 who agrees to a 40% furlough will receive 92.5% of his/her salary, while the employer's salary and employer's social security contributions will be reduced by 52.5% (from SEK 43,000 to SEK 20,425). The shortfall will be met by the government. A deferral of employer's social security contributions also is available (see below).

Another important measure proposed by the government is to temporarily bear the full cost of companies' sickness pay throughout April and May to mitigate the effect on companies' profitability of having an increased number of employees on sick leave.

Deferral of taxes

Employers' social security contributions, preliminary tax payments on salaries, and the payment of VAT will be deferred. The deferral includes up to three months' of tax payments and will enter into force by 7 April 2020. The deferral would apply retroactively, enabling taxes paid from January to March 2020 to be refunded. This should be an important measure in helping companies to retain their liquidity, and preserve their ability to cover ongoing costs. It is proposed that an interest charge would apply, and an extension fee also would be imposed. For a tax deferral to be granted, the company must be sufficiently financially stable, and may not have any "large" tax debts (the amount is yet to be confirmed).

Under existing legislation, companies may file a revised preliminary income tax return where income is reduced. Doing so would enable the remaining preliminary tax payments to be adjusted, while the deferral could be used to obtain a tax repayment. The tax authorities do not impose interest or fees on the submission of a revised tax return resulting in reduced future tax payments.

Other financial measures

The government's initial measures, announced during the week ended 13 March 2020, were intended to limit the financial stress on local authorities, companies, and employees. They included increased financial resources and other financial support to local authorities and

regions to compensate for the extraordinary measures required due to the COVID-19 outbreak. The initial proposal also included a contribution of SEK 500 billion from the Swedish central bank to increase lending opportunities for Swedish businesses.

The government has abolished the requirement for a qualifying day of sickness before sickness allowances are paid between 11 March and 31 May, with sickness allowance for the first day being funded by the government, and increased the financial capacity to offer benefits for infectious diseases.

United Kingdom

The UK government in March 2020 announced various financial support measures, including tax measures, to mitigate the financial and economic effects of COVID-19.

Tax measures include the deferral of VAT and income tax self assessment payments. For VAT, VAT-registered businesses may defer VAT payments due between 20 March and 30 June 2020 until 31 March 2021. Income tax self assessment payments for the self-employed due on 31 July 2020 may be deferred until 31 January 2021. The tax authorities also have allocated additional resources to deal with applications to defer other tax payments.

Other funding support measures include:

- **Coronavirus job retention scheme:** Payroll support to cover up to 80% of salary costs, up to a cap of GBP 2,500 per month per employee, for individuals not working due to COVID-19 but whose job has been retained.
- **Covid Commercial Financing Facility (CCFF):** Up to 12 months support under a financing facility to bridge COVID-19 disruption to a business' cashflows.
- **Coronavirus Business Interruption Loan Scheme (CBILS):** A lending scheme for smaller businesses (with turnover of up to GBP 45 million). The maximum value of a facility provided under the scheme is GBP 5 million, available on repayment terms of up to six years.
- **Grants for retail, hospitality and leisure businesses:** A GBP 25,000 grant for businesses in these sectors operating from smaller premises with a rateable value of between GBP 15,000 and GBP 51,000. Businesses in these sectors with a property that has a rateable value of GBP 15,000 and under will receive a grant of GBP 10,000.
- **Rates relief:** A 100% business rates discount for all retail, hospitality, and leisure venues in England, with no limit on rateable value.
- **Statutory sick pay (SSP):** Small and medium businesses (with up to 250 employees) may recover SSP paid as a result of COVID-19 for a maximum of two weeks' sickness per employee.

Other news

Albania

New law on fiscalization amends significantly invoicing procedures for taxpayers

A new law No. 87/2019, "On electronic invoice and the turnover monitoring system" (known as the law on fiscalization) was approved by the Albanian parliament on 18 December 2019, and published in the official gazette on 20 January 2020. As outlined below, the measures in the law become effective on different dates.

The law provides for a combination of technology and regulations enabling the Albanian tax authorities to monitor taxpayers' turnover in real time and, according to the tax authorities' website, "fiscalization" is a reform project intended to reduce the size of the "grey" economy. The law on fiscalization is an entirely new law that does not replace any existing similar legislation. The law on fiscalization is partially aligned with EU directives 2014/55 on electronic invoicing in public procurement and 2006/112, the VAT directive. The Minister of Finance and Economy is expected to issue instructions providing the relevant regulations, rules, and procedures for implementation of the law.

This article considers the main provisions of the law.

Scope

The scope of the law on fiscalization is to set out the principles, rules, criteria, obligations, timelines, and procedures to be followed by taxpayers regarding the issuance and fiscalization of sales invoices for supplies of goods and services, and accompanying invoices for the transportation of goods; registration of payments for invoices in cashless transactions; declaration of monthly sales and purchases; and submission of VAT returns, etc.

Entry into force

The provisions of the law will be implemented gradually in accordance with the following timetable:

Effective date	Type of transaction
1 September 2020	Cash transactions by taxpayers subject to VAT and corporate income tax (CIT) with an annual turnover exceeding ALL 8 million
1 January 2021	Cash transactions by taxpayers subject to VAT and simplified CIT with an annual turnover between ALL 2 million and ALL 8 million; Cash transactions by taxpayers subject to simplified CIT with an annual turnover not exceeding ALL 2 million; and Cashless transactions between taxpayers and public government bodies
1 July 2021	Cashless transactions between taxpayers

Fiscalization system

All taxpayers will need to implement a "fiscalization system," i.e., fiscal equipment and software solutions for the purposes of issuing and receiving sale invoices and accompanying invoices, communicating with the tax authorities via a central invoicing platform, performing fiscalization procedures and electronic exchange of messages, by using a secure network for data transfer via an internet connection. The central invoicing platform will be established, developed, maintained, and administered by the National Agency for Information Society (NAIS); however, the data exchanged through the platform will be managed by the Albanian tax authorities.

The fiscalization system will include:

- Fiscal equipment, consisting of an electronic device for issuing sales invoices and accompanying invoices, and a printer for printing the invoices (either integrated with or separate from the electronic device);
- Software solution(s) for issuing and accepting electronic invoices, electronically signing invoices, transmitting data to the central invoicing platform, finalizing the fiscalization procedure, exchanging messages related to payments, etc.; and
- The communication system between the taxpayer and the tax authorities via a secure network for electronic data transfer over the internet.

Fiscalization procedure for sales invoices

Taxpayers will be required to follow the fiscalization procedure for all sales invoices, as follows:

- The taxpayer must electronically sign the invoice and deliver the invoice to the tax authorities electronically via the central invoicing platform;
- Where all the relevant criteria are met and the information contained in the invoice complies with the requirements of the law on fiscalization, the tax administration system will generate a unique identifying number for the invoice (NIVF), and return the invoice electronically to the taxpayer;
- The taxpayer will add the NIVF to the invoice and issue the invoice to the purchaser, in paper form, by email, or via another means of electronic exchange, depending on the nature of the payment, and the status and preference of the purchaser.

The fiscalization procedure is expected to reduce fiscal evasion in both cash and cashless transactions, ensure real-time reporting of all transactions and payments to the tax authorities, and enable the tax authorities particularly to control efficiently the movement of goods.

Sales invoices for cash transactions

A cash transaction is defined as a supply of goods or services paid for via banknotes and coin, credit card, debit card, or check.

Taxpayers will issue invoices for cash transactions through the fiscalization system, following the fiscalization procedure outlined above, and then print a hardcopy invoice to be delivered to the purchaser when the goods or services are supplied. These invoices will replace the handwritten, preprinted invoices currently widely used, and also serve as fiscal coupons (currently printed by cash machines installed in points of sale).

Taxpayers will not be required to print hardcopy invoices for services delivered electronically, or goods and services purchased and paid for via a mobile app, online store, etc. In these cases, invoices may be delivered via email.

Sales invoices for cashless transactions

A cashless transaction is a supply of goods or services for which payment is made by a method not qualifying as a cash payment.

Taxpayers will issue invoices for noncash transactions (including exports of goods or provision of services to nonresidents) through the fiscalization system following the procedure outlined above and then:

- Issue the invoices as electronic invoices via the central invoicing platform to purchasers registered in Albania for VAT and CIT, VAT and simplified CIT, or just simplified CIT, or nonresident purchasers with access to the central invoicing platform (e.g., where the system used in their home country is interconnected in some manner with the platform); or
- In other cases, provide invoices in hardcopy or via email with the purchaser's consent.

Electronic invoices will replace the handwritten, preprinted invoices currently widely used, as well as the computerized invoices used by certain taxpayers with the authorization of the General Tax Directorate.

Fiscalization procedure for purchase invoices

Domestic purchases of goods and services

All invoices issued by taxpayers registered for VAT and CIT, VAT and simplified CIT, or just simplified CIT, already should have been fiscalized. A buyer also registered for VAT and CIT, VAT and simplified CIT, or just simplified CIT, will only have to accept these invoices in the respective account in the central invoicing platform.

Services rendered by nonresidents

Where a nonresident service provider is unable to issue electronic invoices and access the central invoicing platform to deliver the invoices electronically to an Albanian purchaser, the purchaser must "self-invoice" and carry out the fiscalization procedure on the invoice not later than the 10th day of the month following the month in which the services are supplied. Where applicable, the self-invoice also will serve for the purposes of accounting for the VAT payable on the service under the reverse-charge mechanism.

Imported goods

Albanian purchasers will be required to follow the same fiscalization procedure outlined above for imported goods, based on the customs import declaration, within three days of the goods entering free circulation.

VAT ledgers and returns

The tax administration information system automatically will generate in each taxpayer's account in the central invoicing platform the monthly sales and purchase ledgers, and the monthly VAT return, based on the information provided as part of the fiscalization procedures.

The taxpayer will be able to review the VAT ledgers and add additional information (but not amend the amounts) not later than the 10th day of the month following the month to which the records relate.

Additional mandatory elements of electronic invoices

Electronic invoices will contain some additional mandatory elements when compared to the preprinted, handwritten invoices currently used, including:

- The heading "tax invoice";
- Place and time (hour and minutes) of issuance of the invoice;
- Operator's code;
- "Place of economic activity" code;
- Payment data, including type of payment (cash, card, wire transfer, e-money, etc.);
- NIVF alphanumeric code;
- NSLF alphanumeric code (unique number attached to each invoice, generated by the invoicing system of the taxpayer);
- QR code to be used by the purchaser to verify the invoice; and
- Contract reference number.

Fiscalization procedure for accompanying invoices

The fiscalization procedure also will need to be followed for "accompanying invoices" (i.e., invoices issued to support the transportation of goods from one place to another within Albanian territory, where there is no change of ownership). In these cases, the QR code of the accompanying invoice will need to be printed out and the hardcopy transported with the goods.

Taxpayers not required to issue electronic invoices

Exemptions from the obligation to issue electronic invoices are provided in the following cases:

- Agricultural producers, whether or not subject to the compensation scheme, in accordance with the VAT legislation;
- Sales of tickets in vehicles used for public transport; and
- Supplies of goods or services by individuals registered with the tax authorities as “ambulatory traders” with no fixed premises.

Certain other taxpayers for certain transactions, as determined by the VAT law, also will be exempt from the obligation to issue electronic invoices.

Registration procedures for qualifying taxpayers and other parties

Taxpayers

Active taxpayers required to issue electronic invoices in accordance with the law on fiscalization automatically will be recorded in the register of taxpayers subject to electronic invoicing requirements.

Qualifying taxpayers will be required to submit through the central invoicing platform details of their place of economic activity no later than 24 hours prior to the issuance of their first electronic invoice. To be able to carry out the fiscalization procedure, taxpayers will be required to have in place:

- An installed fiscalization system and a certified software solution;
- An electronic certificate generated by NAIS;
- An electronic signature; and
- A stable internet connection.

Software providers

Software providers must be electronically recorded in the register of authorized software developers held by NAIS through the central invoicing platform to be eligible to provide software solutions to taxpayers required to issue electronic invoices. Software providers must be certified by NAIS, in cooperation with the tax authorities, and must provide the tax authorities with relevant information concerning their software solutions.

Operators authorized to issue invoices

Taxpayers may appoint employees and/or other taxpayers offering accounting and tax services to operate their fiscalization system. The qualifying taxpayer must submit to the tax authorities information on each individual operator authorized to issue electronic invoices on behalf of the taxpayer through the central invoicing platform not later than 24 hours before the issuance of the first invoice by each operator. Once an operator is registered, the tax administration system will generate an operator code associated with the operator’s unique identification number (ID number for individuals and NUIS for natural/legal entities).

Special provisions on the fiscalization procedure

The law provides specific rules addressing various everyday situations that taxpayers may encounter during the fiscalization procedure for electronically issued invoices.

Interruption of the internet connection

Where the internet connection is interrupted, taxpayers that issue invoices will be required to produce hardcopy invoices. Taxpayers must ensure that the connection is re-established within 48 hours and submit the invoices issued during the period for which the internet was unavailable via a special protocol to be determined by an instruction of the Minister of Finance and Economy.

