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Boletín de IVA

Deloitte Legal
Departamento de IVA, Aduanas e Impuestos Especiales

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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 and may have been overtaken by subsequent events.

European Union

EU permits import duty relief and VAT exemption on certain goods in view of COVID-19

Botswana

Economic and fiscal measures introduced in response to COVID-19

Brazil

COVID-19: Latest tax measures approved by government

Canada

Indirect tax measures in response to COVID-19

China

Summary of tax relief measures relevant to COVID-19

Colombia

Simplified and accelerated procedure for requesting tax refunds or offsets introduced

Costa Rica

Tax relief measures enacted in response to COVID-19

Cyprus

Relief from import duties and VAT exemption on imports needed to combat COVID-19

Cyprus

Changes to VAT periods and deadlines for submission of returns and payment of VAT

El Salvador

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

El Salvador

Additional legislation enacted in response to COVID-19

Greece

New package of measures announced to tackle the effects of COVID-19

Greece

COVID-19 – Deadlines for VAT and other debt payments extended

India

Ordinance effects extended tax compliance deadlines announced in response to COVID-19

Indonesia

Implementing guidance issued for COVID-19 tax incentives

Indonesia

Measures introduced in response to COVID-19 include immediate CIT rate reduction

Israel

Tax filing deadlines postponed under COVID-19 emergency regulations

Italy

Extension of additional tax payment deadlines announced

Italy

Guidance clarifies certain COVID-19-related tax measures, including VAT measures

Italy

Law decree introduces additional urgent tax measures in response to COVID-19

Japan

FAQs clarify relief available for taxpayers affected by COVID-19

The Netherlands

Additional VAT measures in response to COVID-19

Norway

Parliament adopts measures in response to COVID-19

Portugal

COVID-19 – Support measures for companies and employees

Portugal

Deadline for issuing e-invoices for B2G transactions postponed to 2021

Qatar

Government temporarily exempts 905 items from customs duties in response to COVID-19

Saudi Arabia

VAT return and payment deadlines extended due to COVID-19

Singapore

Managing GST compliance and cashflow during COVID-19

South Africa

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Spain

Economic and fiscal measures introduced to address impact of COVID-19

Switzerland

SFTA modifies its approach to net tax rate scheme due to COVID-19

Thailand

Covid-19 customs, trade and excise update

Thailand

Tax relief measures announced in response to COVID-19

United States

Update on US global trade regulatory developments in response to COVID-19

Venezuela

Value of tax unit adjusted

Venezuela

Measures in response to COVID-19 include tax exemptions for certain imported goods

Other news

USMCA

Update: Canada and Mexico confirm completion of entry into force procedures

European Union

Commission closes infringement procedures against three states over VAT quick fixes

European Union

CJEU AG opines on VAT treatment of investment fund management services

Belgium

New guidance on intra-Community VAT regime and quick fixes issued

Belgium

New circular letter regarding the VAT treatment of tour operators and travel agents

China

Export VAT refund rates increased on over 1,400 goods

China

2020 tariff survey process underway

Finland

Tax authorities update VAT guidance

Finland

E-invoicing mandatory for B2B sales upon request of purchaser

India

Mandatory e-invoicing for GST purposes deferred until 1 October 2020

India

GST council recommends changes in law, procedures, and GST rates

India

Round up of recent customs developments, including Finance Act, 2020 measures

India

Utilizing free trade agreements requires robust origin management system

Ireland

Guidance issued on VAT groups

United Arab Emirates

Foreign businesses may submit 2019 VAT refund requests

United States

State Tax Matters (27 March 2020), including indirect tax developments in Louisiana, Missouri, and Texas

United States

State Tax Matters (3 April 2020), including indirect tax developments in Florida, Illinois, and Washington

United States

State Tax Matters (10 April 2020), including indirect tax developments in Rhode Island, South Carolina, and Tennessee

United States

State Tax Matters (17 April 2020), including indirect tax developments in California, Louisiana, and Washington

May

COVID-19 updates

The situation remains fast-moving as governments take measures in response to COVID-19. The below tax@hand items represent the situation at the time of writing and may have been overtaken by subsequent events.

OECD

Report released on how tax authorities can prepare for recovery from COVID-19

Eurasian Economic Union

Trade and customs duty update

Latin America

COVID-19 economic and fiscal measures

Austria

Customs procedures changed in response to COVID-19

Austria

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

Brazil

COVID-19: Tax and other financial measures approved

Brazil

COVID-19: FAQs and additional emergency tax measures published

France

VAT measures introduced to address impact of COVID-19

India

Overview of tax and regulatory incentives for manufacturers

Indonesia

Additional tax relief announced and deadlines further extended in view of COVID-19

Indonesia

Additional businesses eligible for tax incentives during COVID-19 pandemic

Ireland

Guidance issued on temporary zero VAT rate for medical equipment and donations

Italy

Indirect tax highlights of new decree include more tax payment deadline extensions

Italy

Additional VAT relief announced

Italy

New law decree introduces additional tax measures in response to COVID-19

Korea

Tax reform measures enacted in response to COVID-19

The Netherlands

Additional VAT measures in response to COVID-19

The Netherlands

VAT rate reduced to 0% from 21% on protective face masks

Nigeria

COVID-19: Economic, tax, and other fiscal stimulus measures

Panama

Deadline to file tax returns and pay taxes extended due to COVID-19

Paraguay

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

Paraguay

VAT installment payment option announced

Poland

New legislation aims to support enterprises affected by COVID-19

Portugal

COVID-19: VAT measures to support taxpayers and health care industry approved

Russia

Tax reliefs and extensions to compliance deadlines announced in response to COVID-19

Russia

Update on customs' procedural and other developments

Spain

Additional economic and fiscal measures introduced to address impact of COVID-19

South Africa

Additional tax relief measures announced in response to COVID-19

South Africa

Finance minister provides more detail on additional COVID-19 tax relief measures

South Africa

VAT considerations in light of demand for electronic services due to COVID-19

United Kingdom

VAT zero-rating measures

Zimbabwe

Expedited processing of VAT refunds announced

Other news

European Commission

proposes to delay entry into force of VAT e-commerce package

European Commission

closes four infringement procedures over VAT quick fixes

European Union

CJEU rules on independent EU subsidiary as VAT fixed establishment of non-EU parent

USMCA

to enter into force on 1 July 2020 as US progresses its implementation steps

Australia

GST withholding: Transitional treatment ending for residential sale contracts

China

Tax and trade measures approved to stimulate economic recovery

Colombia

DIAN issues new regulations on electronic invoicing

Finland

Overview of recent indirect tax updates

Italy

New guidance on proof of intra-EU transport released

Italy

CJEU rules that Italian financial transactions tax is compatible with EU law

Peru

Procedure introduced to use overpayment of corporate tax to offset other tax debts

Russia

Overview of recent VAT developments

Russia

Update on customs' procedural and other developments

Saudi Arabia

VAT rate to increase to 15% as of 1 July 2020

Thailand

Customs Department further extends voluntary disclosure program

United Arab Emirates

VAT return filing and payment deadline extended

United Kingdom

VAT zero-rating measures

United States

State Tax Matters (1 May 2020), including indirect tax developments in Puerto Rico and Washington

United States

State Tax Matters (8 May 2020), including indirect tax developments in Alabama, California, South Carolina, and Virginia

United States

State Tax Matters (15 May 2020), including indirect tax developments in Colorado, Illinois, Louisiana, Maryland, New Jersey, and Washington

United States

State Tax Matters (22 May 2020), including indirect tax developments in Texas and Utah

I. Normativa

1. Real Decreto-ley 14/2020, de 14 de abril, por el que se extiende el plazo para la presentación e ingreso de determinadas declaraciones y autoliquidaciones tributarias.

Con fecha 15 de abril de 2020 se publicó en el Boletín Oficial del Estado el Real Decreto-ley 14/2020, de 14 de abril, por el que se extiende el plazo para la presentación e ingreso de determinadas declaraciones y autoliquidaciones tributarias.

En relación con el Impuesto sobre el Valor Añadido podemos reseñar lo siguiente:

Se amplió hasta el 20 de mayo el plazo de presentación e ingreso de las declaraciones (modelo 349) y autoliquidaciones tributarias (entre otras, modelo 303) cuyo vencimiento se produjo a partir del día 15 de abril y hasta el día 20 de mayo de 2020, para los siguientes obligados tributarios:

- Aquellos con volumen de operaciones no superior a 600.000 euros en el año 2019. A estos efectos, el volumen de operaciones será el previsto en el artículo 121 de la Ley del IVA.

- En el caso de los obligados que tengan la consideración de Administraciones públicas, incluida la Seguridad Social, será requisito necesario que su último Presupuesto anual aprobado no supere la cantidad de 600.000 euros.

  En ambos casos, la domiciliación bancaria pudo realizarse hasta el 15 de mayo de 2020, inclusive.

La ampliación de los plazos de presentación e ingreso no resultó de aplicación:

- A los grupos de entidades que tributen en el régimen especial de grupos de entidades del Impuesto sobre el Valor Añadido (REGE), regulado en el Capítulo IX del Título IX de la Ley del IVA, con independencia de su volumen de operaciones.

- A la presentación de declaraciones reguladas por el Reglamento (UE) nº 952/2013 del Parlamento Europeo y del Consejo, de 9 de octubre de 2013, por el que se aprueba el código aduanero de la Unión y/o por su normativa de desarrollo.

2. Real Decreto-ley 15/2020, de 21 de abril, de medidas urgentes complementarias para apoyar la economía y el empleo.

Con fecha 22 de abril de 2020 se publicó en el Boletín Oficial del Estado el Real Decreto-ley 15/2020, de 21 de abril, de medidas urgentes complementarias para apoyar la economía y el empleo, cuya entrada en vigor fue el 23 de abril.

En relación con el Impuesto sobre el Valor Añadido las modificaciones realizadas son las siguientes:

A) Tipos impositivos:

- Los libros, periódicos y revistas digitales o electrónicos, con carácter permanente, pasan a tributar al 4% -desde el 21%-, siempre que no contengan única o fundamentalmente publicidad y no consistan íntegra o predominantemente en contenidos de vídeo o música audible. A tal efecto, se eleva el porcentaje de ingresos publicitarios del 75 al 90% para considerar si contienen mayoritariamente publicidad o no.

  A la vez, se excluye de la aplicación del tipo del 4% a las operaciones relativas a álbumes, que pasan a tributar al tipo del 21%.

- Con carácter temporal, desde el día 23 de abril y hasta el 31 julio de 2020, se aplicará el tipo 0 por ciento a las entregas, adquisiciones intracomunitarias e importaciones de los bienes establecidos en el Anexo del Real Decreto-ley destinados a la lucha contra la Covid-19 y efectuados a favor de entidades de Derecho Público, clínicas o centros hospitalarios, o entidades privadas de carácter social (art. 20.Tres de la Ley del IVA).

  Estas operaciones se documentarán en factura como operaciones exentas. No obstante, la aplicación de un tipo impositivo del cero por ciento no determinará la limitación del derecho a la deducción del IVA soportado por el sujeto pasivo que realice la operación.

B) Regímenes especiales:

- Los sujetos pasivos de IVA que desarrollen actividades empresariales o profesionales incluidas en el Anexo II de la Orden HAC/1164/2019, de 22 de noviembre, y estén acogidos al régimen especial simplificado de IVA, para el cálculo del ingreso a cuenta en el año 2020 de la cuota trimestral no computarán, en cada trimestre natural del ejercicio 2020, como días de ejercicio de la actividad, los días naturales en los que hubiera estado declarado el estado de alarma en dicho trimestre.

  Los días naturales en los que ha estado declarado el estado de alarma en el primer trimestre de 2020 son 18 días.

- Los contribuyentes de IRPF que determinen su rendimiento neto de actividades económicas con arreglo al método de estimación objetiva, y en el plazo para la presentación del pago fraccionado correspondiente al primer trimestre del 2020 -plazo que se ha amplió hasta el 20 de mayo- renuncien a la aplicación del mismo, podrán volver a determinar el rendimiento con arreglo al método de estimación objetiva en el ejercicio 2021 siempre que cumplan los requisitos para su aplicación y revoquen la renuncia al método de estimación objetiva en el plazo reglamentario (art. 33.1. del Reglamento de IRPF).

Esta renuncia, y la posterior revocación de la misma, tendrá los mismos efectos en los regímenes especiales simplificado y de la agricultura, ganadería y pesca del IVA.

3. Decisión (UE) 2020/491, de 3 de abril de 2020, relativa a la concesión de una franquicia de derechos de importación y de una exención del IVA respecto de la importación de las mercancías necesarias para combatir los efectos del brote de COVID-19 durante el año 2020.

Con fecha de 3 de abril de 2020, se publicó en el Diario Oficial de la Unión Europea la Decisión (UE) 2020/491, de 3 de abril de 2020, relativa a la concesión de una franquicia de derechos de importación y de una exención del IVA respecto de la importación de las mercancías necesarias para combatir los efectos del brote de COVID-19 durante el año 2020.

En relación con la exención del Impuesto sobre el Valor Añadido (IVA) será aplicable el artículo 46 de la Ley 37/1992 (Ley del IVA) y el artículo 17 del Reglamento del IVA.

Los beneficiarios de esta exención en el IVA son:

- Entidades públicas.
- Organismos privados de carácter caritativo o filantrópico que hayan sido autorizados.

También podrán beneficiarse de esta medida, otros operadores que importen por cuenta de un ente público o de un organismo privado autorizado. Se deberá justificar que se actúa por cuenta de estas entidades y que la destinataria de las mercancías disponga de una autorización administrativa en caso de ser un organismo privado de carácter benéfico o caritativo.

Del mismo modo, también se aplica lo anterior cuando el operador importe para la posterior donación del material adquirido a un ente público o a un organismo privado autorizado. Se deberá justificar la donación y recepción de los bienes por la entidad donataria y que ésta cuente con una autorización administrativa en caso de ser un organismo privado de carácter benéfico o caritativo.

Pueden beneficiarse de la exención del IVA las importaciones realizadas entre el 30 de enero de 2020 y el 31 de julio de 2020.

La Decisión exige, además, que se cumplan los requisitos establecidos en los artículos 52, 55, 56 y 57 de la Directiva 2009/132/CE, de 19 de octubre de 2009, que delimita el ámbito de aplicación del artículo 143, letras b) y c), de la Directiva 2006/112/CE en lo referente a la exención del impuesto sobre el valor añadido de algunas importaciones definitivas de bienes.

II. Jurisprudencia

1. Tribunal de Justicia de la Unión Europea. Sentencia de 3 de marzo de 2020. Asunto C-75/18, Vodafone Magyarország.

Libertad de establecimiento — Ayudas de Estado — Sistema del IVA — Impuesto sobre las telecomunicaciones basado en el volumen de negocios — Trato desfavorable a empresas extranjeras mediante una tarifa impositiva de efecto progresivo — Discriminación indirecta — Justificación de un impuesto de efecto progresivo en función del volumen de negocios.

Se requiere al TJUE que dilucide si el artículo 401 de la Directiva IVA se opone al establecimiento de un impuesto instaurado por una ley nacional, sobre el volumen de negocios de los operadores de telecomunicaciones.