Malfunction of the fiscal device

Where the fiscal equipment ceases to function, taxpayers will be required to issue an invoice in duplicate from a special block of paper invoices, based on the format approved by the General Tax Directorate for this purpose. Taxpayers that issue such invoices must ensure that the fiscal device is repaired and working as expected within five days of the day after the equipment stopped working.

No internet connection available

Specific rules are provided for the application of the fiscalization procedure for taxpayers operating in areas where no internet connection is available.

Registration of cash and cashless payments

Settlement of invoices via Albanian payment service providers

The law requires Albanian banks, non-bank financial institutions, and other entities that provide cashless payment services to record on a daily basis in the central invoicing platform payments for electronic invoices in respect of noncash transactions. Such payment service providers will be required to use special electronic devices, and install a certified software solution or an integrated certified informatics system, or use a certified cloud-based web application to record and report the payments.

Settlement of invoices via foreign payment service providers

Where payment is made via an intermediary not registered in Albania, or directly by the purchaser via foreign banking and non-banking institutions, the taxpayer who receives the payment will be required to register the payments in the central invoicing platform not later than the 10th day of the month following receipt.

Costs of implementing the new law

Currently there is no publicly available information on software solution developers/providers certified by NAIS and, therefore, no information on the anticipated costs of the software solutions that taxpayers will be obliged to implement. For cash transactions, it is uncertain whether cash machines that currently issue fiscal coupons may be upgraded to act as fiscal devices and printers, and if so, what the cost would be. If they cannot be upgraded, the cost of purchasing and installing new electronic devices and printers also is unknown.

Corresponding amendments to the laws on tax procedures and VAT

The fiscal package for 2020 included amendments and additions to the laws on tax procedures and VAT to align with the changes and new requirements introduced by the law on fiscalization. The main changes to the law on tax procedures relate to the application of penalties for breaching the provisions of the law on fiscalization regarding the issuance of invoices, archiving of documents, etc., and penalties for non-registration of software solution developers, etc. Several corresponding amendments and additions also have been introduced to the law on VAT, affecting general invoicing principles (i.e., issuance of invoices, required elements of an invoice, etc.)

Argentina

Proyecto de Ley en reemplazo del suspendido Régimen de Economía del Conocimiento

El llamado Régimen de Economía del Conocimiento había sido recientemente suspendido por el Poder Ejecutivo Nacional recientemente.

El 19 de febrero de 2020, el Poder Ejecutivo, envió al Congreso Nacional un proyecto de ley que reemplaza el Régimen de Economía del Conocimiento, hasta hoy suspendido (Ley N° 27.506).

La mayor diferencia a los efectos fiscales es la falta de una cláusula de estabilidad fiscal (como sí lo establecía la Ley 27.506, que aseguraba una estabilidad fiscal respecto de la creación de nuevos impuestos y de las tasas de imposición hasta el 1 de enero del 2030).

Los principales incentivos fiscales son:

- Una reducción del 60% en el total del Impuesto a las Ganancias a pagar.
- La actividad exportadora no deberá abonar retenciones del Impuesto al Valor Agregado.
- La posibilidad de tomar como gasto deducible en la determinación del Impuesto a las Ganancias, el monto equivalente a los gravámenes análogos pagados o retenidos en el exterior, con motivo de los ingresos obtenidos en contraprestación de las actividades mencionadas en la Ley, en la medida que dichos ingresos fueran considerados ganancias de fuente argentina.
- Un bono fiscal del 70% de las contribuciones patronales abonadas, el cual puede ser utilizado como pago a cuenta del Impuesto a las Ganancias y del Impuesto al Valor Agregado. Dicho porcentaje se incrementará al 80% si se contratan mujeres, profesionales con estudios de posgrado en ingeniería y similares, personas con discapacidades, personas que hayan recibido beneficios sociales.

Australia

Weekly tax round-up (16 March 2020)

Government announces business support measures in response to coronavirus

On 12 March 2020, the Federal Government announced a number of individual and business support measures in respect of the coronavirus threat to the economy. The package of measures contained four parts:

1. **Support for business investment** via an expanded instant asset write-off and an investment allowance. The Treasury Fact Sheet is available [here](#). For more details please see attached article.
2. **Cash flow assistance for SMEs to stay in business and keep their employees in jobs.** Small and medium-sized businesses with aggregated annual turnover under \$50 million will receive a tax-free payment of between \$2,000 - \$25,000. The payment will be delivered by the Australian Taxation Office (ATO) as a credit in the activity statement system from 28 April 2020 upon businesses lodging eligible upcoming activity statements. Eligible businesses that withhold tax to the ATO on their employees' salary and wages will receive a payment equal to 50 per cent of the amount withheld, up to a maximum payment of \$25,000. Eligible businesses that pay salary and wages will receive a minimum payment of \$2,000, even if they are not required to withhold tax. The Treasury fact sheet is available [here](#).

In addition, eligible small business employers can apply for a wage subsidy of 50 per cent of the apprentice's or trainee's wage for up to 9 months from 1 January 2020 to 30 September 2020. Where a small business is not able to retain an apprentice, the subsidy will be available to a new employer that employs that apprentice.

3. **Household stimulus payments** will be paid in the form of a one-off \$750 stimulus payment to pensioners, social security, veteran and other income support recipients and eligible concession card holders. The payment will be tax free and will not count as income for Social Security, Farm Household Allowance and Veteran payments. There will be one payment per eligible recipient. The Treasury fact sheet is available [here](#).
4. **Targeted assistance for severely-affected regions.** The government announced funding of \$1 billion to support sectors, regions and communities that have been disproportionately affected by the economic impacts of the Coronavirus, including those heavily reliant on industries such as tourism, agriculture and education. This will include the waiver of fees and charges for tourism businesses that operate in the Great Barrier Reef Marine Park and Commonwealth National Parks. It will also include additional assistance to help businesses identify alternative export markets or supply chains. Targeted measures will also be developed to further promote domestic tourism. The Treasury Fact sheet is available [here](#).

Various state governments have also announced tax relief (see attached articles).

Commissioner of Taxation's address to the Tax Institute Tax Summit & high wealth market tax gap

On 12 March 2020, the Commissioner of Taxation Chris Jordan, addressed the Tax Institute conference in Sydney and made the following key points:

- The ATO will do everything they can to support affected taxpayers impacted by COVID 19.
- The Commissioner released a new tax gap for the high wealth market. The gap, based on 2016–17 data, shows that the high wealth market meets more than 90% of their obligations voluntarily. ATO compliance actions further increases the collection rate to over 92%. The gap is \$772 million, or 7.7% and sits about midway between the ATO estimates for the large business tax gap (4%) and small business tax gap (12.5%).
- The ATO aims as part of its "Towards 2024" vision to achieve two objectives: to build a more streamlined, integrated and data-driven organisation, and to build greater trust and confidence in the tax system.
- The ATO now processes up to 7 million data transactions per day, with this upward trend to continue, making it easier for people to do the right thing, and harder for them to do the wrong thing. There is much greater sharing of data amongst tax authorities internationally also.
- In terms of building trust and confidence, one of the ATO's ongoing focus areas will continue to be the large market. The Commissioner stated, "The challenge for them now should be to ensure their voluntary compliance exceeds that of other markets, so they can reshape the narrative and set the standard for other taxpayers." The ATO will also continue to push for large market players to publicly announce settlements.
- The ATO urged employers who had fallen behind in Superannuation Guarantee Payments to come forward under the 'super guarantee amnesty' available for eligible employers. The amnesty period closes 7 September 2020.
- The ATO will focus on improved outcomes for taxpayers via its Better as Usual program streams. The Complex Issue and Case Program will focus on complex, difficult-to-resolve cases that don't fit well within existing processes. The Highest Client Impact Actions will focus on ensuring the ATO have stronger safeguards in place for those instances when, if wrong, ATO actions can have a significant impact on a taxpayer.

ATO advice under development

The ATO has advised of new matters which they are preparing advice and guidance as follows:

- Draft Taxation Ruling on the circumstances in which amounts in respect of the **licensing and distribution of software will be royalties** as defined in subsection 6(1) of the Income Tax Assessment Act 1936 (ITAA36). This will update TR93/12 Income tax: computer software, and will include updated guidance on modern forms of software distribution including digital channels and cloud computing [Expected completion May 2020]

- Guidance: GST and income tax consequences for financial institutions which are making **compensation payments** as a consequence of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry [Expected completion March 2020]
- Draft Goods and Services Tax Determination: when is the supply of an **adjustable bed GST-free** under subsection 38-45(1) of the A New Tax System (Goods and Services Tax) Act 1999? [Expected completion: April 2020]
- Draft Addendum to GSTR 2004/7 dealing with **GST cross-border legislative amendments.**
- Superannuation guidance note dealing with **salary sacrifice and super guarantee.**

The ATO are also considering **not proceeding with the proposed draft ruling on deductibility of legal expenses** on the basis that it would mostly consist of high level observations on well-established principles on deductibility and be too general to be helpful.

The ATO has also advised that in finalising Taxation Ruling **Fringe benefits tax: car parking fringe benefits** it recognises that employers will require time to implement these changes following finalisation of the Ruling (which may be close to or after 1 April 2020). Accordingly the ATO have determined that when the final Ruling is published, any changes in view from TR 96/26 will apply from **1 April 2021.**

Significant ATO guidance and advice

- MVE 2020/D1- legislative instrument setting the cents per kilometre deduction rate of 72 cents for motor vehicle expenses for years of income commencing 1 July 2020.
- Class Ruling CR 2020/12- Apex Salary Packaging Pty Ltd - use of an electric bicycle (e-bike) by an employee.
- ATO guidance on the Superannuation Guarantee Amnesty.

Canada

British Columbia budget – PST, carbon tax, and other indirect taxes

Canada's Finance Minister Carole James tabled the government's fiscal plan for British Columbia (BC) on Tuesday 18 February 2020. Her government delivered a balanced budget at the provincial legislature in Victoria.

In respect of BC's provincial sales tax (PST), carbon tax, and other indirect taxes, the budget includes the following changes.

PST highlights

- No increase in the PST rate.

- Certain beverages will be subject to PST of 7% effective 1 July 2020. These beverages include carbonated beverages that contain sugar, natural sweeteners, or artificial sweeteners. All beverages that are dispensed through a soda fountain, gun or similar equipment, or a vending machine also are subject to PST.
- Budget introduced new expanded registration requirements for PST, effective 1 July 2020. These new requirements mean that Canadian sellers of goods, and Canadian and foreign sellers of software and telecommunication services will be required to register if their specified BC revenues exceed CAD 10,000. This change is very similar to the rules in Saskatchewan for sales of goods and services by out-of-province vendors.
- Real property contractors who perform value-added work to goods and then install those goods into real property outside BC can apply for refunds of the PST on those goods, effective 19 February 2020.
- Effective 19 February 2020, PST exemptions for pollution control and waste management equipment purchased by qualifying manufacturers or resource industry businesses apply regardless of the location of such equipment. Previously, the exemption was limited to equipment located on the qualifying manufacturing site.

Carbon tax and clean energy highlights

- Carbon tax rate proposed to increase from CAD 40/tonne per CO2 equivalent in 2019/2020 to CAD 50/tonne per CO2 equivalent in 2021/2022 to be in line with the federal carbon pricing backstop methodology.
- New category, to align with the federal program, introduced for combustible waste. This includes tires in any form, asphalt shingles, and any prescribed material, substance, or thing.
- No change in the motor fuel tax rate.
- An additional investment of over CAD 400 million to support CleanBC, a program that supports industry moving into clean energy and low-carbon business practices.

Tobacco tax highlights

- Heated tobacco products are now subject to a tax of 29.5 cents per product, effective 1 April 2020. Heated tobacco products are a product that contains tobacco and are designed to be heated to produce a vapour.

China

New exclusion process for US goods subject to retaliatory tariffs

On 18 February 2020, China's Tariff Committee of the State Council (CTCSC) announced a new market-based exclusion process on US goods subject to retaliatory tariffs (Bulletin [2020] No. 2). The new process, which will be available as from 2 March 2020, is part of the implementation of the Phase One trade agreement to increase imports of US-origin goods.

The new market-based exclusion process differs from the existing general exclusion process in that it is based on an importer’s specific commercial transaction, as opposed to the general exclusion process, which exempts a group of identified products for all importers.

For enterprises that did not submit exclusion applications under the general exclusion process (or those that have submitted but not yet obtained approvals), this new exclusion process provides another opportunity to obtain an exclusion. Once an importer’s application for exclusion is approved under the new process, no retaliatory tariffs will be imposed on the importer’s approved goods (subject to a certain time period and amount limitations).

Comparison of exclusion processes

The table below compares aspects of the general exclusion process (Bulletin [2019] No. 2) and the new market-based exclusion process (Bulletin [2020] No. 2):

	General exclusion process	Market-based exclusion process
Applicants	<p>Enterprises in China (or their trade or business associations) engaged in the importation, production, or use of eligible goods.</p> <p>Once goods are approved for exclusion based on an enterprise’s or industry’s application, all enterprises benefit from the exclusion of the approved goods (i.e., no further enterprises are required to submit an application to exclude such goods).</p>	<p>Enterprises in China that purchase and import eligible goods.</p>
Scope	<p>All eligible goods, which consist of goods from List 1 (USD 50 billion) and List 2 (USD 60 billion).</p> <p>Where the government eliminates or suspends additional tariffs on the relevant goods, no exclusion application is necessary.</p>	<p>All eligible goods (see table below); applicants may apply to the CTCSC to request the addition of goods to the list.</p> <p>If the relevant goods are subject to duty-free regimes or imported using certain express courier services, the goods will be automatically excluded from any additional tariffs and no exclusion application is necessary.</p> <p>If the relevant goods have been excluded under the general exclusion process, no additional tariffs would be imposed and no exclusion application is necessary.</p>
Effects	<p>For goods approved for exclusion (regardless of importers and import amounts):</p> <ul style="list-style-type: none"> Starting from the date the exclusion comes into effect, the retaliatory tariffs will not be applicable for one year. 	<p>For an approved applicant:</p> <ul style="list-style-type: none"> Starting from the date the exclusion comes into effect (which is specific to the applicant), the retaliatory tariffs on the applicant’s approved goods (subject to limitations on amount) will not be applicable for one year.

	General exclusion process	Market-based exclusion process
	<ul style="list-style-type: none"> If qualified, the retaliatory tariffs already imposed and collected can be refunded. 	<ul style="list-style-type: none"> Any imported goods above the threshold will be subject to the retaliatory tariffs. No refund will be allowed for retaliatory tariffs imposed before the exclusion comes into effect.
Application process and timing	<p>Online application: http://gszx.mof.gov.cn</p> <p>List 1: 3 June to 5 July 2019</p> <p>List 2: 2 September to 18 October 2019</p> <p>The government has not yet started the application process for goods from List 3 (USD 75 billion).</p>	<p>Online application: http://gszx.mof.gov.cn</p> <p>Beginning 2 March 2020 (no end date has been specified).</p>
Required information	<p>Facts and data with respect to the following:</p> <ul style="list-style-type: none"> Difficulties in identifying alternative sources of goods; Serious economic damage to the applicant caused by additional tariffs; and <p>Major negative structural impacts on related industries or serious social consequences caused by the additional tariffs.</p>	<ul style="list-style-type: none"> The HS code of the relevant goods and information with respect to the purchase plans; and Explanations of the effects of the additional tariffs on the applicant where the applicant wishes to add relevant goods to the eligible goods list.
Review procedure and results notification	<p>The CTCSC will review the applications, collect comments from experts and relevant trade unions/government authorities, and determine and publish the exclusion list in due course.</p>	<p>The CTCSC will review the applications and notify each applicant of the final results through the online application system.</p>
Import declaration requirements	<p>No special requirements.</p>	<p>An approved applicant must submit a self-declaration through the online application system and obtain a special code, which must be included on the customs declaration form when the applicant imports the relevant goods.</p>

The goods eligible for the market-based exclusion process consist of 696 HS code items and are summarized in table below:

Corresponding list	Number of HS code items	Main goods covered
List 1 (USD 50 billion)	140	Beef, pork, shrimp, beans, and other agriculture products; medical, surgical, or veterinary x-ray equipment; diesel, fuel, oil, and other energy products; steel and aluminium scrap; and polyethylene, polypropylene, and other plastics.
List 2 (USD 60 billion)	543	Spotlight, searchlight, inductance, and capacitance tester with recording device; mass spectrometer, liquid, or gas chromatography; LCD display board, camera lenses, routers, wireless headphones; stainless steel seamless boiler tube, logs with different cross-sections; and insulin and its salts.
List 3 (USD 75 billion)	111	Seal oil capsules; cefaclor and its salts; and petroleum oils (some HS code items in List 3 are also in Lists 1 and 2).

Comments

There has been a gradual easing of the trade tensions since China and the US signed the Phase One trade agreement on 15 January 2020, with both sides announcing trade measures to reduce the additional tariffs. The new market-based exclusion process is expected to increase the imports of certain high-quality US products with competitive prices to fulfill the demands in the Chinese market.

Some issues in relation to the new market-based exclusion process may need to be further clarified. For example, as the new exclusion process aims to promote imports according to market-oriented and commercial principles, how would the government authorities look at imports between related parties when reviewing the applications? Would imports of US-origin goods from non-US suppliers (e.g., entrepot trades) be eligible for the exclusion? Businesses should monitor any further guidance released by the government and also should consider the following action steps:

- *Enterprises whose goods already have been included on the list of eligible goods:* Review their existing import plans and apply to the CTCSC under the new exclusion process in a timely manner.
- *Enterprises whose goods have not been included on the eligible goods list:* Apply to the CTCSC for inclusion of the goods on the list and begin collecting the relevant supporting documentation to justify the inclusion.
- *Enterprises that have submitted exclusion applications under the general exclusion process but still are awaiting approval:* Apply for exclusions under the new exclusion process.

- *Enterprises that wish to apply for exclusions under the new exclusion process:* Begin to prepare for the new rules, for example, by assessing import plans to provide the best estimation of the monthly purchase amount, examining relevant contract terms, and reviewing customs classifications and country-of-origin status to ensure the relevant goods are classified correctly and of US origin.

Denmark

CJEU asked to rule on VAT on fees for violation of private parking regulations

The Danish Supreme Court on 24 February 2020 asked the Court of Justice of the European Union (CJEU) for a preliminary ruling in case C-90/20 (Apcoa Parking v. Denmark) on whether “control fees” imposed for violating parking regulations in a private car park are subject to VAT.

The plaintiff is a private company that operates car parks on privately-owned land under contract with the site owner. In agreement with the owner, the company prescribes the conditions for using the car parks (e.g., no parking outside the marked area, no parking without a permit, and the charge for parking). The parking regulations are stated clearly on signs at the entrance to and inside the car parks. Where the rules are violated, the company charges a control fee that is substantially higher than the parking fee.

The Danish Tax Agency (DTA) takes the position that these control fees are subject to VAT on the grounds that when a person enters the car park, he/she is entering into a quasi-contract with the company and, therefore, agrees to comply with the car park regulations. In doing so, car park users acknowledge that violating the rules will result in an control fee. The DTA contends that despite the violation of the parking conditions, the car park user receives the service of a parking space in return for (implicitly) agreeing to the control fee. Therefore, the control fee is to be treated as consideration for the parking service and consequently subject to VAT.

The company is of the opinion that the control fee does not have any direct connection with the supply of any service for consideration and, as such, is outside the scope of VAT, referencing the CJEU’s decision in case C-277/05 (Société thermale d'Eugénie-Les-Bains).

The Danish Supreme Court has decided to stay the proceedings and refer the matter to the CJEU for a preliminary ruling.

Comments

The CJEU’s decision in this case may have broader implications than just for car park operators, i.e., it also may affect other companies that are in a position to impose a similar fee for failure to follow restrictions. The control fees are a significant element of the revenue of car park operators, and a change in the VAT status of such receipts would have a substantial impact on the sector. The Advocate General’s opinion and subsequent CJEU ruling are awaited.

Egypt

VAT reporting requirements updated

On 18 March 2020, Egypt's Minister of Finance issued a decree updating the VAT reporting requirements (decree no. 172 of 2020). The amendments are effective as from 19 March 2020.

Pursuant to the decree, all VAT registered taxpayers must provide details of their purchases from suppliers and sales to customers/clients when submitting their VAT declarations electronically on the Egyptian Tax Authority's online portal.

Any misreporting will be considered tax evasion.

France

New guidelines for non-EU exporters released

The French customs administration issued new guidelines on 3 March 2020 that amend the administration's position regarding exports from France by non-EU companies. The new rules were to become effective on 1 May 2020.

However, on 27 March 2020, the French customs administration announced the extension of the 1 May deadline to 1 October 2020 to take into account the severe difficulties encountered by operators during the lock-down related to COVID-19. Indeed, some operators have indicated that they would not be able to meet the 1 May 2020 deadline.

The Union Customs Code (and associated regulations) that has applied in the EU since 1 May 2016 (replacing the previous customs legislation framework) makes it impossible for non-EU established companies to act as exporter of record (only EU-established entities can be the exporter). This change created difficulties for those companies to justify a VAT exemption on sales for export (i.e., a foreign company remains the exporter for VAT purposes but another company acts as the exporter of record for customs purposes). Transitional measures were introduced to mitigate the impact of the rules under the UCC.

The French customs administration issued guidelines for a transition period during which a non-EU established company may continue to act as the exporter of record for customs purposes (reported in box 2 of a single administrative document (SAD or customs declaration)) if it has appointed an indirect customs representative (SAD, box 14, code 3). The transition period was supposed to start on 1 May 2016 and end on 31 December 2020.

However, in 2018, the EU amended the definition of exporter to address certain difficulties encountered by non-EU established companies (EU regulation 2018/1063). Following this change, the European Commission updated its guidelines in July 2019. Under the new guidelines, the transitional measures no longer include provisions regarding the exporter of record (no justification for this change was provided, but it may be that the Commission thought that the new definition of exporter rendered the transitional measures unnecessary).

Following those changes, the French customs administration decided to publish new guidelines, shortening the transition period.

As from 1 October 2020 (according to the latest update from the French customs authorities), a company that is not established in the EU no longer will be able to act as the exporter of record in France and thus be reported in box 2 of the SAD. The indirect customs representative will have to be reported both in boxes 2 and 14 of the SAD.

In practice:

- Non-EU companies may continue to export goods from France provided that they have appointed an indirect customs representative (mandatory as from May 2016) that is reported in boxes 2 and 14 of the SAD;
- From a VAT perspective, the French VAT number of the VAT exporter must be reported in box 44 of the SAD to validate the transaction is exempt from VAT. In the case of chain transactions, it is important to identify the transaction qualifying for VAT exemption and to ensure that all supporting documentation is correctly prepared and retained by the VAT exporter. If the VAT exporter fails to provide the SAD disclosing its French VAT number in box 44 of the SAD (and referring to the correct transaction), the French tax administration could challenge the VAT exemption applied and reassess the company; and
- The French customs administration recommends that the parties agree in writing as to which party will act as exporter of record. This will help to prove that this party “has the power to determine [...] that the goods are to be taken out of that customs territory.”

Hungary

CJEU rules Hungarian turnover tax in store retail trade sector compatible with EU law

On 3 March 2020, the Court of Justice of the European Union (CJEU) issued a decision in the *Tesco* case (C-323/18), ruling that the Hungarian special turnover tax in the store retail trade sector (“special tax”) does not violate the freedom of establishment under the Treaty on the Functioning of the European Union. The state aid questions referred to the CJEU were determined to be inadmissible.

Background

The taxpayer, Tesco-Global Áruházak Zrt. (“Tesco”), is a public limited company that has its registered office in Hungary and is engaged in wholesale and retail trade, and is part of the UK-based Tesco group.

Under the Hungarian special tax, companies were taxed progressively on their turnover between 2010 and 2012. The first bracket—turnover up to HUF 500 million (around EUR 1.5 million)—was taxed at 0%. The rate increased for three other brackets, and the top bracket on turnover exceeding HUF 100 billion (around EUR 300 million) was taxed at a rate of 2.5%. No distinguishing criterion was applied to treat cross-border situations less favorably than domestic situations. However, according to the taxpayer, standalone Hungarian companies predominantly benefitted from the 0% tax rate, while the highest bracket was almost entirely applied to Hungarian resident group companies with non-Hungarian parent companies.

Tesco was of the opinion that the effective tax exemption from the special tax for Hungarian retail store companies should be considered incompatible state aid, and that this would mean that Tesco itself should not be liable to pay the tax either. It also argued that the special tax was incompatible with the freedom of establishment, since foreign-owned companies were taxed at a higher rate than domestically held companies in almost all situations.

Decision of the CJEU

The CJEU disagreed with both of Tesco's positions.

In relation to the state aid argument, Tesco claimed that Hungarian-owned companies usually were not subject to the special tax and that this effective exemption was an exception to the main rule that Hungarian turnover was taxed. As—in practice—the tax exemption generally was available only to Hungarian-owned companies, Tesco considered the exemption to confer a selective advantage to Hungarian-owned companies. Tesco claimed that this meant that Tesco itself had to be exempt from the special tax as well.

The CJEU, however, decided that any illegality under EU law of the exemption from the special tax for which some taxable persons qualify is not capable of affecting the legality of that tax itself. In other words, Tesco could complain to the European Commission that the exemption was state aid (which, if successful, would result in a recovery of the advantage (i.e., the unlawful exemption) from the Hungarian-owned companies that benefitted from the advantage) but, in any event, this would not discharge Tesco from the liability to pay the special tax. Importantly, the CJEU did not rule that the special tax did not constitute illegal state aid; it considered the related questions inadmissible altogether based on the taxpayer's arguments.