Señala el Tribunal que el mencionado artículo no se opone al establecimiento de un impuesto sobre determinados sectores, siempre que su recaudación, derechos o gravamen no den lugar a formalidades relacionadas con el paso de una frontera. Adicionalmente, la jurisprudencia del TJUE establece que no es contrario a la Directiva el establecimiento de un impuesto que no tenga una de las características esenciales del IVA, que de acuerdo con reiterada jurisprudencia comunitaria serían las siguientes:

i) aplicación del IVA con carácter general a las transacciones que tengan por objeto bienes o servicios;

ii) determinación de la cuota en proporción al precio percibido como contraprestación de los bienes que entregue o de los servicios prestados;

iii) percepción del impuesto en cada fase del proceso de producción y de distribución, incluido el de la venta al por menor, con independencia del número de transacciones efectuadas anteriormente y;

iv) deducción del IVA devengado de los importes abonados en las etapas anteriores del proceso de producción y de distribución, de manera que el impuesto se aplica solo al valor añadido en esa fase y que su carga final recae sobre el consumidor.

Teniendo en cuenta que el impuesto objeto de análisis no cuenta con las dos últimas características, el Tribunal concluyó que la Directiva del IVA no se opone al establecimiento de un impuesto que se percibe periódicamente, y no en cada fase del proceso de producción y de distribución, sin que exista un derecho a deducir el impuesto pagado en la fase anterior de dicho proceso.

2. Tribunal de Justicia de la Unión Europea. Sentencia de 5 de marzo de 2020. Asunto C-211/18, Idealmed III-Serviços de Saúde S.A.

Directiva 2006/112/CE — Artículo 132, apartado 1, letra b) — Exenciones — Hospitalización y asistencia sanitaria — Establecimientos hospitalarios — Servicios prestados en condiciones sociales comparables a las que rigen para entidades de Derecho público — Artículos 377 y 391 — Excepciones — Facultad de optar por la tributación — Mantenimiento de la tributación — Modificación de las condiciones de ejercicio de la actividad.

En primer lugar, se pregunta al Tribunal si, a efectos de determinar si los servicios de asistencia sanitaria prestados por un establecimiento hospitalario privado, que se prestan en condiciones sociales comparables a las que rigen para entidades de Derecho público, las autoridades competentes de un Estado miembro pueden tomar en consideración el hecho de que esos servicios se proporcionen en virtud de convenios celebrados con las autoridades públicas del Estado miembro, a precios fijados por esos convenios, y que el coste de tales servicios sea asumido en parte por las instituciones de seguridad social de ese Estado miembro.

El TJUE remarca que la finalidad del artículo 132.1, letra b) de la Directiva IVA es facilitar el acceso a determinadas prestaciones de interés general, evitando de esta manera los costes adicionales que se derivarían de estar sujetas. Por lo tanto, el carácter de interés general de estos servicios constituye un factor pertinente que debe tenerse en cuenta para determinar si la prestación de asistencia sanitaria por parte de un hospital privado está comprendida en la exención o no.

La segunda cuestión que aborda el TJUE versa sobre si el artículo 391 de la Directiva IVA, en relación con el artículo 377, se opone a la exención del IVA de los servicios de hospitalización y asistencia sanitaria prestados por un hospital privado, debido a un cambio en las condiciones en las que ejerce su actividad, producido después de que hubiese optado por la tributación de esas operaciones, renunciando a la exención, incluso aunque se prevea un tiempo mínimo de permanencia en este régimen y ese periodo no haya expirado aún.

De acuerdo con el Tribunal, la facultad de renunciar a la exención y optar por la tributación de estos servicios, únicamente se refiere a las operaciones efectuadas por los establecimientos no señalados en el artículo 132.1, letra b) de la Directiva del IVA, por lo que los Estados miembro no pueden invocar los artículos 377 y 391 de dicha Directiva para justificar el mantenimiento de la tributación de las operaciones de un empresario, si esto da lugar a que sus operaciones no estén exentas, pese a estar comprendidas en el supuesto de exención previsto en el citado artículo 132.1, letra b). Por tanto, el TJUE no se opone a la exención del impuesto en este supuesto planteado.

3. Tribunal de Justicia de la Unión Europea. Sentencia de 5 de marzo de 2020. Asunto C-48/19, X-GmbH.

Directiva 2006/112/CE — Artículo 132, apartado 1, letra c) — Exenciones — Asistencia a personas físicas realizada en el ejercicio de profesiones médicas y sanitarias — Prestaciones por teléfono — Prestaciones realizadas por enfermeros y auxiliares médicos.

Se plantea al TJUE si las prestaciones telefónicas relacionadas con el asesoramiento sobre salud y enfermedades pueden estar comprendidas en la exención del IVA establecida en el artículo 132, apartado 1, letra c), de la Directiva IVA, por tener una finalidad terapéutica. Y, en su caso, si los enfermeros y auxiliares médicos que las efectúan deben estar sujetos a requisitos adicionales de cualificación profesional para que dichas prestaciones puedan acogerse a la mencionada exención.

En cuanto a la finalidad terapéutica de la asistencia, considera el TJUE que, si dichas consultas telefónicas permiten a la persona comprender su situación médica y actuar en consecuencia, pueden tener una finalidad terapéutica, quedando exentas; sin incluir las consultas meramente informativas.

En cuanto al requisito subjetivo, se exige que los enfermeros y auxiliares médicos alcancen un nivel de calidad equivalente al de las prestaciones efectuadas por otros profesionales que prestan sus servicios a través del mismo cauce.

Finalmente, el TJUE entiende que el análisis sobre el cumplimiento de ambos requisitos debe llevarlo a cabo al órgano jurisdiccional remitente.

4. Tribunal de Justicia de la Unión Europea. Sentencia de 11 de marzo de 2020. Asunto C-94/19, San Domenico Vetraria SpA.

Directiva 77/388/CEE — Artículos 2 y 6 — Ámbito de aplicación — Operaciones gravadas — Prestación de servicios efectuada a título oneroso — Desplazamiento de personal por una sociedad matriz a su filial — Reembolso por la filial limitado a los costes en que se haya incurrido.

Se requiere al TJUE que aclare si los artículos 2 y 6 de la Sexta Directiva se oponen a una normativa nacional, con arreglo a la cual, no deben considerarse relevantes, a efectos del IVA, las transferencias temporales o los desplazamientos de personal de la sociedad matriz cuando la sociedad filial solo abona el reembolso del coste correspondiente.

Recuerda el Tribunal que existirá un vínculo directo entre dos prestaciones cuando se condicionen mutuamente, es decir, que la realización de una de ellas se podría llevar a cabo únicamente a condición de que se realice la otra, y ello con independencia de que el importe acordado por las dos partes como precio o contraprestación sea superior, igual o inferior al coste de prestación del servicio.

En el presente asunto, se produjo el desplazamiento de un directivo y el pago de unas cantidades a facturar, sobre la base de una relación jurídica de carácter contractual. Por lo tanto, concluye el TJUE que existe un vínculo directo en este en este intercambio de prestaciones, siendo por tanto la normativa nacional contraria a la Sexta Directiva del IVA, al no considerar relevantes, a efectos del impuesto dichas transferencias temporales o desplazamientos.

5. Tribunal de Justicia de la Unión Europea. Sentencia de 23 de abril de 2020. Asuntos acumulados C-13/18 y C-126/18, Sole-Mizo y Dalmandi.

Directiva 2006/112/CE — Derecho a deducir el impuesto soportado — Devolución del excedente del IVA — Devolución fuera de plazo — Cálculo de los intereses — Régimen de concesión de intereses adeudados como consecuencia de no poder disponer de un excedente del IVA deducible retenido infringiendo el Derecho de la Unión y de intereses adeudados como consecuencia del retraso de la Administración tributaria en abonar una cantidad debida.

Se requiere al TJUE que dilucide si el artículo 183 de la Directiva sobre el IVA, así como los principios de efectividad y de equivalencia, de efecto directo y de proporcionalidad, se oponen a la práctica de un Estado miembro consistente en calcular los intereses sobre los excedentes del IVA deducible retenidos por dicho Estado más allá de un plazo razonable, infringiendo el Derecho de la Unión mediante la aplicación de un tipo equivalente al tipo básico del banco central nacional.

El Tribunal señala que es contraria al Derecho de la Unión la aplicación de un tipo correspondiente al tipo básico del banco central nacional, cuando, por una parte, este tipo es inferior al que un sujeto pasivo que no sea una entidad de crédito debería pagar para recibir en préstamo una suma igual a dicho importe y, por otra parte, los intereses sobre los excedentes del IVA se devengan durante un período determinado, sin aplicar un interés que compense al sujeto pasivo la depreciación monetaria provocada por el transcurso del tiempo tras el período de declaración hasta el pago efectivo de tales intereses.

Además, se plantea al TJUE si el Derecho de la Unión se opone a una práctica de un Estado miembro que, en primer lugar, supedita el pago de intereses de demora adeudados como consecuencia de que la Administración tributaria no saldó una deuda de intereses en concepto de devolución de un excedente del IVA retenido, infringiendo el Derecho de la Unión a la presentación de una solicitud específica, cuando en otros casos se conceden de oficio; y, en segundo lugar, aplica estos intereses desde que expira un plazo de treinta o cuarenta y cinco días señalado a la Administración para la tramitación de esa solicitud, y no desde la fecha en la que se constituyó tal excedente.

El TJUE considera que el principio de efectividad no resultaría vulnerado, puesto que el requisito relativo a la presentación por el contribuyente de una solicitud de pago de intereses de demora, en caso de que la Administración salde con retraso una deuda resultante de la infracción del Derecho de la Unión por parte del Estado, no es, en sí mismo, capaz de hacer imposible en la práctica el ejercicio del derecho a la devolución de un excedente del IVA retenido infringiendo el Derecho de la Unión. Por tanto, el requisito relativo a la presentación de dicha solicitud de pago de intereses de demora no es contrario al principio de efectividad ni, por lo tanto, al Derecho de la Unión.

6. Tribunal de Justicia de la Unión Europea. Sentencia de 23 de abril de 2020. Asunto C-401/18, Herst.

Directiva 2006/112/CE — Artículo 2, apartado 1, letra b) — Adquisición intracomunitaria de bienes — Artículo 20 — Obtención del poder de disposición de un bien como propietario — Operaciones de compra y de reventa en cadena de bienes con un transporte intracomunitario único — Posibilidad de adoptar decisiones que puedan afectar a la situación jurídica del bien — Imputación del transporte — Transporte en régimen suspensivo de impuestos especiales.

Se requiere al TJUE que aclare si el sujeto pasivo que efectúa un transporte intracomunitario de bienes en régimen suspensivo de impuestos especiales, con la intención de adquirir dichos bienes para su actividad económica una vez

despachados a libre práctica en el Estado miembro de destino, obtiene la facultad de disponer de dichos bienes como propietario cuando, durante su transporte, los bienes han sido revendidos sucesivamente a otros operadores.

De acuerdo con la Jurisprudencia del Tribunal, la existencia de una transmisión del poder de disposición de un bien corporal como propietario significa que la parte a la que se ha transmitido dicho poder tiene la posibilidad de adoptar decisiones que puedan afectar a la situación jurídica del bien, entre ellas, la decisión de venderlo. Además, recuerda que, en el caso de ventas sucesivas que dan lugar a un único transporte intracomunitario, para determinar a qué entrega debe imputarse el transporte intracomunitario, debe llevarse a cabo una apreciación global de todas las circunstancias particulares del caso concreto. Si bien no llega a concluir el TJUE dicho análisis, señala que a la hora de que el tribunal remitente realice la apreciación mencionada anteriormente, la circunstancia de que el sujeto pasivo tuviera desde un principio la intención de adquirir dichos bienes para su actividad económica una vez despachados a libre práctica en el Estado miembro de destino constituye una circunstancia que debe tener en cuenta.

De otra parte y en contestación a otra cuestión planteada, concluye el TJUE que el Derecho de la Unión se opone a que un órgano jurisdiccional nacional, ante una disposición de Derecho tributario nacional que ha transpuesto una disposición de la Directiva del IVA que se presta a varias interpretaciones, adopte la interpretación más favorable al sujeto pasivo, basándose en el principio constitucional nacional, incluso después de que el TJUE haya declarado que tal interpretación es incompatible con el Derecho de la Unión.

7. Tribunal de Justicia de la Unión Europea. Sentencia de 30 de abril de 2020. Asunto C-661/18, Correios de Portugal.

Directiva 2006/112/CE — Deducción del impuesto soportado — Artículo 173 — Sujeto pasivo mixto — Métodos de deducción — Deducción a prorrata — Deducción por el procedimiento de afectación real — Artículos 184 a 186 — Regularización de las deducciones — Modificación de los elementos tomados en consideración para la determinación de la cuantía de las deducciones — Operación posterior erróneamente considerada exenta de IVA — Medida nacional que prohíbe el cambio de método de deducción para los años ya transcurridos — Plazo de preclusión — Principios de neutralidad fiscal, de seguridad jurídica, de efectividad y de proporcionalidad.

En primer lugar, se plantea al TJUE si el artículo 173 de la Directiva del IVA, de acuerdo con los principios de neutralidad fiscal, de efectividad, de equivalencia y de proporcionalidad, debe interpretarse en el sentido de que se opone a que un Estado miembro que autoriza con arreglo a dicha disposición a los sujetos pasivos mixtos a efectuar la deducción de IVA por el procedimiento de afectación real de la totalidad o de parte de los bienes y servicios utilizados para efectuar indistintamente operaciones con derecho a deducción y operaciones que no generen tal derecho, prohíba a tales sujetos pasivos cambiar de método de deducción tras la fijación de la prorrata definitiva.

Responde negativamente el TJUE dado que, de acuerdo con el principio de proporcionalidad, la normativa nacional que deniega la posibilidad de cambiar el método de deducción, tras la fijación de la prorrata definitiva, no excede de lo necesario para la correcta recaudación. Asimismo, sobre el principio de neutralidad fiscal, este no puede interpretarse en el sentido de que, en cada situación, deba buscarse el método de deducción más preciso. Y, con respecto al de seguridad jurídica, no es razonable exigir a las autoridades que acepten que un sujeto pasivo pueda cambiar unilateralmente el método de deducción.

En segundo lugar, se plantea si los artículos 184 a 186 de la Directiva del IVA, a la luz de los principios anteriores, se oponen a una normativa nacional que, tras haberse fijado la prorrata definitiva conforme al artículo 175, apartado 3 de dicha Directiva, deniega a un sujeto pasivo la posibilidad de aplicar el método de afectación autorizado en la normativa nacional, según el artículo 173, apartado 2, letra c) de la Directiva IVA, para rectificar las deducciones aplicadas correspondientes a operaciones con derecho y sin derecho a la deducción, ignorando el sujeto pasivo en el momento de la deducción inicial que las operaciones que consideraba exentas no lo eran y, a su vez, el plazo de preclusión de la normativa nacional para regularizar las deducciones no había finalizado aún.

El TJUE responde afirmativamente dado que el sujeto pasivo ignoraba, en el momento en que eligió el método de deducción, que las operaciones que consideraba exentas no lo estaban, correspondiendo al órgano jurisdiccional remitente comprobar si actuaba de buena fe, dadas las modificaciones normativas que hubo para liberalizar el mercado de los servicios públicos postales en Portugal. Por lo cual, el sujeto pasivo tenía derecho a regularizar conforme al artículo 184 de la Directiva. Esto aplica a los bienes y servicios de uso mixto, a tenor del artículo 173 de la Directiva IVA. En cuanto a los bienes y servicios destinados exclusivamente a operaciones gravadas, los sujetos pasivos pueden deducir la totalidad del impuesto soportado, por lo que se debe reconocer el derecho a cambiar el método de deducción.

8. Tribunal de Justicia de la Unión Europea. Sentencia de 30 de abril de 2020. Asunto C-258/19, EUROVIA.

Directiva 2006/112/CE — Artículos 63, 64, apartado 1, 66, párrafo primero, letras a) a c), 167 y 179, párrafo primero — Prestación de servicios anterior a la adhesión de Hungría a la Unión Europea — Determinación exacta del precio de la prestación posterior a la adhesión — Emisión y pago de la factura correspondiente a la prestación posteriores a la adhesión — Denegación del derecho a deducción correspondiente a esa factura a causa de su prescripción — Competencia del Tribunal de Justicia.

El presente asunto, tiene su origen en noviembre de 1998, cuando a consecuencia de la ejecución de los trabajos relativos a una red de telecomunicaciones aérea, acordados en un contrato de obra, surgieron controversias en relación con el importe del precio, a raíz de la cual la empresa húngara solo pagó al contratista una parte del mismo.

A este respecto, el TJUE se declara incompetente para resolver el asunto planteado, en la medida en que la controversia se refiere a una prestación de servicios respecto de la cual el IVA resultó exigible con anterioridad a la adhesión de Hungría a la Unión (1 de mayo de 2004).

9. Tribunal Supremo. Sala de lo Contencioso. Sentencia de 2 de marzo de 2020, nº recurso 2465/2017.

En el caso presente, la Sociedad recurrente es una sociedad bancaria que ostentaba participaciones en entidades andorranas que, según la recurrente constituían una prolongación de su actividad financiera en Andorra. Pues bien, la parte recurrente transmitió su participación en sede de una de ellas a la otra y, posteriormente, transmitió el porcentaje de participación de ésta última, a otros accionistas. La plusvalía obtenida en las citadas trasmisiones la incluyó tanto en el numerador como en el denominador del cómputo del porcentaje de la prorrata general del IVA, al entender que estas transacciones constituían parte de su actividad habitual.

La Inspección y el TEAC, consideraron que las dos transmisiones debían calificarse como no habituales y, por ello, no podían tenerse en cuenta para la determinación del porcentaje de prorrata general.

El TS, con arreglo a los criterios interpretativos señalados por el TJUE, señaló que:

a) El artículo 104 LIVA en su apartado Tres establece que para la determinación del porcentaje de deducción no se computarán ni en el numerador y ni en el denominador una serie de operaciones, cuotas del Impuesto e importes. Entre ellos, según el párrafo 4º: "*el importe de las operaciones inmobiliarias o financieras que no constituyan actividad empresarial o profesional habitual del sujeto pasivo*".

b) El referido precepto materializa la trasposición de la Sexta Directiva al derecho interno de esta norma del cálculo de la prorrata. En este sentido, entiende el TS que dicha trasposición no fue adecuada, pues la Directiva se refiere a operaciones accesorias inmobiliarias y financieras, y a contrario sensu, no a operaciones no habituales. En virtud de lo anterior, en palabras del TS resulta claro que la operación financiera que se contempla no es habitual, pero, por el efecto de aplicación directa y preferente de la normativa europea analiza si merece la consideración de accesoria o no.

c) En este sentido, el TJUE ha realizado una delimitación negativa del concepto "*operaciones accesorias*" sobre la base de dos consideraciones. La primera tiene en cuenta el grado de empleo de los medios en dicha actividad, es decir, su cuantificación en proporción al total del sujeto pasivo, sin fijarse en los resultados o los ingresos, por otro lado, la segunda consideración delimitadora consiste en entender que una actividad que constituya la prolongación directa, permanente y necesaria de la actividad imponible del sujeto pasivo no puede calificarse como operación accesoria.

En consecuencia, el TS entiende finalmente que la operación descrita es accesoria, pues mediante la venta de acciones contemplada, únicamente se hace efectiva la transmisión íntegra de una entidad bancaria concentrando la actividad financiera del Grupo en una sola entidad en el territorio andorrano. Por tanto, se evidencia que no se trata de una prolongación directa, permanente y necesaria de la actividad financiera de la parte recurrente, ni comporta un empleo muy significativo de bienes y servicios en los términos que, según la doctrina del TJUE, excluirían la accesoriedad, lo que determina que no puedan tenerse en cuenta para la determinación del porcentaje de prorrata general.

III. Doctrina Administrativa

1. Tribunal Económico-Administrativo Central. Resolución de 26 de febrero de 2020, Recurso 3698/2016.

Sociedad "holding mixta" – Deducción del IVA soportado.

En la presente resolución, el TEAC se pronuncia sobre la deducibilidad de determinadas cuotas de IVA soportadas por una sociedad holding mixta.

La Administración considera que las siguientes cuotas no son deducibles:

- Facturas recibidas de los miembros del consejo de administración, al no tener las retribuciones carácter obligatorio.
- Facturas recibidas de determinados proveedores, al no utilizarse exclusivamente en la realización de operaciones que originan el derecho a la deducción.
- Facturas de gastos generales, por encuadrarse en la actividad propia de la holding y no estar afectas a una actividad económica.

La sociedad alega que no es una sociedad holding pura, sino que desarrolla una actividad económica prestando diversos servicios a sus filiales por las que soporta cuotas del IVA, y que dichas cuotas soportadas son necesarias y están relacionadas con la actividad que presta. Por lo tanto, procede la deducibilidad de las mismas.

En atención a lo anterior, tras un repaso de la doctrina del TJUE, el TEAC concluye lo siguiente:

- La parte de la actividad de la sociedad consistente en la tenencia de valores y en la prestación de servicios sin facturación es una activad no económica.
- La retribución al consejo de administración no tiene carácter obligatorio al no estar pactada de forma cierta la contraprestación en los estatutos. Por tanto, no existe una contraprestación onerosa que justifique la repercusión del impuesto.

- Se admite la afectación parcial al desarrollo de la actividad empresarial de las facturas recibidas de determinados proveedores y de gastos generales. Por tanto, serían deducibles con límites, según el criterio de reparto que se establezca.

2. Dirección General de Tributos. Contestación nº V0399-20, de 20 de febrero de 2020.

Traslado del domicilio social y fiscal al territorio de aplicación del IVA – Sujeción al IVA - Compensación cuotas del IVA – Declaraciones censales.

La consultante es una entidad mercantil alemana que opera en el territorio de aplicación del Impuesto a través de un establecimiento permanente que tiene por objeto social el desarrollo de proyectos inmobiliarios y que ha adquirido en dicho territorio, a través de su establecimiento permanente, diversos inmuebles. La consultante va a trasladar su domicilio social y fiscal al territorio de aplicación del Impuesto.

La consultante plantea las siguientes cuestiones:

- Si el establecimiento permanente debería darse de baja del Censo de Empresarios, Profesionales y Retenedores.

- Si las cantidades pendientes de compensar del IVA por parte del establecimiento permanente podrían ser compensadas por la consultante.

- Si el cambio de domicilio fiscal y social produciría alguna operación sujeta al IVA en relación con los inmuebles adquiridos por el establecimiento permanente.

En su contestación, la DGT concluye que:

- La entidad consultante deberá presentar la declaración de alta en el censo de empresarios, profesionales y retenedores si pretende desarrollar directamente una actividad económica en España. Ahora bien, como la sociedad venía desempeñando la actividad económica a través de un establecimiento permanente en España que cursó alta en dicho censo como tal, se deberá presentar la declaración de baja del mismo a los efectos oportunos, por cuanto la actividad económica ya no será desarrollada por el establecimiento permanente, sino directamente por la sociedad misma.

- La entidad consultante tendrá derecho a compensar las cantidades del IVA pendientes de compensación por el establecimiento permanente.

- En la medida en que, el traslado de la sede de actividad económica no va a constituir una transmisión del poder de disposición de los bienes que integran el activo del establecimiento permanente a la entidad consultante debido a que jurídicamente ya pertenecen a la misma, no se produciría operación alguna a efectos del IVA.

3. Dirección General de Tributos. Contestación nº V0454-20, de 26 de febrero de 2020.

Establecimiento permanente en otro EM - Declaración recapitulativa de operaciones comunitarias en el modelo 349 – SII.

La consultante es una sociedad establecida en territorio de aplicación del IVA que ha decidido, por motivos logísticos y de eficiencia, contratar un almacén en Alemania. La mercancía recibida en el almacén situado en Alemania podrá enviarse a diversos destinos, incluyendo clientes que tienen la condición de empresario o profesional establecidos en Alemania o Francia, enviándose la mercancía en este último caso a Francia. Asimismo, también se realizarán envíos a otro almacén que la consultante tiene en territorio de aplicación del IVA.

La consultante plantea si las entregas que realice desde el almacén situado en Alemania a clientes alemanes o franceses, así como las que realice al almacén situado en territorio de aplicación del IVA, deben ser objeto de declaración recapitulativa de operaciones comunitarias en el modelo 349 y en el SII.

Partiendo de la premisa de que la consultante tiene establecimiento permanente en Alemania, la DGT entiende que no se entenderán realizados en el territorio de aplicación del IVA, aquellos envíos de mercancías que son puestos a disposición de los clientes en Alemania o son enviados desde este país a Francia.

Por otra parte, en aquellos supuestos en los que las mercancías son transportadas desde el establecimiento permanente situado en Alemania hasta el almacén situado en territorio de aplicación del Impuesto y que, posteriormente, son vendidas a clientes establecidos en dicho territorio, hay que distinguir dos operaciones. Por un lado, la recepción de las mercancías procedentes de Alemania en el territorio de aplicación del Impuesto determina la realización de una operación asimilada a una adquisición intracomunitaria de bienes, que estará sujeta al. Por otro lado, las entregas de bienes realizadas posteriormente por la consultante a sus clientes dentro del territorio de aplicación del Impuesto, también estarán sujetas al IVA.

De acuerdo con lo anterior, las operaciones asimiladas a adquisiciones intracomunitarias de bienes realizadas por el consultante deberán incluirse en la declaración recapitulativa de operaciones intracomunitarias.

De acuerdo con la doctrina de este Centro directivo, la consultante deberá incluir en el SII los registros de facturación correspondientes a las facturas por ella expedidas o las que haya recibido, sin que deban ser objeto de inclusión las facturas expedidas por el establecimiento permanente del consultante situado en Alemania.

4. Dirección General de Tributos. Contestación nº V0459-20, de 26 de febrero de 2020.

Sujeción al IVA de las operaciones de encargo de una Autoridad Portuaria, en relación con la primera venta en la lonja del puerto - Sociedad mercantil con la consideración de medio propio personificado y servicio técnico de las Administraciones Públicas.

La entidad consultante es una Autoridad Portuaria, actuando como poder adjudicador, que encarga a una sociedad mercantil, considerada como medio propio personificado y servicio técnico de las Administraciones Públicas, la prestación de servicios relacionados con la primera venta en la Lonja del puerto titularidad de esta Autoridad.

La DGT comienza aclarando que no estarán sujetos al IVA los servicios prestados por la sociedad mercantil cuando la misma ostente, de conformidad con lo establecido en el artículo 32 de la nueva Ley de Contratos del Sector Público (artículo 24.6 del Texto Refundido de la Ley de Contratos del Sector Público), la condición de medio propio personificado del poder adjudicador que haya ordenado el encargo, en los términos establecidos en el artículo 32 y 24.6 del Texto Refundido de la Ley de Contratos del Sector Público.

No obstante lo anterior, y tal como se establece en reiterada doctrina de este Centro directivo, los supuestos de no sujeción señalados en el artículo 7.8º de la Ley, entre los que se encuentra el regulado en la letra C), tienen su límite y están, en todo caso sujetas al IVA, las entregas de bienes y prestaciones de servicios que la sociedad consultante realice en el ejercicio de las actividades relacionadas en la letra F) del artículo 7.8º de la Ley del IVA.

A este respecto, la DGT habiendo diferenciado la normativa sectorial entre servicios portuarios y otros servicios como los generales, comerciales y los de señalización marítima, concluye que, de acuerdo con la descripción de la actividad a desarrollar por la sociedad mercantil, no resultaría de aplicación a los mismos la excepción a la no sujeción al IVA prevista en la letra d´) del artículo 7.8º.F) de la Ley del IVA.

Asimismo, por lo que respecta a la aplicación del supuesto de sujeción previsto en la letra g´) del artículo 7.8º.F) de la Ley del IVA, relativo a la entregas de bienes y prestaciones de servicios efectuadas en el ejercicio de la actividad consiste en la "explotación de ferias y exposiciones de carácter comercial", destaca la DGT que la actividad comercial de venta del pescado fresco no la lleva a cabo la propia sociedad mercantil a la que se efectúa el encargo objeto de consulta sino, los productores a través de las asociaciones de carácter comercial y privado, por lo que las prestaciones de servicios que efectúe la citada sociedad mercantil no se entenderán efectuadas en el ejercicio de la actividad sujeta de explotación de ferias y exposiciones de carácter comercial.

En consecuencia, en virtud de lo expuesto, la DGT concluye que el encargo del poder adjudicador objeto de consulta consiste en la asistencia técnica relacionada con la primera venta de pescado fresco en la Lonja de un puerto del Estado estará no sujeto al IVA al no incluirse dicha actividad dentro de los

supuestos para los que el artículo 7.8º.F) de la Ley ha previsto la sujeción al Impuesto, resultando de aplicación el supuesto de no sujeción prevista en la letra C) del artículo 7.8º de la Ley.

5. Dirección General de Tributos. Contestación nº V0467-20, de 26 de febrero de 2020.

Concepto de entrega de bienes o prestaciones de servicios - Exención– Entregas de medicamentos u otros productos elaborados a partir de la sangre o del plasma humano.

La entidad consultante es una mercantil establecida en el territorio de aplicación del IVA, comercializadora de medicamentos.

Dentro de su actividad, lleva a cabo un tratamiento innovador para la lucha contra el cáncer, a través del cual se extrae la sangre del paciente, aislando los glóbulos blancos, enviándolos posteriormente a una entidad del grupo establecida en los Países Bajos donde los someterán a un proceso de transformación genética mediante la manipulación de determinadas células. Una vez modificadas, la sangre es enviada al hospital, para su reinfusión en el paciente. El producto obtenido tiene la calificación de medicamento por la Agencia Europea del Medicamento y por la Agencia Española de Medicamentos.

En esta consulta, la DGT analiza la calificación de la ejecución de obra descrita, así como la posible aplicación de la exención establecida en el artículo 20.Uno.4º de la Ley del IVA o, en su defecto, el tipo impositivo aplicable.