The court then considered Tesco's argument that the progressive tax rate structure was incompatible with the freedom of establishment because Hungarian-owned companies usually benefitted from a 0% or 0.1% tax rate, while the companies that suffered the highest tax rate generally were part of multinational groups. Even though the Hungarian law did not formally apply a criterion distinguishing between domestically owned and foreign-owned companies, Tesco argued that it effectively favored (standalone) Hungarian companies. The CJEU rejected this argument and noted that progressive taxation may be based on turnover, since, on the one hand, the amount of turnover constitutes a neutral criterion of differentiation and, on the other, turnover constitutes a relevant indicator of a taxable person's ability to pay. The fact that the greater part of the special tax was borne by companies owned by individuals or legal persons from other EU member states could not, by itself, warrant classification of the tax as discriminatory, since the Hungarian market was dominated by foreign-owned companies realizing large amounts of turnover. Consequently, the CJEU upheld the legality of the Hungarian special tax.

Relation to *Hervis*

The *Tesco* case relates to the same Hungarian special tax that the CJEU previously found to be incompatible with EU law in 2014 (*Hervis*, C-385/12). This time, the CJEU considered different aspects of the special tax and reached a different conclusion. The CJEU explicitly referred to the *Hervis* case and distinguished it from the *Tesco* case. The *Hervis* case involved the combined application of steeply progressive rates of taxation of turnover and a rule for the consolidation of turnover of linked undertakings, which resulted in taxable

persons belonging to a group of companies being taxed on the basis of “fictitious” turnover. According to the CJEU, the fact that taxation on fictitious turnover was not at issue in the *Tesco* case justified a different outcome.

Italy

Update on procedural changes relating to letters of intent

The director of the Italian revenue agency released guidance (No. 96911/2020) on 27 February 2020 that implements new rules introduced by Legislative Decree No. 34/2019 regarding letters of intent of frequent exporters and updates the form for declarations of intent (Form DI) and the relevant instructions. The changes aim to simplify the zero-rated VAT regime for frequent exporters.

According to the provisions of Legislative Decree No. 34/2019, as from 1 January 2020:

- Frequent exporters no longer are required to provide their suppliers with a copy of the letter of intent electronically filed (“e-filed”) with the tax authorities and the relevant receipt (the tax authorities will issue the relevant receipt after the letter of intent is e-filed); and
- On zero-rated invoices, suppliers of frequent exporters are required to list the protocol number (the assigned sequential number) of the e-filing receipt for the letter of intent.

The following also are eliminated:

- The requirement to prepare sectional ledgers for the letters of intent issued/received;
- The requirement to submit the hard copy of letters of intent to the customs authorities (the customs authorities previously had confirmed this is not necessary with Note No. 58510/2015); and
- The specific section of the annual VAT return that was to be completed by the supplier with data on the letters of intent received.

In addition to the measures specified in Legislative Decree No. 34/2019, the implementation guidance indicates that:

- Data related to letters of intent will be made available to each supplier in its dedicated website account managed by the tax authorities (“*Cassetto Fiscale*”), so suppliers of frequent exporters will need to activate their account to be able to access the data on letters of intent received; and
- The new Form DI must be used as from 2 March 2020.

Mexico

VAT withholding required on labor subcontracting and certain other services

As part of Mexico’s 2020 tax reform package, taxpayers receiving services are required to withhold 6% VAT from their service payments as from fiscal year 2020. Failure to do so will result in the disallowance of a deduction of the expenses and the inability to recover input VAT.

Legislative background

Late in 2019, Mexico's president proposed to amend the Income Tax Law by making withholding obligations an additional requirement for taxpayers to be able to deduct expenses or investments when calculating their income tax liability. The president also proposed an amendment to the VAT law requiring labor subcontracting service recipients (payees) to withhold a 16% VAT from their payments to contractors.

Although the Congress, in its proposed bill, agreed with the federal executive about the withholding requirement, it modified the 16% rate and the scope of the services subject to the withholding tax.

The Congress ultimately approved legislation on 9 December 2020 establishing that the VAT withholding requirement should apply to legal entities and individual entrepreneurs (payees) that receive services for which a contractor's personnel are made available, directly or through a related party, from personnel carrying out functions at facilities of the payee or a related party, regardless of whether the personnel are under the direction, supervision, or coordination of the payee, regardless of coordination with or dependence on the payee, and regardless of the terms of the contractual obligation. The VAT withholding is 6% of the compensation actually paid.

Comments

The explanatory memorandum to the 2020 tax reform issued by the president and discussed during the legislative process seemed to indicate that the 6% VAT withholding would apply only to labor subcontracting operations.[1] However, the final text of the legislation did not refer to labor subcontracting operations but was approved with the description provided in point 4 above.

One interpretation of the approved language is that the VAT withholding requirement will not apply if the contractor's personnel is not made available to the payee, regardless of who directs, supervises, or coordinates the personnel, on whom the personnel depends, or the location where the services are rendered.

Although the tax reform proposal and its explanatory memorandum initially were focused exclusively on labor subcontracting arrangements, it could be argued that the final legislative text encompasses other types of services agreements because some terms are inconsistent with labor subcontracting arrangements, such as the fact that the payee does not have to supervise or direct the personnel. Therefore, the scope of the withholding requirement could be deemed to be broader, applying as long as the contractor's personnel are made available to the payee.

There will be situations where the contractor's personnel will be made available to the payee, such as loan staff providing administrative, accounting, or operational services, etc. (generally called outsourcing services), or cleaning or security staff, among others, in which cases the withholding and reporting requirements will apply.

However, due to the legal uncertainty regarding the final wording of the legislation, the Tax Ombudsman released the following statement on 9 January 2020 in response to taxpayers' inquiries:

... Taking into account the analysis and study of the explanatory memorandum and the VAT law proposal, as well as all the considerations of the various commissions during the legislative process, [the Tax Ombudsman] deems that the withholding requirement established in article 1-A, section IV of the VAT law applies only to labor subcontracting services.

The Tax Administration Service (SAT) subsequently released the following clarification on its website on 31 January 2020:

... when a legal entity described in Title II or Title III of the Income Tax Law, or an individual entrepreneur, in its role as contracting party (payee) receives services in which [a contractor's] personnel is made available, it is understood that the VAT withholding will be imposed when the functions of the personnel are being used directly by the payee or a related party of the payee. However, no withholding tax will be imposed if the services rendered by the contractor's personnel are used directly by the contractor itself.

Observations

Based on the guidance arising from the legislative process, the approved legislative text, and the statements issued by the Tax Ombudsman and the SAT, it would appear that the new 6% VAT withholding requirement applies to all services where a contractor's personnel is made available to a contracting party (payee), including, but not limited to, labor subcontracting services.

[1] According to the Federal Labor Law, work performed under a labor subcontracting arrangement is one where an employer-contractor performs certain tasks or renders services with dependent personnel for the benefit of the other contracting party (payee), which is an individual or legal entity that determines the tasks or services to be performed by the contractor and that supervises the performance of the services or the execution of the tasks contracted.

New Zealand

New GST issues paper released

New Zealand's GST system is often referred to as one of the world's best value added taxes. GST currently collects approximately NZD 28 billion per annum (or approximately 32% of tax revenue) with relative ease. However, like other tax revenue regimes, the Goods and Services Tax Act 1985 (GST Act) requires regular repairs and maintenance in order to maintain the certainty, efficiency, and fairness of the GST system.

On 24 February 2020, Inland Revenue released an officials' issues paper, GST policy issues (issues paper), seeking feedback on a wide range of GST-related policy issues to ensure that the GST rules remain current for modern business practices and technology while remaining fair.

A high-level summary of the issues and corresponding proposals are outlined below. Many will be of general interest to all taxpayers; however, there are a number that are industry specific.

Officials are seeking feedback on the issues set out in the paper. Submissions close 9 April 2020.

A number of the proposals are taxpayer positive, and therefore should be publically supported through submissions if taxpayers want the proposal to proceed, particularly if there is a potential fiscal cost to the proposals. While not stated in the issues paper, the supporting documents released with the issues paper allude to the need to consider the fiscal position once some of the policy proposals have been narrowed down to preferred options, indicating that not all proposals may go forward if they are not specifically supported by the business community.

The issues paper also presents the opportunity to submit on GST issues outside of those directly covered in the issues paper and to highlight any other niggles that may exist between common business practice and the black letter law.

Summary of issues discussed

Tax invoice requirements

The issues paper proposes some changes to GST invoicing requirements to align with changes in business practices and technology. This positive proposal suggests removing some of the invoicing requirements or making the requirements more flexible. For example, modernizing legislation to deal with e-invoicing, removing the need for Inland Revenue approval for buyer-created tax invoices, more flexibility around shared invoices, and relaxing penalties around issuing duplicate invoices. We recommend that businesses use the issues paper as an opportunity to highlight other opportunities to simplify or improve the rules for tax invoices, credit notes, and debit notes – accounts payable and receivable staff are likely to have a long wish list of possible invoicing improvements.

Crypto-assets

Cryptocurrencies (crypto-assets) are not treated as currency and therefore have an unfavorable GST treatment compared to money or other investment products, with GST charged at 15% on the supply of the crypto-asset (theoretically, at least: we question whether this treatment is applied in practice). There is also a potential “double taxation” problem when income tax is later applied to the sale of cryptocurrency. The proposal suggests excluding cryptocurrencies from GST and the financial arrangement rules. An advantage of this approach is that it should provide a neutral tax treatment for those crypto-assets that are close substitutes for existing financial products such as currency or shares. Income tax will still apply to any profits made when cryptocurrencies are sold or traded.

Apportionment and adjustment

The existing apportionment and adjustment rules are complex and difficult to apply in practice. In some situations, they can result in under- or over-taxation. The issues paper suggests a number of different amendments to specific apportionment and adjustment rules. In addition, feedback is sought on further ways in which the rules could be simplified and improved.

Domestic legs of the international transport of goods

Courier business practices will often sub-contract part of the journey for an international delivery to other providers.

Currently, the GST zero-rating rules for international transport do not accommodate these sub-contracting practices; instead, GST technically needs to be charged on transport within New Zealand when the goods are being moved within New Zealand by a subcontracted courier. This is seen as being against the underlying policy of GST not applying as a cost to international transportation. The issues paper proposes fixing the technical issues by zero-rating domestic transport services that are supplied to a nonresident transport supplier that is providing international transport of goods to or from New Zealand.

Business conferences and staff training

Currently it is possible for a nonresident business to register for GST and claim back GST incurred in New Zealand on business conferences and training. However, it is impractical for nonresident businesses to do this for what may be a one-off expense; the compliance costs may often exceed the GST in question. To reduce compliance costs, the issues paper proposes allowing for services such as conferences, conventions, and staff training services supplied to nonresident businesses to be zero-rated. Zero-rating would not apply to education and training provided to individuals or "incentive tours" that reward employees with tourism experiences. This could make New Zealand a more desirable hosting location for large international conferences, conventions, and training, and would also put the New Zealand regime on par with other destinations such as Australia and Singapore.

Managed funds

One long running issue that might be solved by the issues paper is the GST treatment of different types of management services supplied to managed funds. The rules are complex and are applied inconsistently within the industry. Some managers apply 15% GST to all their services, while others apply 15% GST to only 10% of service fees. This distorts competition by favoring certain types of managed funds based on how the supplier has chosen to interpret the GST rules. The proposal suggests developing new rules for fund manager and investment manager services. Several alternative options, which would have different fiscal consequences, are discussed:

1. Taxable (15% GST).
2. Exempt financial services.
3. Deem a percentage to be exempt (and the remainder taxable).
4. Zero-rating or a reduced input tax credit mechanism.

Insurance pay-outs to third parties

The rules around insurance pay-outs to third parties are complex. An issue arises where a GST-registered third party receives an insurance pay-out without knowing its source, and accordingly treats the payment as compensation with no GST charged. The proposal discusses three alternative options:

1. Making the insurer responsible for the GST obligations on behalf of the claimant (this would require the insurer knowing the GST status of the claimant and any associated third parties).
2. Requiring disclosure to the third party that the payment is covered by insurance and therefore GST may be required to be returned on the settlement amount.
3. No law change but Inland Revenue would provide education and guidance to advisors and taxpayers about the need to consider GST implications when negotiating insurance pay-outs.

This proposed law change complements a Commissioner's Statement issued on this topic in February 2020.

Compulsory zero-rating of land

It has been identified that there are some situations where the current compulsory zero-rating of land rules appears to produce inconsistent outcomes. The proposals include:

- Clarifying that section 5(23) applies to place the output tax liability on the purchaser, in cases where a vendor incorrectly zero-rates land;
- Clarifying that section 5(23) applies to standard-rate the supply of land on the date that the original supply was incorrectly zero-rated;
- Adjusting the second-hand goods input credit, in cases where land should have been zero-rated in the taxable period in which it became apparent that the amount of input tax deducted was incorrect; and
- Clarifying that section 20(3J), applies from the time of supply of the land.