Para dar contestación a la cuestión suscitada en esta consulta, la DGT recuerda el criterio establecido por la jurisprudencia del TJUE (sentencia Van Dijk Boekhius, Asunto C- 139/84) así como el criterio mantenido en resoluciones previas a consultas vinculantes (véase, entre otras, la V0173-15 de 20 de enero, V3218-15 de 21 de octubre y V1280-17 de 25 de mayo). En este sentido, la DGT establece para el caso en cuestión, que la ejecución de obra realizada por la entidad fabricante debe de calificarse como una entrega de bienes en la medida que supone una transformación sustancial de la materia prima de tal forma que se obtiene un producto esencialmente diferente.

Por otra parte, en relación con la posible exención aplicable a la entrega del medicamento, la DGT trae a colación el criterio establecido por el TJUE en el asunto C-412/15, TMD, así como la contestación a la consulta vinculante V3227-17, por la cual, cambiando el criterio mantenido hasta la fecha de dicha resolución, establece que las entregas de plasma sanguíneo destinado exclusivamente a la fabricación de medicamentos, se consideran sujetas y no exentas del IVA, siendo por tanto, el tipo impositivo reducido del 4 por ciento aplicable a la entrega del producto objeto de consulta.

6. Dirección General de Tributos. Contestación nº V0484-20, de 27 de febrero de 2020.

Establecimiento permanente – Arrendamiento de bien inmueble– Inversión de sujeto pasivo.

El consultante es una persona física residente en Portugal que tiene la intención de arrendar un edificio de su propiedad, situado en el territorio de aplicación del IVA, a una empresa española. Previamente al arrendamiento, realizará ciertas obras de ampliación con una duración estimada de cinco meses.

La consultante plantea numerosas cuestiones acerca del tratamiento a efectos del IVA de dichas obras de ampliación, así como respecto a la deducibilidad de las cuotas soportadas y el cumplimiento de obligaciones formales de reporte y facturación.

Como aclaración inicial, la DGT señala que el consultante tendrá la condición de empresario o profesional a efectos del IVA y que, en virtud del artículo 70.Uno.1º.a) de la Ley del IVA, la prestación de servicios de arrendamiento del inmueble se localizará en el territorio de aplicación del IVA al considerarse un servicio relacionado con un inmueble que radica en el mencionado territorio.

Para dar contestación a las múltiples cuestiones suscitadas en esta consulta, la DGT trae a colación, inicialmente, el criterio establecido por la jurisprudencia del Tribunal de Justicia de la Unión Europea, anteriores resoluciones a consultas vinculantes y reiterado criterio del TEAC, en sus resoluciones de 20 de octubre de 2016 y de 22 de mayo de 2019, por el cual una entidad no establecida, en la medida que no mantiene en el territorio de aplicación del Impuesto de forma permanente medios materiales y humanos, propios o subcontratados, para el ejercicio de la actividad de arrendamiento, debe concluirse que no dispone en dicho territorio de un establecimiento permanente, siendo por tanto el sujeto pasivo del arrendamiento, el arrendatario, por la aplicación del mecanismo de la inversión del sujeto pasivo.

En cuanto a los requisitos formales relacionados con la expedición de la factura, la DGT no se pronuncia en la medida en que dicha factura no queda sujeta al Reglamento de Facturación español.

Por otro lado, respecto a las obras de ampliación del inmueble contratadas por el consultante, la DGT concluye que en la medida que estas obras de ampliación cumplan con los requisitos establecidos en artículo 24 quater del Reglamento del IVA, aplicará el mecanismo de inversión del sujeto pasivo previsto en el artículo 84.Uno.2º.f) y, por ende, el consultante tendrá la condición de sujeto pasivo del IVA por las obras de ampliación.

Con base en lo anterior, el procedimiento de devolución de las cuotas soportadas del IVA, resultará el regulado en el artículo 115 de la Ley del IVA, quedando obligado a la presentación de declaraciones periódicas del IVA, sin perjuicio de que, una vez finalicen las obras, la consultante pierda su condición

de sujeto pasivo del IVA, y resulte de aplicación el procedimiento regulado en el artículo 119 del IVA para empresarios o profesionales no establecidos en el territorio de aplicación del Impuesto.

7. Dirección General de Tributos. Contestación nº V0557-20, de 9 de marzo de 2020.

Proceso de digitalización – Conservación por medios electrónicos de documentos CMR de transporte.

La consultante es una sociedad que efectúa trabajos de digitalización y gestión documental. En concreto, lleva a cabo la digitalización de la documentación generada por empresas dedicadas al transporte de mercancías por carretera.

La consultante plantea si el proceso de digitalización certificada con software homologado para su conservación por medios electrónicos, sería válido para los documentos CMR o cartas de porte.

Para dar contestación a la cuestión suscitada en esta consulta, la DGT hace inicialmente referencia al Reglamento de Facturación. En este sentido, su artículo 20 establece que los diferentes documentos, en papel o formato electrónico, deberán conservarse por cualquier medio que permita garantizar al obligado a su conservación la autenticidad de su origen, la integridad de su contenido y su legibilidad en los términos establecidos. Asimismo, dicha obligación podrá cumplirse mediante la utilización de medios electrónicos.

De lo anterior, resulta que la DGT entiende que de acuerdo con el artículo 7 de la Orden EHA/962/2007, de 10 de abril, los obligados tributarios podrán proceder a la digitalización certificada no sólo de las facturas, sino también "de otros documentos o justificantes".

A este respecto, dicho Centro Directivo considera que los documentos CMR de transporte tienen encaje en la categoría de "otros documentos o justificantes" y en consecuencia, siempre que el proceso de digitalización se ajuste a las disposiciones normativas existentes en la materia, dicho proceso sería, igualmente, de aplicación a los documentos CMR de transporte, prescindiendo así de conservación de dichos documentos en papel.

Finalmente, la DGT recuerda que son software de digitalización homologados aquellos referidos en la Resolución de 24 de octubre de 2007, de la AEAT, sobre el procedimiento para la homologación de software de digitalización contemplado en la Orden anteriormente mencionada.

8. Dirección General de Tributos. Contestación nº V0560-20, de 9 de marzo de 2020.

Entrega de bonos no nominativos para su posterior canje por servicios prestados por la entidad consultante – Devengo del IVA.

La entidad consultante, que presta servicios de balneario y masajes, ofrece a sus clientes la posibilidad de adquirir, previo pago de un precio, bonos no

nominativos para canjearse a posteriori por la prestación de servicios de dicha índole. Es la propia consultante quien actúa como emisora y distribuidora de los bonos y quien presta materialmente los servicios subyacentes a los mismos.

En esta consulta, la DGT analiza el devengo del Impuesto por la trasmisión de dichos bono.

En primer lugar, la DGT considera que, aunque el bono objeto de consulta reúne las características de los denominados bonos univalentes, supone el justificante de la contraprestación satisfecha de forma anticipada por su adquirente, que podrá entregarlo a terceros para que reciban el servicio de balneario y masaje que será efectuado, en un momento posterior, por la propia consultante que entrega dicho justificante. En consecuencia, los bonos objeto de consulta quedan excluidos de la regulación establecida por la Resolución de 28 de diciembre de 2018 de la DGT.

Respecto al devengo de los bonos no nominativos objeto de consulta, por los cuales la consultante percibe pagos anteriores a la realización de la prestación de servicios de balneario y masaje, se entenderá producido en el momento del cobro total o parcial, por los importes efectivamente percibidos, a tenor de lo dispuesto en el artículo 75. Dos de la Ley del IVA.

9. Dirección General de Tributos. Contestación nº V0561-20, de 9 de marzo de 2020.

Contrato de concesión de obra pública – Sujeción al impuesto.

La entidad consultante es una mercantil que resultó adjudicataria de un contrato de concesión de obra pública para la ejecución de las obras necesarias para la construcción de un hospital, aparcamiento e infraestructuras complementarias y su explotación parcial.

La licencia del referido aparcamiento fue denegada y los ingresos de la concesionaria disminuyeron hasta el punto en el que solicitó la declaración de concurso voluntario, entrando en fase de liquidación y habiendo acordado la rescisión del contrato. Adicionalmente, de acuerdo con la normativa vigente en ese momento (artículo 226.1 del Texto Refundido de la Ley de Contratos de las Administraciones Públicas), la entidad consultante tiene derecho al reintegro del importe de todas las inversiones realizadas.

La cuestión planteada por la consultante a la DGT versa sobre la sujeción al IVA del importe que la entidad concedente va a satisfacer a la consultante por las inversiones realizadas.

En relación con la consideración del pago de las cantidades objeto de consulta, la DGT trae a colación el criterio establecido por el TJUE en los asuntos C-215/94, Mohr, y asunto C-384/95, Landboden, así como la contestación a la consulta vinculante V0985-15, por la cual, se establece que las indemnizaciones abonadas en supuestos de instalaciones que deban ser demolidas o a empresas que deberán cesar en su actividad o trasladar su negocio, no constituyen

contraprestación de una prestación de servicios sujetas al IVA por no ser consideradas como contraprestación de una operación efectuadas a favor de la autoridad concedente.

No obstante, la DGT concluye que las cantidades objeto de consulta por parte de la entidad concedente no constituyen una indemnización sino la contraprestación por las obras y bienes que había realizado y adquirido la entidad concesionaria, que no se encontraban amortizadas en la fecha de resolución de la concesión, pasando estas a formar parte del patrimonio de la entidad concedente como consecuencia de la extinción de la concesión.

Finalmente, se concluye que en la medida en la que la operación tuviese la consideración de entrega de bienes, el devengo del Impuesto se habría producido cuando los bienes se hubiesen puesto a disposición de la entidad concedente, salvo que se hubiese producido algún pago anticipado, y al tipo general que se encontrase vigente en el momento del devengo de la misma.

10. Dirección General de Tributos. Contestación nº V0562-20, de 9 de marzo de 2020.

Exención – Operación de seguro – Seguro colectivo y mixto – Intermediación.

La consultante es una entidad sin ánimo de lucro cuyo fin es el fomento de los deportes, concretamente los deportes de motor. Dicha entidad presta determinados servicios a sus socios, fundamentalmente, de asistencia mecánica en carretera junto (o no) con otros servicios de asistencia en viaje, personal/sanitaria o jurídica.

Dichos servicios pueden ser prestados a través de una póliza de seguro colectivo donde la consultante es el tomador, o bien por la propia entidad consultante con medios propios o de terceros.

En la actualidad la cuota de socio otorga a sus miembros la condición de socio de la entidad al tiempo que le otorga el derecho a percibir diferentes servicios, entre ellos, el de asistencia en carretera.

En el nuevo modelo planteado, la cuota asociativa se disocia del conjunto de servicios a ser prestados por la entidad consultante, de forma que, dichos servicios deberán ser contratados de forma independiente y específica.

Las cuestiones planteadas por la consultante son:

1. Aplicación de la exención a la cuota asociativa.

2. Aplicación de la exención relativa a los seguros en la refacturación al socio del seguro en casos de seguro colectivo.

3. Condición de la prestación de asistencia mecánica en carretera por parte de una entidad aseguradora, sin cobertura aseguradora, como operación de seguros a efectos de aplicar la exención.

4. Aplicación de la exención relativa a los seguros cuando se trate de un servicio mixto de asistencia mecánica en carretera y asistencia personal, a través de una póliza de seguro colectivo.

5. Aplicación de la exención a la intermediación en la comercialización de los servicios prestados por la consultante.

Como aclaración inicial, la DGT señala que la consultante, entidad sin ánimo de lucro, tendrá la condición de empresario o profesional a efectos del IVA, cuando realice continuadamente entregas de bienes o prestaciones de servicios, siempre que se realicen a título oneroso, haciendo referencia al criterio establecido por el TJUE en el Asunto C-16/1993 y en el Asunto C-48/97.

- En relación con el pago por los asociados de las cuotas fijadas en los estatutos, la DGT señala que siempre que el pago de las cuotas fijadas no implique la obtención directa de un beneficio particular e individualizable para el aportante distinto del propio que conlleva tener la condición de miembros y distinto del objeto social, los servicios que preste el interesado estarán sujetos pero exentos del impuesto.

  Por el contrario, no puede aplicarse el supuesto de exención a que se refiere el artículo 20.Uno.12º de la Ley del Impuesto, a aquellas operaciones realizadas por la consultante para sus miembros por las que les factura un precio independiente.

  Del mismo modo, no resultará aplicable la mencionada exención a aquellas actividades realizadas por la consultante para terceros

- En relación con la concesión de una cobertura de seguros suscrita por una parte asegurada, la DGT trae a colación el criterio establecido en la consulta V0008-19, en la cual concluye que las prestaciones facturadas por la consultante a sus clientes quedarán sujetas y exentas del IVA siempre que incluyan la facturación exacta del importe del seguro.

  Por el contrario, en los casos en los que se facture una cantidad mayor o menor, cabría concluir que dichas operaciones deben quedar sujetas y no exentas del IVA.

- Respecto a la prestación de asistencia mecánica en carretera por la propia entidad consultante, sin cobertura aseguradora por parte de una entidad aseguradora, trae a colación la DGT el criterio establecido por el TJUE en el Asunto C-349/96 (Card Protection Plan) y el Asunto C-13/06 así como el criterio mantenido en resoluciones previas a consultas vinculantes (véase, entre otras, V2523-10 de 22 de noviembre y V3349-15 de 29 de octubre). De ellas, se concluye que en la medida en la que el pago realizado por el asociado y el coste de reparación soportado son diferentes, dicho pago no tendría la consideración de contraprestación, sino que responde a la figura jurídica del seguro y por ende, la prestación de asistencia en carretera se considera una operación de seguro sujeta pero exenta del IVA.

- En relación con los servicios mixtos de asistencia mecánica en carretera y asistencia personal, las DGT plantea la posibilidad de fraccionar los distintos servicios o de considerar dichos servicios como una prestación única. De acuerdo con la naturaleza de los servicios prestados, parecería que es la prestación de asistencia en carretera la que tiene la consideración de servicio esencial y principal para los asociados, siendo las otras prestaciones accesorias a la anterior. En estas circunstancias, el paquete de servicios mixto quedaría exento del IVA tal como se ha expuesto en el punto anterior.

- Finalmente, en relación con la intermediación en la comercialización de los servicios prestados por la entidad consultante, la DGT señala de forma genérica, al no constar suficiente información en el escrito de consulta, que están exentos del impuesto cuando tengan por objeto el asesoramiento, presentación, propuesta o realización de trabajos previos a la celebración del contrato de seguro o reaseguro, aunque el contrato no llegue a celebrarse.

IV. Country Summaries

April

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 and may have been overtaken by subsequent events.

European Union

EU permits import duty relief and VAT exemption on certain goods in view of COVID-19

On 3 April 2020, the European Commission adopted Commission Decision (EU) 2020/491 providing relief from import duties and a VAT exemption on goods imported by approved organizations in EU member states to combat the effects of the COVID-19 outbreak. The commission's action is in response to multiple requests for such a relief from member states in recent weeks.

Qualifying goods imported between 30 January and 31 July 2020 by approved organizations in member states intended for distribution free of charge to individuals affected by, at risk of, or involved in combatting the COVID-19 outbreak, may be imported free of import duty relief and exempt from VAT.

After the COVID-19 outbreak was officially recognized as a pandemic by the World Health Organization, the European Commission found that the extreme challenges brought by COVID-19 constitute a "disaster" as defined by EU law. In such circumstances, EU customs legislation provides for the possibility to grant duty relief for imports by state organizations or approved (charitable) organizations.

The commission's decision therefore enables import duty relief and a VAT exemption where goods are imported by state organizations (including state bodies, public bodies, and other bodies governed by public law), or member state approved organizations, and delivered (free of charge) to qualifying individuals.

All EU member states must inform the European Commission of the nature and quantity of goods imported free of duty and VAT in accordance with this decision and provide a list of organizations approved by the competent authorities within their jurisdiction.

Since the reliefs are available on qualifying goods imported as from 30 January 2020, a refund of duties and VAT may be claimed retroactively. The situation will be reviewed prior to 31 July 2020, and the reliefs may be extended as required.

Botswana

Economic and fiscal measures introduced in response to COVID-19

On 2 April 2020, Botswana's Minister of Finance and Economic Development, Dr Thapelo Matsheka, announced the first national economic response to the COVID-19 pandemic, intended to address four strategic objectives:

- Supporting workers;

- Stabilizing businesses;

- Ensuring availability of strategic reserves and other essential funds; and

- Promoting opportunities for economic diversification.

The government has established the COVID-19 (Corona Virus) Pandemic Relief Fund with initial government funding of BWP 2 billion. The private sector, development partners, philanthropists, individuals, etc., also are encouraged to contribute to the fund, but donations to the fund will not qualify as tax deductible expenditure. Donations in kind by the public are encouraged, and this is being coordinated by the Disaster Office.

The measures generally have immediate effect and will be implemented as soon as possible. The Ministry of Finance has yet to confirm further practical details and the exact timing of some of the measures.

An economic stimulus package to boost the economy after the COVID-19 outbreak has passed will be developed in due course.

This article highlights the key tax and monetary policy measures aligned with strategic objectives 1 and 2.

Tax measures

Supporting workers

A wage subsidy of up to BWP 1 billion in total is available to assist businesses to retain employees. Key features of the scheme include:

- A subsidy of 50% of the basic salary of employees between BWP 1,000 and BWP 2,500 per month for three months (April, May and June 2020). The Botswana Unified Revenue Service (BURS) will administer the scheme;

- The subsidy targets adversely affected sectors, and businesses registered for tax purposes will be eligible regardless of whether the business has outstanding tax liabilities;

- Parastatals (government owned organizations) and businesses with a direct government shareholding are excluded from the scheme;

- There must be no reductions in the workforce;

- Eligible businesses are required to supply payroll information to BURS, including the name, Omang (national identity card) details, taxpayer identification number (TIN, if available), and basic monthly salary for each employee; and

- Claims will be subject to audit.

Stabilizing businesses

Government loan guarantees for 24 months up to a maximum of BWP 25 million per business and a total amount of BWP 1 billion are available to private sector businesses. The guarantee is provided by Botswana Export Credit Insurance (BECI) on behalf of the government. BECI will guarantee 80% of the loan, with 20% guaranteed by commercial banks. To qualify, businesses must be up to date with their tax compliance obligations.

The government is developing guidelines to identify sectors particularly adversely affected by COVID-19, and the exact terms and conditions of the scheme are still to be negotiated.

Tax concessions

Two tax concessions are available to businesses adversely affected by COVID-19 that are up to date with all their tax compliance obligations:

- **Fast-tracked payment of overdue and undisputed VAT refunds and waiver of training levies:** To enhance the cashflows of businesses, the VAT refund period is reduced from 60 days to 21 days and the training levy is waived for six months. It is understood that the VAT refunds in question are those already confirmed and subjected to verification audits; the Minister did not comment on VAT refunds either not yet audited, or in the process of being audited. Although the government is committed to continue to pay VAT refunds and any other outstanding amounts due to businesses during the period, companies must continue to make regular tax filings and payments electronically. Companies that are unable to access the e-service platforms for any reason will not be penalized for noncompliance. Businesses with annual turnover in excess of BWP 250 million may be supported, but this is subject to negotiation on a case-by-case basis.

- **Deferral of quarterly self-assessment tax payments:** 75% of any two quarterly payments between March and September 2020 may be deferred until after March 2021.

Monetary policy measures

The Bank of Botswana is authorized to consider:

- Reducing the bank rate;
- Reducing primary reserve requirements, when necessary;
- Removing the 6% penalty imposed on commercial banks when accessing credit from the Bank of Botswana;
- Extending the maturity date for repos/reverse repurchase agreements; and
- Including all corporate bonds listed on the Botswana stock exchange in the collateral pool.

Commercial bank interventions may include:

- Offering a three-month moratorium on loan repayments;
- Restructuring existing loans to extend repayment periods;
- Providing additional loans to affected businesses, based on the government guarantee; and
- Maintaining existing credit lines and keeping undrawn commitments open and accessible.

Interventions by non-bank financial institutions may include:

- Restructuring and rescheduling payments of life insurance premiums and retirement contributions for at least three months;
- Restructuring and rescheduling loan installments for at least three months;
- Offering discounts on insurance products;
- Reducing interest rates on non-bank lending; and
- Ensuring a quick turnaround time for processing insurance and medical aid claims.

State-owned financial institutions authorized to make interventions include the National Development Bank (NDB) and the Citizen Entrepreneurial Development Agency (CEDA). The NDB may offer repayment holidays, extend the repayment period, waive penalty interest, extension the moratorium period, and reduce interest rates. The CEDA has set aside BWP 40 million to support small and medium-sized enterprises affected by COVID-19, for short-term financing of working capital requirements. It also will restructure loans, waiving interest payments for 12 months.

COVID-19: Latest tax measures approved by government

On 20 March 2020, the Brazilian government approved some of the temporary measures announced on 16 March to limit the negative effects of COVID-19. The measures aim to protect individuals, maintain the current rates of Brazilian employment, and limit the direct impact of the virus on the Brazilian healthcare system, as follows:

- On 20 March 2020, the International Trade Secretary suspended the import license requirement for the importation of blood collection tubes from Germany, China, the US, and the UK, and the importation of disposable needles for general use from China, during the state of emergency in Brazil (ordinance SECEX no. 18/20). On 25 March 2020, the Minister of the Economy suspended anti-dumping duties applicable to the same products during the same period (resolution no. 23/2020).

- On 23 March 2020, the Minister of the Economy extended by 90 days the validity of debt clearance certificates and positive debt clearance certificates with negative effects issued with respect to federal tax credits and executable tax debts (collective ordinance no. 555/20).

- On 24 March 2020, the Minister of the Economy suspended the collection of contributions to the severance pay indemnity fund (FGTS) for March, April, and May 2020 without fines or penalties (circular no. 893/20).

- On 25 March 2020, the National Treasury Attorney's Office extended the deadline to apply for extraordinary transactions with respect to executable tax debts until 25 March 2020, the final effective date of provisional measure no. 899/2019, which regulates debt renegotiations with the federal government (ordinance no. 8.457/20).

- On the same date, the Simples Nacional Management Committee extended the deadline to file 2019 tax declarations to 30 June 2020 for those electing to use the Simples Nacional (simplified tax) regime (resolution CGSN no. 153/20).

- Also, the Executive Committee for International Trade temporarily reduced the rate of II (import duty) to 0% for products used to fight and prevent COVID-19 (resolution CAMEX). The list of products includes mostly hospital products and medicines.

- On 26 March 2020, the Brazilian Federal Revenue expanded the list of medical and hospital products subject to priority customs clearance. The list includes medical oxygen, chloroquine, azithromycin, and antiseptics, among others (normative instruction no. 1.929/20).

Moreover, a provisional measure published on 31 March 2020 (no. 932/2020) reduces the rates of payroll contributions payable by employers from 1 April 2020 to 30 June 2020 as follows:

- National Service for Cooperative Training (SESCOOP): 1.25%;

- Industrial Social Services (SESI), Commercial Social Services (SESC), and Transportation Social Services (SEST): 0.75%;

- National Service for Commercial Apprenticeship (SENAC), National Service for Industrial Apprenticeship (SENAI), and National Service for Transportation Apprenticeship (SENAT): 0.5%; and

- National Service for Rural Apprenticeship (SENAR):

    - 1.25% (SENAR levied on payroll);

    - 0.125% (SENAR levied on agricultural legal entities); and

    - 0.1% (SENAR levied on individual agricultural producers and individuals).

The provisional measure is effective for 60 days but may be extended by an additional 60 days. During this period, it must be approved and enacted into law by the National Congress to remain effective.

On 1 April 2020, other emergency tax measures also were approved to reduce the economic impact of COVID-19 on the country, as follows:

- The rates of IPI ((federal excise tax on industrialized goods) are reduced until 1 October 2020 for lab and pharmacy products, thermometers, gloves, mittens, and similar items, except for those to be used in surgical procedures (decree no. 10.302/20).

- A financial transaction tax (IOF) exemption is granted for 90 days on transactions performed between 3 April 2020 and 3 July 2020 (decree no. 10.305/20). Currently, the IOF applies at a 3% rate per year. This measure will cost the federal government BRL 7 billion and is related to credit lines to be granted to companies at reduced interest rates.

- Although the deadline to file 2019 individual income tax returns was extended from 30 April 2020 to 30 June 2020 (normative instruction no. 1.930/20), the income tax refund schedule remains the same for 2020 with regard to taxes paid in 2019. The normative instruction also revokes the requirement to provide the number of the last income tax return receipt (as was required by normative instruction 1.924/20).

A few other tax measures were published on 3 April 2020:

- The deadlines for companies and public agencies to collect and contribute PIS/COFINS (federal social contributions on gross income) to the social security fund are extended from April and May 2020 to July and September 2020 (ordinance no. 139/20); and

- The deadline for submitting the DCTF (declaration of federal tax credits and debits) and EFD-Contribuições (social contribution on revenue) is extended from April, May, and June 2020 to July 2020 (normative instruction no. 1,932/20).

- The deadlines for tax collection under the Simples Nacional regime were extended from April, May and June 2020 to July, August, September, October, November and December 2020 (resolution no. 154/2020).

According to the federal government, these measures aim to reduce costs and boost internal production, minimizing the impact of COVID-19 on Brazil’s productivity.

Indirect tax measures in response to COVID-19

The federal government and the various provincial governments have been quick in responding to the COVID-19 situation with various indirect tax relief measures to help Canadian businesses through this difficult time. The following is a summary of the various measures that have been recently introduced as of 2 April 2020.

Federal measures

Goods and Services Tax/Harmonized Sales Tax (GST/HST) measures

On 19 March 2020, the government announced that collection activities on new debts will be suspended, and flexible payment arrangements will be available. A Request for Taxpayer Relief (form RC4288) may be filed to request to have interest and/or penalties waived or cancelled.

The government also announced that the Canada Revenue Agency (CRA) will not contact any small or medium enterprise (SME) to initiate a GST/HST audit for four weeks (i.e., until 19 April 2020).

On 27 March 2020, the government announced that it is postponing the deadline for filing GST/HST returns and the requisite payments from 27 March 2020 until 1 June 2020. In such cases, the deadline is postponed to 30 June 2020.

It is our understanding that this extension only applies to GST/HST remittances. The CRA encourages registrants to file their GST/HST returns on time, as required by statute. However, if the filing is not made on time, no penalties will be applied until after 30 June 2020. All payment and filing deadlines will be adjusted in CRA's systems so there is no requirement to file for taxpayer relief. This extension applies to all registrants, including nonresidents.

Please note that paper copies of GST/HST returns will not be processed until normal operations resume. In addition, electronically filed housing and general rebate applications are manually assessed and will not be processed until operations resume.

These measures will apply to the GST nationally and to the HST in the five participating provinces (Ontario, Newfoundland and Labrador, Nova Scotia, New Brunswick, and Prince Edward Island). At this time, there have not been any separate provincial announcements concerning the provincial component of the HST in the participating provinces (i.e., no changes to provincial point-of-sales rebates or federal public service body rebates for the provincial component).

It is important to note that excise taxes and duties are still required to be remitted by their prescribed due dates.

For additional information about the deferral of GST/HST tax remittances, see https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/frequently-asked-questions-gst-hst.html.

Customs measures

On 16 March 2020, the Canadian Border Services Agency (CBSA) released Customs Notice 20-08 concerning imported goods for emergency use in response to COVID-19, Goods for Emergency Use Remission Order (Order).

The Order, along with the application of Customs Tariff Item No. 9993.00.00, provides for the relief of duty and tax for goods required for an emergency that are imported by or on behalf of federal, provincial, or municipal entities (such as centres for health care) as well as by or on behalf of members of first response organizations (such as police, fire, and local civil defence groups, including medical response teams).

This relief does not extend to persons other than those noted above.

As a result, GST/HST and any other taxes applicable under the Excise Tax Act will be covered by the Goods for Emergency Use Remission Order and therefore GST/HST and excise tax will not apply to imported emergency goods.

All goods for which this relief is granted must be exported from Canada whenever they are no longer required, except goods that are consumed or destroyed during the emergency.

The Temporary Importation (Tariff Item No. 9993.00.00) Regulations waive the requirement to provide proof of export for goods consumed or destroyed in an emergency.

It is important to note that importations may be subject to examination at the time of importation and to post-release verification for compliance with the Tariff Classification, Valuation, Origin and Marking programs, and any other applicable provisions administered by the CBSA.

On 18 March 2020, Customs Notice 20-09 announced that, effective immediately, the period of 90 days for submitting corrections following a CBSA trade compliance verification where errors were found, will automatically be extended by 30 days. While CBSA continues to process adjustments and conduct verifications, additional extensions have been provided on a case-by-case basis to respond to information requests.

On 19 March 2020, the CBSA issued Customs Notice 20-10 to waive late accounting penalties for a 45-business-day grace period for transactions released from 11 March 2020 to 14 May 2020, inclusive. It is our understanding from the CBSA that this applies only to administrative monetary penalties and not interest (however, note that the CSBA subsequently extended payment deadlines, as noted below).

On 27 March 2020, CBSA issued Customs Notice 20-11 to extend to 30 June 2020 all payments due to the agency (i.e., customs duties and GST on regular imports (commercial), reassessments, penalties, etc.). This also includes charges on the statement of account of March due on 1 April 2020. As many importers transact business with the CBSA through a customs broker, and may be set up for direct payment to the CBSA on duties and/or GST, close consultation will be required with customs brokers to understand how the deferment will be operationalized on particular accounts.

Importers should note there is no change to the accounting timeframes prescribed by the regulations. Importers are required to submit accounting declarations for imported goods released on minimum documentation within the required timeframes; however, note the late accounting penalty waiver specified in Notice 20-10.

Provincial measures

British Columbia

On 23 March 2020, the BC government announced filing and payment deadline extensions for the following taxes until 30 September 2020:

- Employer health tax;
- Provincial sales tax (including municipal and regional district tax);
- Carbon tax;
- Motor fuel tax; and
- Tobacco tax.

The following tax changes announced in Budget 2020[1] will be postponed until further notice:

- Elimination of the provincial sales tax (PST) exemption for carbonated beverages that contain sugar, natural sweeteners, or artificial sweeteners; and

- Expanded registration requirements for Canadian sellers of goods, along with Canadian and foreign sellers of software and telecommunication services.

Carbon tax rates will remain at their current levels until further notice. The tax measure announced in Budget 2020 aligning the carbon tax rates with the federal carbon pricing backstop is also postponed until further notice.