Technical and remedial issues

Other technical or remedial changes are required to various rules in the GST Act to ensure these rules work as intended. The proposals include changes to:

- GST grouping rules;
- Claiming input credits on goods not physically received yet at the time a GST return is filed;
- Second-hand goods input credits on supplies between associated persons;
- Provide more flexibility for the Commissioner to approve the end date of a taxable period;
- Ensure that members of non-statutory boards do not have a taxable activity; and
- Introducing a right to challenge the Commissioner's decision to reopen time-barred GST returns.

When is a gift unconditional?

Separate from the issues paper, at the end of February the Inland Revenue also released a draft interpretation statement, Goods and Services Tax – Unconditional Gifts (draft statement). This draft statement refreshes the guidance last provided by Inland Revenue in 1991 about when a GST-registered non-profit body is required to return output tax on gifts received (i.e., donations). The key issue is whether a donor is receiving an “identifiable direct valuable benefit” of more than nominal value in return for the gift. If a gift is made with an expectation of a benefit, then this will not be an “unconditional gift,” and the non-profit body will be required to return output tax. There will be a spectrum of benefits being provided by non-profit bodies to donors, and this is not necessarily a straight forward matter to resolve. Non-profit bodies should use this draft statement as a reason to take a fresh look at fundraising activities to ensure GST is being properly considered. Submissions on the draft statement close on 10 April 2020.

New Zealand

Snapshot of recent developments (March 2020)

Tax legislation and policy announcements

Consultation on proposed changes to unclaimed money

On 28 February 2020, consultation closed on changes to the Unclaimed Money Act 1971. The purpose is to simplify the administrative processes and reduce compliance costs as part of Release 5 of Business Transformation. If amended, the new unclaimed money rules will remove the need for holders of unclaimed money to maintain physical registers, reduce the period of time which must elapse before money is deemed unclaimed, and improve Inland Revenue’s ability to match unclaimed money with people.

Inland Revenue statements and guidance - Finalised items

Loss offset elections between group companies

On 13 February 2020, Inland Revenue finalised a standard practice statement on loss offset elections between group companies (SPS 20/02). In SPS 20/02, the Commissioner sets out certain practices deemed acceptable when offsetting losses by election between group companies. The practice statement also outlines the consequences of specific events that can affect a loss offset, and how taxpayers should address these outcomes. SPS 20/02 updates and replaces SPS 17/03, effective as from 12 February 2020.

Treatment of the receipt of lump sum settlement payments

On 24 February, Inland Revenue published an updated interpretation statement (IS 20/01) on the income tax treatment of lump sum payments received to settle claims that are both capital and revenue in nature. The statement is essentially a re-issue of a previous item with a reference corrected.

The interpretation statement confirms that:

- Where a single undissected sum is received, it should be apportioned between its capital and revenue elements where possible.
- Any apportionment must be made on an objective basis, with the settlement agreement and any related documents being the appropriate starting point.
- The circumstances surrounding the agreement and other relevant evidence should be considered, where necessary.
- The onus of proof is on the taxpayer to show the apportionment is appropriate, especially to prove an amount is non-taxable when the lump sum includes an amount that is taxable under Part C.
- Where a payment cannot be appropriately apportioned, the whole amount should be treated the same, i.e., generally as income.

When are tax payments received in time?

The Commissioner has finalised a standard practice statement (SPS 20/01) for accepting tax payments in time. Coverage of the practice statement includes: electronic payments, debit/credit cards, Westpac over-the-counter payments, tax pooling, tax transfers, Income Equalisation Scheme deposits, primary sector business customers, and weekends and public holidays.

The practice statement confirms that cheques will no longer be accepted as a method of payment as from 1 March 2020 (except in some exceptional circumstances). This practice statement is effective as from 5 February 2020 and replaces SPS 19/01.

New operational position on Part 10B transfers of excess tax, effective date for ICA entries

On 5 February, the Commissioner published an operational position (OP 20/01) on Part 10B transfers of effective tax. Part 10B of the Tax Administration Act 1994 (the TAA) enables taxpayers to sometimes choose a date (the date of transfer) from which a transfer of overpaid tax will be effective. These rules have raised a question over the effect on the imputation credit account (ICA) of both transferor and transferee companies if the transferor selects an earlier date of transfer. The Commissioner has taken the position that the correct approach is for taxpayers to update the ICA for the date of transfer, i.e., the effective date chosen. The operational position applies to requests for transfers made on or after 5 February 2020 (i.e., not retrospective).

In some cases, this approach contrasts with common commercial practices (prior to the release of the operational position) which may now result in further income tax, imputation penalty tax, and use of money interest for the transferor company.

Commissioner statement on GST liability for insurance and settlement payments to third party claimants

On 3 February, the Commissioner issued a statement (CS 20/01) that sets out her position and operational approach to the GST liability of GST-registered third party claimants when they receive a payment for damages or loss incurred, including by way of settlement agreement, under a contract of insurance. The Commissioner's position is as follows:

When an insurer of an insured person pays an amount to a GST-registered third-party claimant in relation to a claim that the third party claimant has against the insured person, and the other requirements of section 5(13) of the Goods and Services Tax Act 1985 are met, then the third party claimant must return GST on the receipt of that payment.

Binding rulings

Inland Revenue has published a guide on "How to get certainty on a tax position" (IR715). This guide defines binding rulings and explains the application process. The guide is also helpful to understand when Inland Revenue will/will not give a ruling.

Prosecution guidelines

Inland Revenue has updated its website with prosecution guidelines designed to ensure a consistent approach to prosecutions nationally.

Inland Revenue - Draft items for consultation

Natural love and affection exception to debt remission income for look-through company

On 28 February, Inland Revenue released a draft QWBA for consultation (PUB00349). The draft QWBA considers whether a look-through company (LTC) derives debt remission income when a close friend or family member of the LTC's shareholder forgives a loan made to the LTC. In summary, section EW 46C of the Income Tax Act 2007 prevents the LTC from deriving debt remission income if the shareholder and the close friend or family member have natural love and affection for each other. Taxpayers can submit comments on the draft QWBA to Inland Revenue prior to 10 April 2020.

Other items of interest

Tax relief available for those affected by the summer drought or Coronavirus

Primary Industries Minister Damien O'Connor has declared a drought from the Northland Region to the northern part of Auckland (down to the Harbour Bridge). Inland Revenue is urging taxpayers affected by the drought to get in contact as tax relief is potentially available. Tax relief is also available to taxpayers affected by Coronavirus COVID-19.

Peru

Guidance issued on exports of services for VAT purposes

In guidance (No. 011-2020) published on 14 February 2020, the Peruvian tax authorities (SUNAT) considered two types of services and provided clarification on the requirements for

them to qualify as exported services for VAT purposes. Based on the guidance, services rendered within Peru may be considered exported services if the economic benefit of the services is realized abroad.

Under the VAT law, services are considered exported and are not subject to VAT in Peru if the following requirements are fulfilled:

- The services are provided in exchange for consideration from abroad.
- The exporter of the services (the service provider) is a Peruvian resident entity.
- The user or beneficiary of the services is a nonresident.
- The use or exploitation of the services provided to the nonresident does not take place in Peru.
- The exporter of the services is registered in the SUNAT register of exporters of services.

The new guidance provides that services rendered in Peru by a resident entity to a nonresident entity and that facilitate sales that are realized abroad qualify as exported services, so they are not subject to VAT. The types of sales support services that may qualify for this treatment include, e.g., services relating to customer acquisition, product catalog development, negotiation with customers, receipt of purchase orders, tracking of customer inventory levels, annual demand forecasts for the Peruvian market, etc.

In the guidance, the SUNAT explained that although the services considered are rendered entirely in Peru, the economic benefit (sale) to the nonresident is realized abroad; thus, the services would qualify as exported services for VAT purposes.

The SUNAT also considered services rendered in Peru by a resident entity to a nonresident entity under a mandate contract without representation (a type of contract under which a party acts as an agent but in its own name) that requires the resident entity to initiate and complete importation procedures and subsequently deliver the goods to customers located in Peru. The SUNAT concluded that these services would not qualify as exported services and, therefore, the services would be subject to VAT.

The SUNAT explained that where the transfer of property occurs determines where the benefit is realized, so when goods are transferred to customers located in Peru, the economic benefit must be considered to be realized in Peru. Consequently, the services would not qualify as exported services and would be subject to VAT.

Poland

Ministry of Finance considers relaxing requirements of VAT “white list”

A bill being considered by Poland’s parliament would make changes to the VAT “white list” regulations that became effective on 19 September 2019 (with penalties applying for noncompliance as from 1 January 2020) to address the administrative burden the list has created for taxpayers.

The white list is an electronic register of VAT taxpayers maintained by the head of the National Revenue Administration (KAS). The list contains detailed information (e.g., identifying information, bank account numbers, etc.) about business customers to enable verification of the counterparties to VAT transactions and to facilitate due diligence, but in practice, the list has created additional administrative burdens for taxpayers. In particular, the white list regulations require taxpayers to verify whether the details of their customers' bank accounts are consistent with the information found in the database of the Ministry of Finance.

Penalties

As from 1 January 2020, if a taxpayer pays for a transaction valued at more than PLN 15,000 to a bank account that is not included in the white list (an "excluded account"), the taxpayer may face the following consequences:

- The amount of the payment made to the excluded account will not be treated as a tax-deductible expense; and
- Joint and several liability will apply for the taxpayer for VAT included on the invoice by the supplier/service provider.

Taxpayers can avoid these penalties by properly notifying the head of the tax office in the jurisdiction of the issuer of the transfer within three days from the date the transfer order is placed.

During the transitional period between September and December 2019, when the white list was binding but the penalties were not yet applicable, taxpayers made preparations to be able to fulfil their obligations. Since the penalties have been in effect, one of the main problems for taxpayers has been generating and archiving complete documentation confirming that the accounts of their customers are included in the white list on the day of the transfers. Various tools now are available in the marketplace that improve this verification process. When deciding which tool to use, a taxpayer should ascertain whether the tool allows verification of customer information for mass payments (some tools only verify one-time transfers), whether the tool automatically records notifications, results, and the time of the verification, and identifies entities that are not active VAT taxpayers. Tools that facilitate broader verification also complement other due diligence processes.

Proposed changes

The amendment bill before the parliament would allow penalties for payments made to an excluded account to be avoided if:

- The taxpayer implements a "split payment" mechanism (which currently excludes joint and several liability for the VAT arrears of the supplier/service provider but does not mitigate the risk that the taxpayer may not be able to treat the payment as a tax deductible expense);
- The invoices document intra-EU acquisitions and supplies of goods, as well as imports of goods and services settled through the reverse charge mechanism; or

- Payments are made to accounts that are maintained by banks or credit unions for their own operations or assignment purposes (if the taxpayer receives information on the status of such an account from the bank, credit union, or invoice issuer that provides the details of the account).

The time limit to notify the relevant tax authorities of a transfer to an excluded account would be extended from three days to seven days. Additionally, the notification would have to be made to a different authority, i.e., to the head of the tax office in the jurisdiction of the transferor. These changes should facilitate and simplify the reporting process.

If enacted, most of the changes would become effective on 1 April 2020, but it is possible that implementation of the new rules may be postponed due to the coronavirus situation. The current wording of the bill includes beneficial transitional provisions such that taxpayers would be able to avoid penalties and deduct payments made using a split payment mechanism retroactively as from 1 January 2020.

Although the legislative process is ongoing, companies should begin to consider implementing a split payment mechanism as a potential way to mitigate the risk of penalties and as an alternative to notifying the relevant tax authorities.

Russia

Update on VAT developments

This article highlights some recent VAT announcements by the Russian Ministry of Finance and other VAT developments.

Reinstatement of VAT following a corporate reorganization

As from 1 January 2020, the assignee (the successor company to whom the rights, responsibilities, and assets of the companies involved in the reorganization are transferred) must reinstate the VAT previously recovered by the reorganized companies (i.e., return the amounts to the state budget) where the:

- Assignee uses the goods, work, or services in non-VATable transactions, including a subsequent transition to a special tax regime;
- Assignee purchases goods, work, or services with advance payments made by the reorganized company for future supplies – the VAT in respect of the advance payments must be reinstated; and
- Cost of goods, work, or services purchased by the reorganized company is reduced.

The assignee must reinstate the amount of VAT in accordance with paragraph 3.1, article 170 of the Russian Tax Code.

VAT rules for e-services provided by foreign individual entrepreneurs

Ministry of Finance Letter No. 03-07-08/38 issued on 9 January 2020 reminds foreign companies supplying electronic services (e-services) with a place of supply in Russia, and that receive payments directly from Russian customers, that they should be registered with the Russian tax authorities as e-services suppliers.

However, the Tax Code does not impose similar obligations on foreign individual entrepreneurs supplying e-services to Russian customers. In this case, the Russian customer should act as a tax agent and account for the Russian VAT via the reverse charge mechanism.

VAT treatment of samples

In Letter No. 03-07-11/5569 issued on 30 January 2020, the Ministry of Finance confirms that the transfer of a test batch should be recognized as a free of charge supply from a Russian VAT perspective, and subject to Russian VAT under the general rules. The tax base should be defined as the cost of the transferred materials, based on the market price.

VAT on the sale of civil aircraft registered with the State Register of Civil Aircraft (SRCA)

Letter No. 03-07-11/97347 issued by the Ministry of Finance on 12 December 2019 provides a reminder that the supply of the following goods, services, and work is zero-rated for VAT purposes:

- Commercial aircraft registered or to be registered with the SRCA;
- Work and other services in connection with the construction of commercial aircraft; and
- Aircraft engines, and spare parts and components used for the construction, repair, or modernization of commercial aircraft in Russia.

The right to recover input VAT related to these operations arises at the time the tax base is determined, which is the date of supply of the goods, services, or work.

Application of VAT exemption for telemedicine services

The Russian Tax Code provides for a VAT exemption for an approved list of medical services supplied under license. In Letter No. 03-07-07/1614 issued on 16 January 2020, the Ministry of Finance clarifies that telemedicine technologies supporting health care delivery are considered as a technological component of such care. The VAT exemption, therefore, also may be applied to telemedicine services where the licensing requirements are met.

VAT rate on fruits, berries, and palm oil

Ministry of Finance Letters No. 03-07-07/83680 issued on 30 October 2019, and No. 03-07-07/83320 and No. 03-07-14/83324 issued on 29 October 2019, confirm that the following VAT rates apply in accordance with Federal Law No. 268-FZ as from 1 October 2019:

- Fruits and berries (including grapes) supplied or imported into Russia – 10%; and
- Palm oil – 20% (increased from 10%).

A new section, "Fruits and berries (including grapes)," is added to the list of codes for food categories established by a government decree in 2004, that includes watermelons, melons, tropical fruits, citrus fruits, berry seedlings, and wild berries. A new code for palm oil is added to the section "Cooking oil." Both amendments apply as from 1 October 2019.

Singapore

New GST compliance measures announced and updated e-Tax guides issued

This article provides an update on recent developments in Goods and Services Tax (GST) in Singapore.

Standard rate of GST

The finance minister confirmed in the budget 2020 speech on 18 February 2020 that the GST rate will remain at 7% until 2021, but will increase to 9% sometime between 2022 and 2025. This is to raise tax revenue to help meet Singapore's predicted future spending requirements, particularly for healthcare spending.

Participate in GST Assisted Compliance Assurance Program (ACAP) in place of GST audit

In February 2020, the Inland Revenue Authority of Singapore (IRAS) sent letters to certain GST-registered businesses (GRB) notifying them that they had been selected for a GST audit. However, the letter also includes the option to participate in the ACAP in place of the audit. A business that does not wish to participate in the ACAP must provide the IRAS with a contact person with whom the IRAS may liaise over subsequent GST audits. Since the introduction of the ACAP in 2011, over 600 businesses from different industries have successfully applied to participate in the program, which is part of an ongoing initiative by the IRAS to encourage GRB to strengthen their tax risk management policies and internal control measures to manage GST risks. Benefits of participating in the ACAP compared to an IRAS audit include the following:

- A one-time waiver of all penalties for disclosure of past errors: Where errors are uncovered by the IRAS during an audit, penalties of up to 200% of the tax due may be imposed.
- Increased flexibility in scheduling the internal resources required to prepare and submit the necessary information: ACAP participants have 15 months from the date of their acceptance into the ACAP to submit the ACAP report.

Participants in the ACAP also receive the following benefits for five years ("Premium" participants with at least 80% of the required controls in place) or three years ("Merit" participants with at least 60% of the required controls in place):

- No IRAS GST audits--ACAP participants must conduct two self-reviews during the period for which they participate in the program;
- Expeditious GST refunds;
- Faster resolution of issues and rulings; and
- Auto-renewal of GST schemes.

- GRB that receive the letter from the IRAS must complete the electronic reply slip via the link provided in the letter by 30 April 2020 to apply to participate in the program. The IRAS requires a GST Accredited Tax Advisor who is a member of the Singapore Institute of Accredited Tax Professionals (SIATP) to perform the ACAP review.

IRAS updates to GST-related e-Tax guides and website content

The IRAS has continued to update and revise its GST-related e-Tax guides and website content. Some of the key amendments made are highlighted below.

Fringe benefits

The fourth edition of the GST: Fringe benefits e-Tax guide includes the following changes:

Temporary accommodation provided to foreign employees

Foreign employees of GRB who relocate to Singapore/another country or visit for business purposes (e.g., business meetings, projects, and trade events) may be provided with temporary accommodation for up to 31 days per visit when they are in Singapore. In an amendment to the existing administrative concession, the input tax incurred on temporary accommodation now is claimable as from 1 February 2020. Prior to 1 February 2020, where temporary accommodation was provided for more than 31 days for a single visit, the entire input tax incurred was disallowed. Where the expense is incurred on or after 1 February 2020, GRB may claim the portion of input tax attributable to the first 31 days.

Transport and related expenses

GRB may hire chartered buses, taxis, drivers, chauffeurs, or other pre-booked forms of transport to carry employees between their home and the workplace during ordinary working hours. The GST incurred on such transport expenses is not claimable. The IRAS' position is that it is the personal responsibility of employees to ensure that they arrive at work on time and they may choose the most suitable mode of home to work transport. GST incurred on all other employee transport expenses is claimable (e.g., where arranged transport services transport employees between designated pick-up/drop-off points and the workplace). This is a relaxation of the existing concession that allowed GST to be claimed only where the workplace was at least a specified distance from the nearest public transport. GST is not claimable under the concession where the expenses are incurred directly in connection with a motor car as defined under regulation 25 of the GST (General) Regulations. Such input tax is blocked under regulation 27.

GST treatment and documentary requirements for retailers operating at Changi International Airport

The third edition of the GST: Guide for Retailers e-Tax guide sets out the GST treatment and documentary requirements that apply to the following:

- **Shops located in the airport public areas:** GRB are required to charge and account for 7% GST on all sales made in shops located in the airport's public areas.

- **Shops located in the airport transit/restricted areas:** The GST treatment and documentation requirements for sales of goods and services by shops located in the airport transit/restricted areas (i.e., after the immigration check-in area) is clarified as follows:

Scenario	GST treatment	Documentation requirements
Goods sold to departing passengers	Zero-rate	Viewing the passenger's passport and boarding pass to ensure that the passenger will be leaving Singapore Where a single sale amounts to at least SGD 500, GRB must record the passenger's passport number and flight number
Goods sold to arriving passengers	7% GST Exception: duty-free items such as liquor do not attract GST	Record the passenger's passport number and flight number
Goods sold to airport staff	7% GST	N/A
Financial services (e.g., exchange of currency)	Exempt	N/A
Services other than financial services (e.g., hairdressing and spa services)	7% GST	N/A

New boxes in GST return

With the implementation of Reverse Charge and Overseas Vendor Registration, the IRAS has announced on its website that GST returns for periods ending on or after 1 January 2020 will include two new boxes (box 14 and box 15). The first quarterly GST returns including the two new boxes will be for the following periods:

- 1 November 2019 to 31 January 2020;
- 1 December 2019 to 29 February 2020; and
- 1 January 2020 to 31 March 2020.

Box 14 applies only to reverse charge businesses (e.g., financial institutions, residential property developers, etc.), while box 15 applies only to electronic marketplace operators supplying digital services. All other GRB may complete their GST returns as usual.

South Africa

Electronic registration, licensing, and accreditation system to go live soon

The South African Revenue Service (SARS) issued an announcement on 12 March 2020 indicating that the initial phase ("release 1") of its new registration, licensing, and accreditation (RLA) system will be rolled out on 20 April 2020. The RLA system will permit the electronic submission of new registration and licensing applications to the SARS. The new system will allow the submission of applications for certain types of registration and licensing via electronic filing (e-filing) and at the "branch front end" (BFE) at certain customs offices.

Release 1 of the RLA system will allow registration of the following:

- Cargo reporters (including registered agents of cargo reporters not located in South Africa);
- Importers and exporters (including registered agents of importers and exporters not located in South Africa);
- Exporters under certain preferential trade agreements or generalized systems of preferences (GSP) (i.e., the agreements with the EU, European Free Trade Association, Mercosur (Southern Common Market), Southern African Customs Union (SACU), and Southern African Development Community (SADC); the African Growth and Opportunity Act (AGOA); and the GSPs of Norway, Russia, and Turkey); and
- Non-local importers, exporters, and searchers of abandoned wrecks.

Only the following license types can be registered electronically as part of release 1:

- Clearing agent licenses; and
- Remover in bond licenses.

It should be noted that excise "clients" (traders and their registered agents) and numerous other license types are not yet eligible for the RLA system. The focus on the first release is on client types that do not require physical inspections for registration/licensing purposes. Any client types not listed above must register or license using the current paper format.

First-time applicants are encouraged to visit their nearest customs office to register as a legal entity and for e-filing with the SARS. Applicants may appoint a local representative to submit an application to the SARS on their behalf. The local representative will be able to present the application for submission to the SARS at the BFE or, if approved, may submit the application via e-filing.

It is expected that the new electronic system will shorten lead times and facilitate trade due to data clean-up exercises that will be carried out and the ability of the system to keep up to date with the latest contact details of traders.

Switzerland

VAT groups treated as single taxpayer for purposes of corporate RTV fee

In a publication dated 25 February 2020, the Swiss Federal Tax Administration (SFTA) clarified that all companies that are members of a VAT group (entities under a single management that are treated as a single taxpayer for VAT purposes) are treated as a single taxpayer for purposes of the corporate radio and television (RTV) fee.

Since 1 January 2019, the RTV fee is no longer dependent on whether or not a taxpayer possesses a broadcasting device . It is collected from all VAT-registered businesses established in Switzerland reporting a global turnover in excess of CHF 500,000 on their Swiss VAT returns, among other requirements.

Since the introduction of the RTV fee, business groups including at least 30 entities under a single management have been able to form a corporate fee group. Until now, it was unclear whether a VAT group also could be treated as a single group for purposes of the RTV fee.

Following the SFTA's clarification, only the turnover reported in the VAT returns of the VAT group (i.e., external turnover only since internal turnover is disregarded) is decisive in determining the tariff category for the RTV fee.

The SFTA also published a reminder that the VAT-registered independent service-providers of a public body can form a group for purposes of the RTV fee.

Taiwan

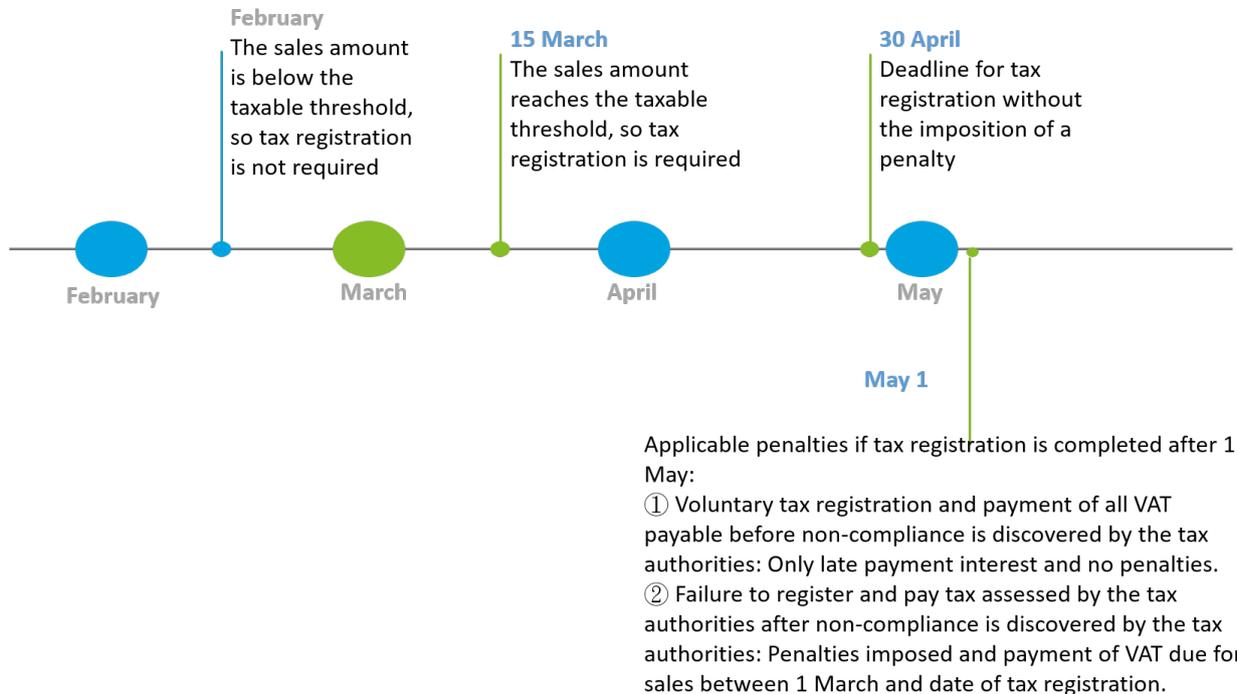
Regulations requiring tax registration for online sales by individuals updated

On 31 January 2020, Taiwan's Ministry of Finance (MOF) released a ruling (No. 10904512340) that updates the regulations requiring individuals operating online businesses for the sale of goods or services to apply for tax registration. The ruling replaces an earlier one released on 25 November 2005 (No. 09404577950).