On 1 April 2020, the BC Ministry of Finance announced that, effective 23 March 2020, tax return filing and payment due dates after 23 March 2020 and before 30 September 2020 will now be 30 September 2020.

- This deferral applies to carbon tax, motor fuel tax (including the International Fuel Tax Agreement), provincial sales tax (including municipal and regional district tax on accommodation), and tobacco tax.

- The deferral is automatic.

- In September, businesses will be required to make a lump-sum payment. However, separate returns will be required to be filed for each reporting period.

- Businesses also have the option of filing their returns according to the usual report periods and defer payment until 30 September 2020.

- After 30 September 2020 sales taxes returns and payments will follow their usual due dates.

Saskatchewan

On 2 April 2020, the Government of Saskatchewan announced (in Information Notice IN 2020-03) the following measures for businesses that are unable to submit their PST returns due to cash flow concerns as a result of COVID-19:

- PST returns must be filed each month/quarter (with or without payment).

- Monthly filers may defer payment of amounts due for the February, March, and April 2020 reporting periods to 31 July 2020.

- Quarterly filers may defer payment of amounts due for the 1 January 2020 to 31 March 2020 reporting period to 31 July 2020.

- There is no requirement to submit a request for relief from penalty and interest charges for these returns.

- Full payment must be made, or a payment arrangement must be in place, by 31 July 2020 in order to qualify for the automatic deferral and waiver of penalties and interest.

- Payment arrangements may be made by submitting a request electronically through the Saskatchewan ETax Service (SETS) website located at sets.saskatchewan.ca, or by email at sasktaxinfo@gov.sk.ca.

It should be noted that this relief is not extended to other provincial taxes at this time.

Manitoba

On 19 March 2020, the government of Manitoba announced that the PST rate would be reduced by 1 percentage point from 7% to 6%, effective 1 July 2020. On 26 March 2020, however, Manitoba's premier announced that reduction would be pushed back to 2021.

On 23 March 2020, the government of Manitoba announced its intention to reintroduce a Manitoba alternative to the federal carbon levy. Starting 1 July 2020, the Manitoba government would implement a flat, CAD 25-per-tonne "made-in-Manitoba" Green Levy, replacing the current federal carbon price. On 26 March 2020, however, the Manitoba government announced the deferral by a year of the proposed Green Levy.

Manitoba has extended the April and May filing deadlines for SMEs with monthly remittances of no more than CAD 10,000. Businesses will have up to two additional months to file and remit retail sales taxes.

A request to waive penalties and interest may be submitted in writing to Manitoba Finance, Taxation Division, 101 – 401 York Avenue, Winnipeg, Manitoba R3C 0P8.

Ontario

On 25 March 2020, the Ontario government announced a five-month relief period for Ontario businesses that are unable to file or remit select provincial taxes on time.

Beginning 1 April 2020, penalties and interest will not apply to Ontario businesses that miss any filing or remittance deadline under select provincial taxes:

- Employer health tax;
- Retail sales tax on insurance contracts and benefit plans;
- Race tracks tax;
- Tobacco tax;
- Fuel tax;
- Gas tax;
- Beer, wine, and spirits tax;
- Mining tax;
- Insurance premium tax; and
- International fuel tax agreement.

If a business is unable to file its return or remittance during the relief period, they are not required to contact or notify the Ministry of Finance. Penalties and interest will be waived automatically for all late returns or remittances by Ontario businesses during the relief period. Ontario businesses are required to file any late returns or remittances by the end of the relief period.

The relief period does not apply to business accounts with outstanding taxes, or interest or penalties owing to the government from previous filing periods. Existing debts from before the relief period will continue to accrue interest.

The government is also temporarily suspending audit interactions with most Ontario businesses and representatives for the month of April 2020.

Quebec

In an attempt to harmonize with the federal GST/HST measures, the Quebec government announced that, as of 27 March 2020 and until 1 June 2020, for all QST returns, for reporting periods whose filing deadlines fall after 1 June 2020, the filing and payment deadlines announced federally will apply. This allows Quebec Sales Tax (QST) registrants to postpone filing until 30 June 2020 their returns and payments in respect of the 31 March, 30 April, and 31 May QST remittances, without interest or penalties.

For businesses that are filing the GST/QST through their financial institutions, both returns and payments must be filed at the same time. Therefore, it is recommended to use the Revenu Québec portal.

Revenue Québec announced on 31 March 2020 that the deadline for remitting net GST/HST and QST has been extended to 30 June 2020 for all returns to be filed between 27 March 2020 and 1 June 2020. The same applies for installment payments.

In order to harmonize the QST system with the GST/HST system, the filing deadlines remain unchanged. Persons who are able to do so must file their GST/HST and QST returns by the normal deadlines to facilitate tax compliance and administration. No late-filing penalties will be charged if the returns are filed no later than 30 June 2020.

All businesses are eligible for this deferral, including nonresidents.

Other taxes, such as tax on insurance premiums, tobacco tax, and tax on gasoline and fuel, must be filed and remitted as usual.

For QST purposes, a request to waive or cancel penalties and interest may be submitted using form FP4288-V (Application for the Cancellation or Waiver of GST/HST and QST Related Interest or Penalties or of QST Related Charges).

What should companies do?

In times like these, a plan to efficiently handle a company's indirect taxes by utilizing the various government's measures will assist in improving cash management.

In addition to the above government measures, now is the time for companies to be agile and actively consider various indirect tax areas that may assist in maximizing their cash flow and minimizing potential exposure. This is a good time to review the following areas:

- Invoice processing procedures;
- Intercompany charges and various elections;
- Contract review;
- Pricing adjustments;
- Net tax adjustments;
- Employee expense reports;
- Documentary requirements;
- Input tax credit allocation methodologies;
- Real property acquisition/dispositions;
- Bad debt relief;
- Self-assessment provisions;
- Temporary importations;
- Customs warehousing;
- Customs classification and valuation; and
- Indirect/accounts payable and customs recovery projects.

China

Summary of tax relief measures relevant to COVID-19

Since February 2020, the Chinese government has implemented a series of broad tax relief measures to help mitigate the economic and financial impacts of COVID-19 on businesses and individuals. The following table summarizes a number of the preferential policies, some of which apply retroactively.

Tax item	Relief measures
Enterprise income tax (EIT)	Deductions • As from 1 January 2020, the cost of qualifying equipment may be immediately deductible (rather than depreciated over the useful life) for businesses manufacturing key supplies for epidemic prevention and control purposes. Tax loss carryforward period • The tax loss carryforward period is extended from five to eight years for tax losses incurred in 2020 for businesses severely affected by COVID-19 (e.g., transportation, catering, hospitality, travel).

Value-added tax (VAT)	As from 1 January 2020, the following are non-vatable or exempt from VAT:
	• Services to transport key emergency supplies;
	• Public transportation services;
	• Lifestyle services; and
	• Pick-up, courier, and/or delivery services of daily necessities provided to residents.
	VAT refund
	• Starting from 20 March 2020, the export refund rate of 1,084 products (some of which relate to the prevention of COVID-19) increased to 13%; and
	• As from 1 January 2020, manufacturing businesses producing key supplies for epidemic prevention and control may claim refunds of any incremental unutilized input VAT on a monthly basis.
	For small-scale VAT payers
	• During the period 1 March through 31 May 2020:
	  • VAT will not be collected in Hubei province; and
	  • The VAT rate is decreased from 3% to 1% in non-Hubei regions.

Individual income tax (IIT)	Medical personnel and employees receiving medical supplies • As from 1 January 2020, relevant medical personnel and other staff involved in epidemic prevention and control are exempt from IIT on any special subsidies and bonuses they receive pursuant to the government allowances; and • As from 1 January 2020, the value of medicines and medical and prevention supplies received by employees from their employers for virus prevention purposes are exempt from IIT.

Tax policies to encourage donations	EIT and IIT
	• As from 1 January 2020, cash and goods donated for the purposes of epidemic prevention and related medical treatment are fully deductible for income tax purposes provided:
	  • The cash and goods are donated through qualifying public interest social organizations or governments; or
	  • The goods are directly donated to qualifying hospitals.

Tax item	Relief measures
	VAT, consumption tax, and surcharges • As from 1 January 2020, donations of goods in the above-mentioned situations are exempt from VAT, consumption tax, city construction and maintenance tax, and national and local education surcharges. Import tax • Donations of materials used for epidemic prevention and control were exempt from import taxes during the period 1 January 2020 through 31 March 2020.
Social security and housing funds	Employer's portion of payments for pension, unemployment, and work injury insurance • Provincial governments (other than in Hubei province) may exempt small and medium-sized enterprises from making pension, unemployment, and work injury insurance contributions during the period 1 February through 30 June 2020, and may reduce by 50% the contributions by large businesses from 1 February through 30 April 2020; and • The provincial government in Hubei province may exempt all businesses from making contributions during the period 1 February through 30 June 2020. Medical insurance • During the period 1 February through 30 June 2020, provincial governments may reduce medical insurance contributions due by all businesses by 50%. Payment deadline • Businesses affected by COVID-19 may apply for an extension of time to make social security payments, not to exceed six months. Housing funds • Upon application and approval, the payment of housing funds may be extended through 30 June 2020.
Other tax-related issues	Extension of tax filing deadline • The statutory tax filing deadline (for taxes collected on a monthly or quarterly basis including EIT, IIT, and VAT) of 20 April 2020 has been extended to 24 April 2020, which possibly may be extended further in the Hubei province.

Colombia

Simplified and accelerated procedure for requesting tax refunds or offsets introduced

On 10 April 2020, the Colombian government issued Legislative Decree 535 of 2020, effective as from that date, introducing a simplified and accelerated procedure for businesses to obtain refunds of income tax, and VAT credit balances. This represents a further tax measure to mitigate the financial effects of COVID-19.

The key features of Decree 520 are as follows:

- For taxpayers subject to corporate income tax, and self-employed individuals, who are VAT taxpayers, and as not qualified as high-risk, credit balance offsets or refunds will be authorized within 15 calendar days from the date of filing the formal request in the required format.

- Where a taxpayer is qualified as high-risk, the regional tax office may authorize the request, but also is empowered to suspend the process where it determines on an objective basis that the taxpayer's request constitutes tax fraud, or presents another specific risk. This is without prejudice to the wide-ranging audit powers granted to the National Tax Authority (DIAN) that may be executed when the term of the suspension ends.

- It is not necessary to include with the refund request the document detailing costs and expenses that normally would be required. However, taxpayers must file the document within 30 days after the health emergency declared in response to COVID-19 ends.

- Taxpayer files that as at 10 April 2020 are with the DIAN's Audit Divisions will be submitted to the Refunds Division to initiate the refund or offset procedure in accordance with Decree 535.

Costa Rica

Tax relief measures enacted in response to COVID-19

A tax relief law (*Ley de Alivio Fiscal*) enacted in response to COVID-19 entered into effect in Costa Rica on 20 March 2020.

Under the new law, taxpayers (both companies and individuals) will not be required to make one of the partial (advance) payments of income tax normally due for the 2020 tax year, specifically the payment that generally is made in either April, May or June depending on the taxpayer's fiscal period.

The law also allows a three-month deferral for VAT payments. Taxpayers must continue to file VAT returns during the months of April, May, and June 2020, but may defer the VAT payments due during these months until 31 December 2020 without the imposition of interest and penalties. Taxpayers requiring a payment plan must submit a request to the tax authorities before 15 October 2020.

In addition, the law provides the following:

- Payments of import VAT, selective consumption tax and import duty due with the tax returns for April, May, and June 2020 may be postponed until 31 December 2020 without the imposition of interest or penalties.

- Income from commercial leases is exempt from VAT for the months of April, May and June 2020.

The above payment deadlines and VAT exemption for commercial leases may be extended for an additional month at the discretion of the tax authorities.

Cyprus

Relief from import duties and VAT exemption on imports needed to combat COVID-19

On 9 April 2020, the Cyprus Customs Authorities issued Circular EE– «M» (67) relating to the European Commission's decision authorizing EU Member States to provide relief from import duties and a VAT exemption on imports of goods needed to combat the effects of COVID-19.

The goods that fall under this relief/exemption are medical equipment, supplies, and consumables imported into Cyprus between 30 January 2020 and 31 July 2020.

A list of products that may be imported duty and VAT-free has been issued by the Commission and is attached to the customs circular.

To be eligible for the relief/exemption, the imported goods must satisfy one of the following requirements:

- The goods are intended to be either:
    - Distributed free of charge by the bodies and organizations referred to in point (2) below to persons affected by or at risk from COVID-19 or persons involved in combating COVID-19; or
    - Made available free of charge to persons affected by or at risk from COVID-19 or persons involved in combating COVID-19 while remaining the property of the bodies and organizations referred to in point (2) below.
- The goods are imported for release into free circulation by or on behalf of state organizations including state bodies, public bodies and other bodies governed by public law, or by or on behalf of organizations approved by the competent authorities in the member states.
- The goods are imported for release into free circulation by or on behalf of disaster relief agencies to meet their needs during the period they provide disaster relief to persons affected by or at risk from COVID-19 or persons involved in combatting COVID-19.

Cyprus

Changes to VAT periods and deadlines for submission of returns and payment of VAT

In response to COVID-19, the Cyprus Council of Ministers issued a decree on 16 April 2020 that changes:

- The VAT reporting periods for taxpayers through 30 June 2020;
- The deadlines for submitting the VAT returns for these periods; and
- The deadlines for payment of the VAT due.

The decree affects only businesses that have received an email message from the Tax Department informing them of the following changes to their compliance obligations (the email address used is the one registered in the TAXISnet system):

Changes in VAT reporting periods and deadlines for submission of VAT returns

The following reporting period changes and return deadlines apply for a taxpayer's first VAT period for 2020:

Regular VAT reporting period	New VAT reporting period	Deadline for submission of VAT return
1/1/2020 – 31/3/2020	1/1/2020 - 31/3/2020	27/4/2020
1/2/2020 – 30/4/2020	1/2/2020 - 31/3/2020	27/4/2020
1/3/2020 – 31/5/2020	1/3/2020 - 31/3/2020	27/4/2020

The following reporting periods and return deadlines apply for subsequent VAT periods through 30 June 2020:

New VAT reporting period	Deadline for submission of VAT return
1/4/2020 - 30/4/2020	27/5/2020
1/5/2020 - 31/5/2020	27/6/2020
1/6/2020 - 30/6/2020	27/7/2020

Payment of VAT due for new VAT periods

Persons belonging to any of the categories listed in the following table have an obligation to pay 100% of the VAT due for the reporting period. That is, they must complete and file each VAT return by the relevant deadline and settle the VAT due in full.

Economic activity code	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
47211	Retail trade of fruits and vegetables
47221	Retail trade of meat and meat products including poultry
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
47621	Retail trade of newspapers and stationery
61101	Cyprus Telecommunications Authority (CYTA)
61201	Internet services
61301	Satellite telecommunications services
61901	Telecommunication services other than those provided by CYTA

For all other persons affected by the decree, the amount of VAT that must be paid at each monthly deadline is 30% of the total VAT outstanding at the end of the VAT period. That is, the total amount of VAT to be paid at each monthly deadline is calculated by taking into account the amount of VAT that remains unpaid from previous VAT periods. The VAT payment calculation for each VAT period is shown in the following table.

Deadlines for payment of VAT due	27/4/2020	27/5/2020	27/6/2020	27/7/2020
Amount to be paid	30% of the VAT due for the period ending 31/3/2020	30% of the VAT due for the period ending 30/4/2020, plus 30% of the remaining VAT due for the period ending 31/3/2020	30% of the VAT due for the period ending 31/5/2020, plus 30% of the remaining VAT due for the periods ending 31/3/2020 and 30/4/2020	30% of the VAT due for the period ending 30/6/2020, plus 30% of the remaining VAT due for the periods ending 31/3/2020, 30/4/2020 and 31/5/2020

The amount of VAT due for periods up through 30 June 2020 that has not been paid by the 27 July 2020 deadline must be paid by 10 November 2020.

Example

A taxpayer that is affected by the above changes has the following VAT payable amounts for the new VAT reporting periods ended:

- 31 March 2020: EUR 100,000
- 30 April 2020: EUR 200,000
- 31 May 2020: EUR 120,000
- 30 June 2020: EUR 150,000

(The EUR 100 VAT payable amount for 31 March 2020 includes any VAT payable amount relating to the period ended 29/2/2020 that was deferred under the VAT law amendment dated 27 March 2020.)

The taxpayer should prepare and submit the VAT return for each new reporting period and make payments of VAT as follows:

On 27/4/2020, the VAT amount to be paid is:

- For March: EUR 100,000 x 30% = EUR 30,000
- Remaining VAT due: EUR 100,000 - EUR 30,000 = EUR 70,000

On 27/5/2020, the VAT amount to be paid is:

- For April: EUR 200,000 x 30% = EUR 60,000
- For March: EUR 70,000 x 30% = EUR 21,000
- Total payment: EUR 60,000 + EUR 21,000 = EUR 81,000
- Remaining VAT due: EUR 70,000 + (EUR 200,000 - EUR 81,000) = EUR 189,000

On 27/6/2020, the VAT amount to be paid is:

- For May: EUR 120,000 x 30% = EUR 36,000
- For March-April: EUR 189,000 x 30% = EUR 56,700
- Total payment: EUR 36,000 + EUR 56,700 = EUR 92,700
- Remaining VAT due: EUR 189,000 +(EUR 120,000 - EUR 92,700) = EUR 216,300

On 27/7/2020, the VAT amount to be paid is:

- For June: EUR 150,000 x 30% = EUR 45,000
- For March-May: EUR 216,300 x 30% = EUR 64,890
- Total payment: EUR 45,000 + EUR 64,890 = EUR 109,890
- Remaining VAT due: EUR 216,300 + (EUR 150,000 – EUR 109,890) = EUR 256,410

The remaining VAT due of EUR 256,410 must be paid by 10 November 2020.

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.

Additional legislation enacted in response to COVID-19

El Salvador's government enacted additional legislation in response to the coronavirus (COVID-19) between 23 March and 31 March 2020, including some special and temporary measures relating to tax and customs matters. In particular, three legislative decrees (Nos. 606, 607, and 608) provide an exemption from customs duties and other taxes on imports of goods donated in response to COVID-19 and temporarily relax certain fiscal controls, among other measures.

Decree 606

Decree 606 amends the legislative decree (No. 593) that declared a national state of emergency in response to COVID-19 and provided a 30-day suspension of legal periods and deadlines for administrative and judicial proceedings, which was published in the official gazette on 14 March 2020. The amendments, which will be effective until the end of the national state of emergency, include the following:

- A new article (article 11-A) is added that grants an exemption from the payment of customs duties on certain imports, as well as an exemption from VAT and any other type of national or municipal tax. The exemption is available for goods that enter the Salvadoran territory as humanitarian aid through any person, organization, or entity and that are provided to the central government or a municipal council as a donation to benefit persons that have been affected by COVID-19. The provisions of the new article prevail over the acquisition and contracting procedures established in the law governing such procedures for public administrative entities (LACAP).

- An existing article (article 13) is modified to temporarily authorize the application of specific guidelines for emergency purchases, which will be issued by the Ministry of Finance and will allow the central government and the municipalities to enter into direct contracts for purchases in response to COVID-19.

Decree 607

The application of the Fiscal Responsibility Law for the Sustainability of Public Finances and Social Development (which regulates matters such as government borrowing and spending) and the fiscal parameters and goals required by the law are temporarily suspended during the national state of emergency.

The Ministry of Finance will prepare a regularization plan to facilitate the process of fiscal consolidation and sustainability, which must be carried out within a period of no more than 90 days starting from the day after the end of the national state of emergency.

Decree 608

The executive branch is authorized to manage the raising of funds of up to USD 2 billion. The funds may be obtained through the issuance of credit securities to be placed in the national or international markets, through a loan, or through a combination of both options.

Depending on the mechanism adopted (credit securities or a loan contract), the decree includes provisions on the manner and conditions in which the funds must be obtained.

If the funds are obtained through a loan, all transactions that are generated as a result of or related to the loan contract will be exempt from all kinds of taxes, fees, and contributions; the same will be true of any transactions that arise as a result of the negotiation, contracting, and placement of the loan, regardless of whether the lender is a domestic or foreign investor or creditor that is a resident or a nonresident.

The funds obtained will be used to finance the emergency, recovery, and reconstruction fund to respond to the effects of COVID-19.

Greece

New package of measures announced to tackle the effects of COVID-19

On 18 March 2020, the Ministries of Finance and Labor announced a new package of measures to tackle the adverse effects of the spread of COVID-19. In particular, the following measures were announced:

- **Suspension of tax and contribution payments for businesses:** The deadline for the following payments, due in March, is suspended for a period of four months, until 31 July 2020:

  - VAT payments;

  - Payments of assessed debts; and

  - Scheduled payments made pursuant to a debt settlement arrangement.

  No interest or surcharge will be charged during the suspension period. This measure applies to businesses affected by the outbreak and spread of COVID-19. More specifically, the measure is applicable to all businesses with specific Nomenclature of Economic Activities (NACE) codes regardless of whether they continue to operate normally or partially, or are forced to shut down (by a government mandate or on their own initiative). A ministerial decision to be issued by the Ministry of Finance is expected to provide the relevant NACE codes. The measure applies through March 2020 but may be extended, if necessary.

- **Business financing:** Affected businesses will receive a refund of tax advance payments and the repayment period will be extended. The refunds will total EUR 1 billion. The exact amount of financing will depend on a business's reduction in turnover, as well as the salary and non-salary costs of personnel working for the affected businesses.

- **Employees:** The payment of tax liabilities due in March is suspended for employees whose employment contract has been temporarily suspended because their employer's business operations were suspended by a government mandate. The suspension will last four months

- **Self-employed individuals and sole proprietorships:** Tax liability payments due in March are suspended for self-employed individuals and sole proprietorships that operate in business sectors affected by the outbreak and spread of COVID-19. The suspension will last four months.

- **Measures applying to self-employed individuals:** The payment of social security contributions due in February is suspended for three months. No interest or surcharge will be charged during the suspension period.

- **Measures applying to businesses/employers:** For employees of affected businesses, the new package of measures provides for the suspension of social security contribution payments due in February. The suspension will last three months and no interest or surcharge will be charged during that time. For all affected businesses, scheduled payments made pursuant to debt settlement arrangements agreed with social security funds are suspended for a period of three months. It should be noted that these measures may apply only if employers preserve existing jobs.

- **Reduction in VAT rate:** By the end of 2020, the VAT rate charged on products that are necessary to protect people's health and prevent the spread of COVID-19 will be reduced to 6% (from 24% currently). More specifically, the reduced VAT rate will apply to the following products: surgical masks and gloves, antiseptic solutions, soap and other personal hygiene products, and ethanol (if used as a raw material for the production of antiseptic solutions).

- **Reduction in commercial property lease payments:** Legislation is expected to provide for a reduction of commercial property lease payments for businesses that are forced to cease operations as a result of the spread of COVID-19. More specifically, affected businesses will have to pay only 60% of their total lease amounts due in March and April. This measure will apply only to commercial properties rented by businesses. A similar reduction is expected to apply to lease payments for the primary residence of employees of affected businesses. For the owners of these properties, the payment of tax liabilities and any installment payments related to debt settlement arrangements will be suspended for a period of four months.

- **Repayment of any overdue liabilities by the Independent Authority for Public Revenue (IAPR):** The IAPR will pay immediately any overdue liabilities owed to Greek citizens and businesses. In particular, the amounts incurred in the context of audits will be refunded, up to EUR 30,000.

- **2020 real estate property tax:** The real estate property tax for the year 2020 will be calculated on the basis of the previous regime (i.e., without adjustment to property values) and changes in the "objective values" system of real property will enter into force in 2021.

- **Banking system:** Principal payments that are due in installments between 18 March 2020 and 30 September 2020 (or maybe later) are suspended for legal entities operating in sectors affected by COVID-19. These borrowers may apply for an installment payment deferral if their loans were not overdue as at 31 December 2019.

Greece

COVID-19 – Deadlines for VAT and other debt payments extended

On 22 March 2020, the Ministry of Finance issued a decision (no. A.1054/2020) allowing the postponement of VAT payments as a result of the spread of COVID-19. The decision provides the following measures, among others:

1. The deadline for businesses assigned a Nomenclature of Economic Activities (NACE) code by the Ministry of Finance to pay their VAT liabilities due between 11 March 2020 and 30 April 2020 is extended until 31 August 2020.

2. The collection of assessed VAT due on 11 March 2020 also is extended until 31 August 2020. This also applies to debts of affected businesses with specific NACE codes.

It should be noted that no interest or other surcharge will be due upon payment.

However, the extension no longer will apply if:

- The employment contracts of all or some of a business' employees are suspended and the employer subsequently terminates an employee's employment contract; or

- A business has not maintained the same number of employees by the end of the extension period.

In addition, interest and surcharges will be imposed on the VAT liabilities as from the date they were assessed.

Also on 20 March 2020, the Ministry of Finance issued another decision (no. A.1053/2020) postponing the collection of assessed debt and extending the deadline for scheduled payments made under a debt settlement arrangement. The decision provides the following measures, among others:

1. The deadline for businesses assigned specific NACE codes as at 20 March 2020 to pay assessed debts due between 11 March 2020 and 30 April 2020 is extended until 31 August 2020. The same extension applies to scheduled payments to be made in accordance with a debt settlement arrangement.

2. The collection of assessed debt overdue on 11 March 2020 is also extended for these businesses until 31 August 2020.

No interest or surcharge will be due upon payment.

The extension no longer will apply if:

- The employment contracts of all or some of a business' employees are suspended and the employer subsequently terminates an employee's employment contract; or

- A business has not maintained the same number of employees by the end of the extension period.

In addition, interest and surcharges will be imposed on the debts as from the date they were assessed.

India

Ordinance effects extended tax compliance deadlines announced in response to COVID-19

India's Ministry of Finance in a press release issued on 24 March 2020 announced various relief measures proposed by the government in respect of statutory and regulatory compliance matters in view of the outbreak of COVID–19. Since parliament is not in session, the Indian president has promulgated. The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (Ordinance 2020), published in the official gazette on 31 March 2020, to implement the proposals. Ordinance 2020 has immediate effect, unless specified otherwise. It provides for extensions to a number of tax compliance (other than tax payment) deadlines, and also empowers the central government to further extend the deadlines.

Ordinance 2020 provides for relaxations to the following direct tax legislation (referred to as specified acts):

- Wealth Tax Act, 1957;
- Income Tax Act, 1961;
- Prohibition of Benami Property Transactions Act, 1988;
- Chapter VII of the Finance (No. 2) Act, 2004 relating to securities transaction tax;
- Chapter VII of the Finance Act, 2013 relating to commodities transaction tax;
- Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;
- Chapter VIII of the Finance Act, 2016 relating to the equalization levy; and
- Direct Tax Vivad se Vishwas Act, 2020;

Ordinance 2020 also provides for relaxations to the following indirect tax legislation:

- Central Excise Act, 1944;
- Customs Act, 1962;
- Customs Tariff Act, 1975;
- Chapter V of the Finance Act, 1994 relating to service tax;
- Finance (No. 2) Act, 2019 relating to the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019; and
- Central Goods and Services Tax Act, 2017.

The key amendments with respect to various timelines and compliance matters are summarized below.

Direct tax

The due date for filing late and revised returns of income for financial year (FY) 2018-19 (relevant to assessment year 2019-20), is extended from 31 March to 30 June 2020.

The due date for individuals with a permanent account number (PAN) to link their Aadhaar number with their PAN is extended from 31 March to 30 June 2020.

The deadline for individuals to make certain payments (including pension contributions, and life and medical insurance premiums) and claim a deduction against total income for FY 2019-20 is extended until 30 June 2020.

The deadline for any compliance obligations under one of the specified acts, that otherwise would fall during the period 20 March to 29 June, is extended to 30 June 2020. These obligations include:

- The completion of any proceedings, the passing of any order, the issuance of any notice, intimation (summary assessment order issued after the submission of an income tax return), notification, sanction or approval, or other similar actions by any authority, commission or tribunal; and

- Filing an appeal, reply, application, report, document, return, statement, or other similar record.

The press release provided that any deadlines expiring between 20 March and 29 June for making investments in savings products, or investments to secure a rollover of capital gains, generally would be extended to 30 June 2020. Ordinance 2020 provides that time limits expiring between 20 March and 29 June for making investments, deposits, payments, acquisitions, purchases and construction of buildings and property, or other similar actions to claim a deduction, exemption, or allowance under sections 54 to 54GB or Chapter VI-A, heading B of the Income-tax Act, 1961 for the FY 2019-20, also are extended to 30 June 2020.

For units of businesses operating in special economic zones approved under the Special Economic Zones Act, 2005 as at 31 March 2020, the deadline to begin manufacturing or provide any services to qualify for the available tax exemptions is extended to 30 June 2020.

Where a tax or levy under one of the specified acts is payable between 20 March and 29 June but is not paid until 30 June 2020, interest will be charged at a maximum of 0.75% per month or part month of delay. No late payment penalties or other sanctions will be imposed.

The date for payment of all charitable donations to claim a deduction from income of FY 2019-20 is extended to 30 June 2020. Taxpayers also now may claim a deduction for the full amount of donations to the Prime Minister Citizen Assistance and Relief in Emergency Situation Fund, and the limit on deductions of 10% of gross total income does not apply to donations to the fund. Donations to the fund exceeding INR 2,000 are deductible only where

paid other than in cash. Taxpayers paying tax at the concessional rates for FY 2020-21 making charitable donations before 30 June may claim a deduction under section 80G against income of FY 2019-20, without losing entitlement to the concessional taxation regime on FY 2020-21 income. Generally, taxpayers subject to the low tax rate regime in FY 2020-21 must forego claiming specified tax incentives and reliefs.

Where a taxpayer opts to withdraw an appeal in accordance with the provisions of the Vivad se Vishwas Act, 2020 (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. Ordinance 2020 amends section 3 of the act to eliminate the requirement to pay the additional 10% of the disputed tax, provided the amount is paid by 30 June 2020.

Indirect tax

The deadlines for complying with certain obligations under customs, central excise, and service tax legislation that would otherwise fall between 20 March and 29 June are extended to 30 June 2020. The obligations include completion of any proceedings, or issuance of any order, notice, intimation, notification, sanction or approval, by any authority, commission, or tribunal; and filing an appeal, reply, or application, or submitting any relevant report, document, return, or statement.