The key provisions of the new ruling are as follows:

- Individuals selling goods or services online for profit should apply for tax registration when the sales amount reaches the taxable threshold of value-added tax (VAT) (i.e., NTD 80,000 for the sale of goods and NTD 40,000 for the sale of services).
- When this threshold is reached, the application for tax registration must be filed. Penalties for failure to file may be waived if the taxpayer files the application voluntarily before the end of the following month and before the tax authorities discover the non-compliance. If the tax authorities discover a failure to file before the end of the following month after the threshold is reached and notify the taxpayer of the filing obligation, no penalty will be imposed if the individual files the application and pays all VAT payable for sales made between the first day of the month that the threshold was reached and the date of the tax registration before the deadline set by the tax authorities.

For taxpayers whose VAT payable is assessed by the tax authorities for business tax purposes instead of general VAT, the taxable sales amount and VAT payable will be assessed based on actual transactions made as from the month the sales amount has reached the threshold.



The new ruling differs from the previous ruling in the way "monthly sales amount" for purposes of the taxable threshold is defined. Under the 2005 ruling, "monthly sales" was defined as the average of the total sales amount in the previous six months. As access to the internet and sales of goods and services online has become widespread, there has been growing concern over the differences in the definition of "monthly sales" for physical sales and online sales. The MOF has addressed this issue by revising the definition of the taxable threshold from the average of the total sales amount in the previous six months to the actual sales amount for the month that the taxable threshold is reached.

The MOF also has addressed the different ways in which the sales amount is calculated based on the nature of transactions in different businesses by granting more time for tax registration without penalties. Penalties will be waived under the new ruling if tax registration is made by the end of the month following the month the sales amount threshold is reached. As a result of this revised schedule, individuals should have more time to check the sales amount and, if required, complete the tax registration and pay taxes due without penalties.

United Arab Emirates

Designated zones a focus for FTA audits

The United Arab Emirates (UAE) Federal Tax Authority (FTA) is known to focus on the application of the designated zone (DZ) rules during audits of VAT refund claims, and in broader FTA audits in general. Recently, businesses in the UAE have been facing material

exposures to VAT assessments and penalties arising from the incorrect application of the DZ rules, either in relation to their own supplies or as a result of the VAT treatment applied by vendors.

Background

DZs are areas specified by the government to be outside of the UAE for VAT purposes. Many complexities and exceptions apply to transactions with or between businesses established within DZs. As a result, businesses often experience challenges in applying the DZ rules to typical transactions. This ultimately requires businesses to make adjustments to supplies previously treated as outside the scope of VAT, which can attract significant penalties. The late payment penalty for tax paid more than 30 days late is 1% of the tax for every day of delay and can be up to 350% of the original tax due.

Comments

Businesses that have supply chains where the movement of supplies occurs within, between, to, and from DZs should carefully assess the following situations where there is a risk that the VAT rules may be applied incorrectly:

- Supplies made under a delivered duty paid (DDP) provision (as recognized under international trade terms or “Incoterms”) or similar arrangements involving the delivery of goods to premises in the UAE mainland;
- Supplies where the importer of record (IOR) is not the owner of the goods at the time of import (e.g., where the customer imports the goods under its own import license before the transfer of legal title);
- Supplies where goods enter a DZ under an import license that authorizes imports into a different DZ or UAE free zone;
- Supplies of goods made where the customer intends to use the goods in its own business or for private purposes;
- Supplies of goods where the supplier is unaware of the purpose for which the customer will use the goods; and
- Supplies involving or related to real estate situated within the DZ.

In addition, an FTA public clarification on the importation of goods by agents on behalf of VAT-registered persons raises important points about the eligibility to recover VAT paid upon import (e.g., legal ownership of goods generally required for import VAT to be recoverable). This can lead to businesses being required to adjust the value of import VAT on their VAT returns. Businesses should consider the implications this guidance has on their current business and reporting practices.

Further complications can arise where supply chains involve goods subject to excise tax, since the late payment penalty (i.e., 1% of the tax for every day of delay) applies to both VAT and excise taxes due. Excise tax rates, which can be 50% or 100%, are much higher than the 5% VAT rate. Therefore, the risk of incurring material percentage-based penalties arising from errors in the incorrect application of both the VAT and excise tax rules are higher in supply chains involving excise goods.

List of Designated Zones

Abu Dhabi

- Free Trade Zone of Khalifa Port
- Abu Dhabi Airport Free Zone
- Khalifa Industrial Zone
- Al Ain International Airport Free Zone
- Al Butain International Airport Free Zone

Dubai

- Jebel Ali Free Zone (North-South)
- Dubai Cars and Automotive Zone (DUCAMZ)
- Dubai Textile City
- Free Zone Area in Al Quoz
- Free Zone Area in Al Qusais
- Dubai Aviation City
- Dubai Airport Free Zone
- International Humanitarian City – Jebel Ali

Sharjah

- Hamriyah Free Zone
- Sharjah Airport International Free Zone

Umm Al Quwain

- Umm Al Quwain Free Trade Zone in Ahmed Bin Rashid Port
- Umm Al Quwain Free Trade Zone on Sheikh Mohammed Bin Zayed Road

Ras Al Khaimah

- RAK Free Trade Zone
- RAK Maritime City Free Zone
- Al Hamra Industrial Zone – Free Zone
- Al Ghail Industrial Zone – Free Zone
- Al Hulaila Industrial Zone – Free Zone

Fujairah

- Fujairah Free Zone
- FOIZ (Fujairah Oil Industry Zone)

Ajman

- Ajman Free Zone

United Kingdom

Key measures from Spring Budget 2020 for non-UK owned groups

The new UK Chancellor of the Exchequer, Rishi Sunak, delivered the first budget of the new parliament on 11 March 2020, against a backdrop of rising global economic uncertainty and a dramatically shifting economic landscape.

A considerable amount of the speech focused on the COVID-19 outbreak and the measures that will be introduced to help individuals and businesses in the short term. Significant fiscal measures also were announced, meaning that investment in public infrastructure will rise to its highest level since the 1950s.

The finance bill is expected to be published on 19 March 2020. For the avoidance of doubt, none of the new measures outlined below has yet been enacted and based on previous budgets we would expect enactment to occur in the summer of 2020. However, differences are expected to arise between IFRS and US GAAP, flowing from the decisions announced around the corporation tax rate (discussed further below).

This bulletin sets out the key measures for non-UK owned groups. For detailed coverage and comment on the UK Budget 2020, visit Deloitte's dedicated website.

Business tax

Corporation tax rate

As the law currently stands, the rate of corporation tax would have fallen to 17% from 1 April 2020. However, as pledged by the Conservative Party during the recent general election campaign, the government has announced that the UK corporation tax rate will remain unchanged at 19%. Legislation will therefore be introduced to bring this into effect.

For UK GAAP and IFRS purposes, deferred tax should be recognized on the basis of corporation tax rates that have been substantively enacted; substantive enactment is expected to occur imminently. For US GAAP, deferred tax should be recognized on the basis of the rate that has been enacted. Enactment will not take place until the finance bill receives Royal Assent, which is not expected to take place until the summer.

As a reminder, the new Quarterly Instalment Payments (QIPs) regime for very large companies applies to accounting periods beginning on or after 1 April 2019. Companies and groups that fall within the regime are required to make QIPs in months 3, 6, 9, and 12 of their accounting period. As a result, companies with a 31 December 2020 year end will be making their first payment of corporation tax on 14 March 2020.

Digital services tax

The Chancellor confirmed that the UK's digital services tax (DST) will be implemented and will apply from 1 April 2020. The tax will be charged at a rate of 2% on gross revenues from in-scope activities provided to UK users and will apply to search engines, social media platforms, and online marketplaces, together with associated online advertising.

The charge to UK DST will apply to a group where two threshold conditions are met: the group needs to generate more than GBP 500 million of global revenues from in-scope activities and more than GBP 25 million of revenues from in-scope activities linked to the participation of UK users.

A policy paper published on 11 March 2020 by HM Revenue & Customs (HMRC) indicates that there has been a clarification to the definition of a UK user that will be relevant for online marketplaces supplying accommodation. When the transaction involves accommodation, land, or buildings not in the UK, revenue from that transaction will be treated as derived from UK users only if the consumer of the relevant service is a UK user.

Consideration is still being given as to whether UK DST will apply to marketplace delivery fees.

The government also reiterated its commitment to developing an internationally agreed solution, via the OECD Inclusive Framework and G20, to the tax challenges presented by the digitalized economy and has reconfirmed that it will repeal DST once an appropriate global solution is in place.

Changes to intangible fixed asset regime

The government has announced a significant change to the regime for the taxation of intangible fixed assets acquired from related parties. Prior to this change, the regime was split between assets created or acquired prior to- and post-1 April 2002. Assets created or acquired post-1 April 2002 typically gave rise to a tax deduction for amortization in line with the accounting amortization, or a fixed rate 4% writing-down allowance. However, intangible fixed assets created or acquired prior to that date could not.

This change amends the rules that had prevented companies obtaining relief for intellectual property rights created prior to April 2002 when they were transferred between related parties. This change applies for intangible fixed assets acquired from related parties after 1 July 2020.

R&D tax credits

The Research and Development Expenditure Credit (RDEC) for large companies will become more generous, as the Chancellor has announced an increase in the rate of the credit from 12% to 13%. This increase applies to expenditure incurred on or after 1 April 2020, and for companies making RDEC claims will more than offset the fact that the corporation tax rate is remaining at 19%.

The RDEC is a standalone credit that is brought into account above the line, as a taxable receipt in calculating trading profits. The change will therefore increase the after tax-benefit of RDEC claims from 9.72% to 10.53%. This increase in the RDEC rate is part of the government's continued support for investment in innovation and technology in the UK.

A consultation also has been announced on whether expenditure on data and cloud computing costs should qualify for R&D tax credits.

Hybrid mismatch arrangements: New consultation

No changes were announced to the UK's hybrid mismatch rules, which came into effect on 1 January 2017. However, the government will undertake a consultation on the application of the hybrid mismatch rules to ensure that they work proportionately and as intended. More information is expected to be released shortly.

Changes to loss relief rules

In the previous budget, changes were announced to the way in which relief will be given for capital losses, bringing this into line with the regime introduced for income losses in 2017. In the budget, the Chancellor confirmed that these rules will take effect from 1 April 2020, from which time companies with chargeable gains exceeding GBP 5 million will be able to shelter only 50% of the excess with capital losses, with the remainder giving rise to cash tax.

Taxation of nonresident landlords

The government will introduce a 2% stamp duty land tax surcharge on non-UK resident companies (and individuals) purchasing residential property in England and Northern Ireland from 1 April 2021.

This represents part of a broader suite of measures introduced in Finance Act 2019 to bring non-UK resident companies that carry on a residential or non-residential UK property business within the scope of corporation tax from 6 April 2020. Nonresident landlords have previously been taxed under the income tax regime.

Capital gains realized by non-UK resident companies became chargeable to corporation tax from 6 April 2019.

Capital allowances

Structures and buildings allowance

The Chancellor has announced an increase in the rate of relief for structures and buildings allowances (SBAs), from 2% to 3%. SBAs apply to qualifying expenditure on nonresidential structures and buildings incurred on or after 29 October 2018.

The increase in the rate will reduce the time it takes to relieve qualifying expenditure from 50 years to 33 and 1/3 years. The 3% rate will apply for companies from 1 April 2020 and will apply both to newly acquired assets and assets already benefiting from SBAs.

Enhanced capital allowances in Enterprise Zones

Measures have been announced to incentivize companies investing in plant and machinery for use in designated areas within Enterprise Zones. As a result, expenditure on qualifying additions incurred in all designated areas will receive a 100% first-year allowance until at least 31 March 2021.

Avoidance, evasion, and noncompliance

The Chancellor announced a number of measures to tackle tax avoidance, evasion, and other forms of noncompliance that are projected to raise an additional GBP 4.7 billion between now and fiscal year 2024/25. Beyond a number of measures that tackle some very specific forms of tax evasion, the following measures have been announced that will have a broader application:

- **Large business notification:** From April 2021, large businesses will be required to notify HMRC when they take an uncertain legal position that HMRC is likely to challenge. This policy will draw on international accounting standards that many large businesses already follow. The government will consult shortly on the detail of the notification process.
- **Tax conditionality:** The government will publish a discussion document seeking views on the application of tax conditionality. Tax conditionality refers to the principle whereby businesses are granted access to government awards and authorizations (such as approvals, licenses, grants) only if they are able to demonstrate good tax compliance.
- **General anti-abuse rule (GAAR):** Measures are set to be introduced to tackle a small minority of taxpayers that deliberately avoid providing information in order to frustrate HMRC's ability to pursue inquiries into abusive tax arrangements under the GAAR.
- **HMRC Promoter Strategy:** HMRC will publish a new ambitious strategy for tackling promoters of tax avoidance schemes. This will outline the range of policy, operational, and communications interventions to stop the spread of marketed tax avoidance and deter taxpayers from taking up schemes that are seen as abusive.

The above measures are being introduced in addition to obligations requiring taxpayers and/or their advisors to disclose reportable cross-border arrangements to HMRC under EU directive 2018/822 (commonly known as DAC 6), the first reports for which need to be filed in the summer.

Industry-specific measures

Surcharge on banking companies for transferred in losses

Several years ago, the government introduced a surcharge on banking companies, under which their profits are subject to a surcharge of 8%, payable in addition to corporation tax. Surcharge profits are calculated on the same basis as corporation tax, with some reliefs denied. One of the denied reliefs had been to disregard the effect of elections to transfer allowable losses from a non-banking company to a bank where they are used to reduce future chargeable gains. However, until now companies could elect to transfer allowable losses to reduce in-year chargeable gains. Going forward, such elections will be disregarded, therefore increasing the amount subject to the surcharge. This change comes into force immediately.

Indirect tax

Legislation will be introduced to tax the production and importation of plastic packaging from April 2022. Imported plastic packaging will be liable to the tax, whether the packaging is unfilled or filled. This tax is expected to apply to plastic packaging that does not contain at least 30% recycled plastic and is subject to a consultation that will be launched in the coming months.

Other indirect tax changes are unlikely to have broad application for most non-UK owned businesses.

United States

House approves new tax on nicotine used in vaping

The US House of Representatives on 28 February 2020 approved legislation aimed at curbing nicotine use among youth that includes a provision that would impose a new excise tax on nicotine used in vaping.

The Protecting American Lungs And Reversing The Youth Tobacco Epidemic Act of 2020 (H.R. 2339) cleared the chamber by a vote of 213-195.

“Taxable nicotine”

Smoking-related excise taxes currently apply only to various types of traditional tobacco products as well as cigarette papers and tubes. H.R. 2339 would harmonize the tax treatment of e-cigarettes and traditional cigarettes by expanding those levies to include “taxable nicotine” – defined as any nicotine which has been extracted, concentrated, or synthesized. That definition would exclude nicotine that will be used in a product that has been approved by the Food and Drug Administration (FDA) for sale as a nicotine replacement therapy (although it would be up to manufacturers and importers to provide proof of that intended use to the Treasury Department). Other tobacco products that are currently subject to tax would not be treated as containing taxable nicotine solely because the nicotine naturally occurring in the tobacco from which those products are manufactured has been concentrated during the ordinary course of manufacturing.

The amount of tax would be the greater of:

- The dollar amount specified for small cigarettes in Internal Revenue Code section 5701(b)(1); or
- USD 50.33 per 1,810 milligrams of nicotine (and a proportionate tax on any fractional part thereof).

The bill provides that taxable nicotine also would be subject to the same general provisions that currently apply to tobacco products – e.g., packaging requirements; provisions relating to the purchase, receipt, possession, or sale; and provisions relating to civil and criminal penalties.

The proposed tax would take effect for products manufactured and imported in calendar quarters beginning more than 90 days after the date of enactment.

This provision originally cleared the House Ways and Means Committee as a freestanding measure (H.R. 4742, sponsored by taxwriter Tom Suozzi, D-N.Y., and Rep. Peter King, R-N.Y.) at a mark-up in October 2019.

Safe harbor for high-deductible health plans

The House-passed measure also would expand the flexibility of various tax-preferred health care savings vehicles that are linked to high-deductible insurance plans by providing a safe harbor for plans that do not include a deductible for certain inhalers to treat chronic lung conditions. (Specifically, the bill provides that a plan would not lose its status as a qualified high-deductible insurance plan solely because it does not include a deductible for inhalers.)

The provision would be effective for months beginning after the date of enactment.

Like the nicotine tax, it was approved by the Ways and Means Committee in October 2019 as freestanding legislation (H.R. 4716, sponsored by taxwriter Terri Sewell, D-Ala., and Rep. T. J. Cox, D-Calif.).

Net revenue raiser

The Joint Committee on Taxation staff estimates that H.R. 2339 would increase federal receipts by more than USD 4.8 billion (net) between 2020 and 2030.

The new tax on nicotine would raise USD 7.9 billion over the 10-year budget window, according to the JCT; however, the safe harbor for high-deductible health plans would reduce receipts by nearly USD 1.6 billion, and the indirect tax effects of changes to various FDA rules would reduce receipts by another USD 1.5 billion.

Next steps uncertain

It is currently unclear whether the bill will be taken up in the Senate.

United States

House panel considers post-Wayfair compliance issues facing small businesses

In an effort to understand the experiences of small businesses in the initial period since states have been permitted to collect sales tax from remote sellers without a physical presence in their jurisdictions, the US House Small Business Committee's Subcommittee on Economic Growth, Tax, and Capital Access held a hearing on 3 March 2020 and heard various recommendations for reducing the compliance burden.

The Supreme Court's 2018 decision in the *South Dakota v. Wayfair, Inc.* case opened the door for the new tax collections, and 43 states plus the District of Columbia have adopted sales tax collection and remittance obligations for out-of-state sellers.

"The landscape post-*Wayfair* is that millions of small businesses are unfairly faced with overwhelming and expensive compliance," said Rep. Andy Kim, D-N.J., the subcommittee chairman, in his opening remarks.

In a majority of states, sellers do not trigger a collection and filing requirement until they reach a specified threshold of sales or transactions in the state – often USD 100,000 or 200 transactions. However, that threshold differs from state to state, as do sales tax rates and the compliance process itself. Among the recommendations offered by witnesses at the hearing were a higher – and nationally uniform – state threshold of USD 1 million, a single national threshold of USD 30 million, the elimination of the transaction threshold, and exemption from local-level sales taxes.

Make it simple

Linda Lester of K-Log Inc., a furniture company, provided another perspective.

“Make this simple enough that nexus is irrelevant,” she recommended, noting that many states have dozens or even hundreds of taxing jurisdictions, often with different rates to account for local sales taxes. “If you have one rate per state and one place to file, then anybody can do this.”

Lester applauded the handful of states that have a single rate, as well as Texas and Louisiana, which allow remote sellers the option of paying either a single rate or the individual jurisdiction rates. On the other end of the spectrum, she noted examples such as Colorado, with nearly 700 taxing jurisdictions and a highly burdensome reporting process, and Alabama, where many of the 800-plus local jurisdictions require separate tax registration numbers.

Rep. Kevin Hern, R-Okla., the ranking member of the subcommittee, said he appreciated Lester’s perspective and the alternative to a single national policy.

“I get the ease of [a single rate at the national level],” he said; but he added that he believes “states can do it better than we can in Washington, DC, so I think it’s also that we find that right balance.”

Challenges for small retailers

Another witness at the hearing, Brad Scott of Halstead Bead, noted that while almost all states implemented remote seller sales tax requirements after the *Wayfair* decision, he received a notice about the change from only one state where his company sells. He said many small businesses have no idea that they are supposed to collect and remit taxes to the states where they don’t have a physical presence until they get a call from a state revenue agency, which often expects immediate payment and may levy late fees.

In a memo Kim provided members of the subcommittee ahead of the hearing, he noted that most states have implemented marketplace facilitator laws that require online marketplaces to handle state tax collection obligations for small businesses third-party sellers using the marketplaces – but not local sales tax collection.

At the hearing, Kevin Mahoney of FindTape.com, also highlighted a challenge he and other small businesses have encountered: in some cases where they sell to a large online marketplace, which warehouses the goods and then fulfills customers’ orders directly, states have claimed the small companies have physical nexus as a result of the marketplace’s own interstate shipments between warehouses. In such cases where the marketplace “controls

the entire buying experience and we don't even have access to customer-related data for those orders," Mahoney argued that states are overstepping their authority to tax small businesses.

"Taken as a whole, there are often prohibitive costs attached to ensuring that the compliance is performed correctly, whether completed in-house with dedicated tax staff, or completely outsourced," said Jamie Yesnowitz, who spoke at the hearing on behalf of the American Institute of Certified Professional Accountants.

United States

State Tax Matters (28 February 2020)

The 28 February 2020 edition of US State Tax Matters includes coverage of the following:

- Voluntary disclosure/administrative developments in South Carolina;
- Income/franchise tax developments from the US Supreme Court and in Arizona, Florida, Idaho, New Jersey, South Dakota, Utah, and Wisconsin;
- Indirect tax developments in Florida and Massachusetts; and
- Property tax developments in Pennsylvania.

United States

State Tax Matters (6 March 2020)

The 6 March 2020 edition of US State Tax Matters includes coverage of the following:

- Voluntary disclosure/administrative developments in Wisconsin;
- Income/franchise tax developments in California, Iowa, Montana, New Jersey, North Carolina, Oregon, West Virginia, and Wisconsin;
- Indirect tax developments in North Carolina, Texas, and Washington;
- Property tax developments in New York and Texas; and
- Miscellaneous tax developments in Oregon.

United States

State Tax Matters (13 March 2020)

The 13 March 2020 edition of US State Tax Matters includes coverage of the following:

- Administrative developments in New Jersey;
- Credits/incentives developments in Wisconsin; and
- Indirect tax developments in Illinois.

United States

State Tax Matters (20 March 2020)

The 20 March 2020 edition of US State Tax Matters includes coverage of the following:

- A word on potential return due date relief for taxpayers affected by COVID-19;
- Income/franchise tax developments in Michigan, New Hampshire, New Jersey, New Mexico, and Ohio; and
- Indirect tax developments in Georgia, Indiana, Washington, and Wisconsin.

The newsletter also features a recent Multistate Tax Alert: *Oregon releases two additional temporary Corporate Activity Tax (CAT) administrative rules; Oregon Legislature adjourns without passing CAT technical amendment legislation*

Venezuela

VAT law amended to introduce “additional rate” for payments in foreign currency

A constitutional decree from Venezuela’s National Constituent Assembly, published in an extraordinary issue of the official gazette on 29 January 2020, partially reforms the value added tax (VAT) law, including the introduction of an “additional rate” to be set by the national government that will apply to payments in foreign currency. The government’s aim in introducing the additional rate is to collect more tax revenue. The amendments generally will be effective as from 29 March 2020, and the additional rate will become effective 30 days following the official publication of the presidential decree setting forth the rate.

The additional rate may range between 5% and 25% and will be imposed in addition to the regular VAT rate (16% in general, with a reduced rate of 8% or an increased rate of 31% applicable in certain circumstances). The additional rate will apply to sales of movable property and real estate in Venezuela and to payments for services rendered in Venezuela when payment is made in foreign currency, or in cryptocurrency or cryptoassets other than those issued and guaranteed by the Venezuelan government.

Example

If the government sets the additional rate at 5% (hypothetically), on a sale of goods with a value of VES 735,800 (around USD 10) for a price paid in US dollars, the total amount payable (inclusive of VAT) would be VES 890,318 (around USD 12.10), as detailed below:

Price of the goods	735,800
General VAT rate (16%)	117,728
Additional rate for payment in foreign currency (5%)	36,790
Total amount payable	890,318

Exemptions

Goods and services that otherwise are exempt from VAT still generally will be subject to the additional rate if payment is made in foreign currency, or in cryptocurrency or cryptoassets other than those issued and guaranteed by the Venezuelan government; only the additional rate will apply. However, transactions carried out by the following entities will be exempt from the additional rate:

- The national government, national governmental entities, the Central Bank of Venezuela, and the National Public Administration, regardless of whether there is a business purpose for the transaction;
- Diplomatic and consular agents authorized in the country; and
- International organizations of which Venezuela is an active member.

The national government is authorized to exempt goods, services, segments, or sectors of the economy, and/or means of payment from payment of the additional rate.

Documentation for notaries and registrars

In situations where notarization or authentication of documents supporting the purchase/sale of goods that potentially are subject to tax at the additional rate is required, notaries and registrars will request documents to support that the goods were paid for in bolivars or in cryptocurrency or cryptoassets guaranteed by the Venezuelan government before they will provide notarization/authentication; in the absence of such documents, they will request a copy of the tax payment voucher.

Invoicing requirements

Invoices supporting transactions that are subject to tax at the additional rate must be stated in the currency, cryptocurrency, or cryptoassets used for the transaction, and must include the equivalent amount in bolivars and the applicable exchange rate.

Invoices also must include the tax base equivalent, the tax, and the total amount of the transaction in both bolivars and in the payment currency, cryptocurrency, or cryptoassets.

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