With respect to the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (to expedite closure of service tax and excise tax-related litigation) the deadline for payment under the scheme is extended to 30 June 2020. The deadlines for the issuance of various statements by the designated committee are extended as follows:

- Where the amount of tax or duty declared by the taxpayer equals the amount estimated by the designated committee, the deadline is 31 May 2020;

- Where the amount estimated by the designated committee is more than the amount declared by the taxpayer, the deadline is 1 May 2020; and

- The deadline for issuing the statement indicating the final amount of tax or duty payable by the taxpayer is 31 May 2020.

A new provision has been inserted in the Central Goods and Services Tax Act, 2017 (CGST Act) empowering the government (subject to the recommendation of the GST council), to extend the time limit for obligations that cannot be met due to a "force majeure" by issuing notifications. A force majeure includes war, epidemic, flood, drought, fire, cyclone, earthquake, or any other natural disaster affecting the implementation of the CGST Act.

Comments

Ordinance 2020 gives effect to the Finance Minister's earlier announcements and the extensions to the various compliance deadlines provide some relief, both to the tax authorities and taxpayers. By empowering the central government to extend the timelines post-29 June 2020 further changes should not require amendments to the law and can be done via notifications.

Announcements on relaxations to GST compliance obligations, expected to be issued as notifications, are awaited.

Indonesia

Implementing guidance issued for COVID-19 tax incentives

Following the issuance of Minister of Finance (MoF) Regulation Number 23/PMK.03/2020 (PMK-23), which introduces a number of tax incentives designed to support businesses and individuals in response to COVID-19, the Directorate General of Taxation (DGT) has issued Circular Letter Number 19/PJ/2020 (SE-19). SE-19, which came into force on 1 April 2020, was issued as operational implementing guidance for PMK-23 and to provide practical guidance for taxpayers to access the incentives more easily.

The additional guidance provided in SE-19 for each of the PMK-23 tax related incentives is summarized below:

Article 21 employee income tax (EIT) to be borne by the government

- This facility may be accessed by taxpayers who fulfill the criteria as stipulated in PMK-23, including branch offices.

- The notification letter to apply for this facility is to be submitted online via DGT's portal. The taxpayer will receive a confirmation or rejection letter from the system.

- The tax payment slip (SSP) that needs to be enclosed with the realization report also is to be submitted through the DGT's online system before the reporting deadline.

- The incentive applies as from the tax period when the notification is submitted until September 2020, or until the fiscal period when the KITE facility (i.e. the facility that relaxes conditions for import of goods for export purposes) is revoked during the incentive utilization period (for KITE companies).

Exemption for Article 22 Income Tax on Imports

- The application for tax exemption letter (SKB) must be submitted online through the DGT's online system.

- If the KITE facility for a KITE company is revoked by the Directorate General of Customs and Excise (DGCE), the DGT will revoke the SKB, and the taxpayer will no longer be eligible to utilize the incentive from the date of the revocation of the KITE facility. However, the income tax on imports that was exempted prior to the revocation is not required to be repaid to the DGT.

- The incentive applies as from the issuance date of the SKB until September 2020, or until the KITE facility expires/is revoked (for KITE companies) if this event occurs during the incentive utilization period.

- The tax incentive utilization report has to be submitted through the DGT's online system before the reporting deadline using the prescribed format, which can be downloaded from the system.

30% Reduction of Article 25 Income Tax (monthly tax installments)

- The 30% reduction of monthly tax installments applies to:
    - Monthly tax installments based on the Fiscal Year (FY) 2019 Corporate Income Tax Return (CITRs);
    - Monthly tax installments using the corresponding amount to December 2019 in cases where the FY 2019 CITR has not been submitted;
    - Monthly tax installments based on a decision letter of the DGT for the reduction of monthly tax installments due to weakening business conditions; and
    - Monthly tax installments based on MoF regulations for certain taxpayers.
- The incentive applies as from the tax period when the notification is submitted to the DGT's online system until September 2020, or until the fiscal period when the KITE facility is revoked (for KITE companies) if this event occurs during the incentive utilization period.
- The tax incentive utilization report has to be submitted through the DGT's online system before the reporting deadline using the format downloaded from the system.

Business Classification (KLU) Issues

To address the uncertainties under PMK-23 around the KLUs that are eligible for the incentives, SE-19 provides the following clarifications:

Taxpayer's condition	Taxpayer's/ DGT's action
The taxpayer's KLU is included in Appendix A or F of PMK-23, yet the KLU number indicated in its FY 2018 CITR is incorrect or the 2018 CITR has not been submitted.	To qualify for the incentives, the taxpayer should submit or revise its FY 2018 CITR accordingly.
The FY 2018 CITR has been or is being audited by the tax office, yet the KLU number reported in the taxpayer's masterfile is incorrect.	The taxpayer can request the tax office to update the KLU information in the masterfile.
The KLU reported in the FY 2018 CITR is different from that in the Tax Registration Certificate (SKT) or masterfile, but the taxpayer is still eligible for the incentives.	The DGT will update the information in the SKT and masterfile to match the information reported in FY 2018 CITR. If the tax office discovers after utilization that, based on the KLU or actual business, a taxpayer should not be eligible for the incentives, the tax office will issue a Request for Explanation of Data and/or Information (SP2DK) urging the taxpayer to revise the tax returns and to settle the outstanding payment.

Taxpayer's condition	Taxpayer's/ DGT's action
	If the taxpayer ignores the SP2DK, the DGT may issue a tax collection letter (STP) to collect the outstanding taxes (and the associated tax penalties). However, the STP will not be issued if the taxpayer recalculates the EIT in the December 2020 EIT return or the FY 2020 CIT and settles the taxes that are due.
The taxpayer is registered for taxation purposes after FY2018.	The KLU shall follow the information stated in the SKT.

Preliminary Refund of Value Added Tax (VAT) Overpayment

SE-19 provides the following guidance related to VAT incentives under PMK-23:

- VAT entrepreneur (PKP) requests for preliminary refunds of VAT overpayments are made through the submission of a VAT return or the submission of a request for preliminary refund letter to the tax office where the PKP is registered.

- The tax office where the PKP is registered will process the refund request. The tax office will check that the formal and material requirements of a refund request are fulfilled.

- The formal requirements include information whether:

    - The taxpayer fulfills the KLU or KITE company requirements;

    - The amount of accumulated overpayment in the VAT return is no more than IDR 5 billion;

    - The tax period when the refund is requested falls between April and September 2020;

    - The refund request is submitted no later than 31 October 2020;

    - No preliminary investigation of a tax crime has been conducted;

    - The taxpayer is not undergoing an audit for a tax crime; and

    - The taxpayer has never been arrested for a tax crime in the last five years.

- The material requirements include information whether:

    - The listing and calculation of tax information are correct;

    - The input VAT and self-paid VAT reported in the VAT return are correct; and

    - The input VAT has been reported by both the PKP that requests the refund and the PKP that issues the VAT invoice.

- The tax office will review only the input VAT for the month the refund is requested and issue a Decision Letter on the Preliminary Refund of Tax Overpayment ((SKPPKP) or a refund rejection letter within one month after a complete request is submitted.

- After the SKPPKP is issued, the tax office may carry out an audit to verify the VAT overpayment reported in the VAT returns prior to the refund request.

- If the PKP fails to fulfil the formal or material requirements, the refund may be processed following the regular refund procedures, which is a 12-month refund process.

- SE-19 also provides procedures that the tax office has to follow to process the refund request.

Comments

Considering that PMK-23 and SE-19 are now in effect, taxpayers that wish to utilize incentives under PMK-23 should begin assessing their eligibility for the incentives and taking the necessary actions.

Indonesia

Measures introduced in response to COVID-19 include immediate CIT rate reduction

In view of the urgent need to preserve the health of the national economy during the COVID-19 outbreak, the president of Indonesia on 31 March 2020 took an emergency measure by issuing Government Regulation in Lieu of Law Number 1 (PERPU-1).

PERPU-1, which has immediate effect, covers national income policy (including taxation), state spending policies (including regional finance), financing policies, and other measures to manage issues being faced by financial institutions that might otherwise endanger the national economy and/or the stability of the financial system.

The policies related to taxation are the:

- Reduction of the corporate income tax (CIT) rate for domestic corporate taxpayers and permanent establishments (PEs);

- Introduction of tax treatments on trades through electronic system (Perdagangan Melalui Sistem Elektronik (PMSE));

- Extension of the deadlines for certain tax administrative procedures; and

- Delegation of authority to the Minister of Finance (MoF) to determine goods eligible for import duty exemption or reduction.

Reduction of the CIT rate for domestic corporate taxpayers and PEs

The CIT rate for domestic corporate taxpayers and PEs is reduced from 25% to:

- 22% for fiscal years (FYs) 2020 and 2021; and

- 20% for FY 2022 and subsequent years.

For publicly listed corporates with a minimum of 40% of the shares held by public investors, that meet certain other criteria, the applicable CIT rate is 3% lower than the regular rate. The specific criteria will be set out in a further Government Regulation (GR).

While this is a very welcome measure, there is an implementation issue that corporate taxpayers must consider. The Article 25 Income Tax (monthly tax installments) payable by corporate taxpayers in 2020 are calculated based on the 2019 CIT return, except for certain business sectors that are subject to a special method of calculation of monthly tax installments (e.g., banks, financial institutions, and publicly listed companies, etc.). However, businesses may have been affected by COVID-19 from the beginning of 2020 and the situation may continue to worsen over the course of the outbreak. Previous government measures only provided reliefs for monthly tax installments payable by companies in certain manufacturing sectors. As a result, it is possible that corporate taxpayers who do not qualify for the relief will continue to suffer cash flow issues in paying the monthly tax installments, and face potential tax overpayments in their 2020 CIT returns. As there is a separate regulation governing the reduction of monthly tax installments, taxpayers may wish to consider it in such cases.

Guidance on Article 25 CIT installments

The Directorate General of Taxation (DGT) has issued Press Release No. SP-13/2020 (PR-13), providing guidance for the settlement of Article 25 CIT installments by taxpayers who have not submitted their 2019 CIT returns as at 31 March 2020, as follows:

- The installment for March 2020 (payable by 15 April 2020) will be the same amount as the installment for the previous tax period (i.e., calculated based on the previous CIT rate of 25%); and

- The installments for April 2020 (payable by 15 May 2020) and subsequent months in 2020 are to be calculated based on FY 2019 taxable income, but the new CIT rate of 22% applies.

PR-13 does not provide any guidance for taxpayers whose Article 25 installments are regulated under MoF Regulation No. 215/PMK.03/2018 (PMK-215), including banks, listed companies, and other entities (e.g., insurance companies, pension funds, consumer finance companies, and other financial services companies).

Banks and other financial services companies with calendar fiscal years may wish to consider the following potential approaches to calculating their Article 25 CIT installments:

- Under PMK-215, banks must calculate Article 25 CIT installments based on monthly accounting profit. There are different interpretations, which may need further clarification from the DGT. One view is that the installment for March 2020 should continue to be calculated using the 25% rate, in line with PR-13. Another is that the CIT rate of 22% may be applied immediately by banks for the March 2020 installment on the basis that PERPU-1 is effective on 31 March 2020; or

- Financial services companies (such as insurance or securities companies), required to submit a quarterly report to the Financial Services Authority (Otoritas Jasa Keuangan), already will have calculated the Article 25 CIT installment for Q1 2020 (for the period January to March 2020) based on the Q4 2019 accounting profit by applying the CIT rate of 25%. The new CIT rate of 22% may be applied as from Q2 2020 (April to June 2020).

Introduction of tax treatments on PMSE

The government is at the same time using this opportunity to introduce tax treatments on foreign traders, offshore service providers, or e-trading providers (PPMSEs). In summary, the tax treatment on PMSE can be summarized as follows:

Tax procedure	New treatment under PERPU-1	Previous tax treatment
Collection and payment of VAT on the utilization of offshore intangible goods and/or offshore services	VAT is to be collected, paid, and reported by the foreign traders, offshore service providers, foreign PPMSEs, and/or local PPMSEs (appointed by the MoF)	VAT is collected by the local consumers who utilize the offshore intangible goods and/or offshore services via the tax payment slip (i.e., self-assessed VAT mechanism)
Taxation of a nonresident without a physical presence in Indonesia on the income arising from their e-transaction businesses	A foreign trader, foreign service provider, and/or offshore PPMSE that meets the significant economic presence (SEP) condition may be treated as having a PE in Indonesia and hence subject to income tax The SEP condition may be met by exceeding specified thresholds for: • Group consolidated gross turnover; • Sales in Indonesia; and/or • Active digital media users in Indonesia	Not taxed
Introduction of new electronic transaction tax	Where the Indonesian Tax Authority (ITA) is unable to determine the existence of a PE based on the SEP approach due to the application of a tax treaty with another jurisdiction, a foreign trader, foreign service provider, and/or offshore PPMSE that meets the SEP condition is subject to electronic transaction tax	Not regulated
Penalties for noncompliance by a foreign trader, foreign service provider, and/or offshore PPMSE	A foreign trader, foreign service provider, and/or offshore PPMSE that does not comply with VAT, income tax and/or electronic transaction tax obligations is subject to administrative penalties as stipulated under the Law of General Procedures and Provisions for Taxation (KUP Law) Noncompliance also may be penalized by having access to the Indonesian market disconnected where a warning is ignored. This will be carried out in coordination with the Ministry of Communication and Informatics	Not regulated

A foreign trader, foreign service provider, and/or offshore PPMSE may appoint an Indonesian domiciled representative to collect, pay, and report the VAT, and/or fulfill income tax or electronic transaction tax obligations on its behalf.

The tax rate, tax base, and method of calculation of the income tax and electronic transaction tax will be further prescribed by a GR.

A more detailed guidance also will be provided by the MoF on the:

- Procedure for appointment of foreign traders, offshore service providers, foreign PPMSEs, and/or local PPMSEs with responsibility for the collection, settlement, and reporting of VAT;

- SEP condition, tax settlement mechanism, and reporting of income tax and electronic transaction tax;

- Procedure for appointment of a representative;

- Procedure for warning a noncompliant foreign trader, foreign service provider, and/or offshore PPMSE; and

- Procedures to request to the Ministry of Communication and Informatics to disconnect access to Indonesian market.

Although the implementing GRs and MoF regulations have not yet been issued, taxpayers affected by the provisions may wish to consider making the necessary preparations in anticipation of the implementing regulations.

Extension of the deadlines for certain tax administrative procedures

On 20 March 2020, the Directorate General of Taxation issued Decision Number KEP-156/PJ/2020 (KEP-156) that defines the period between 14 March 2020 and 30 April 2020 as a "force majeure" period for tax purposes. PERPU-1 states that the force majeure period for certain tax procedures will follow the period stipulated by the National Disaster Management Agency (Badan Nasional Penanggulangan Bencana). PERPU-1 takes priority over KEP-156, and for the procedures listed in the table below, the force majeure period follows PERPU-1:

Arrangements under previous regulation on COVID-19		Arrangements under PERPU-1
Procedure	**Reference**	
Application for objection, where deadline falls between 15 March to 30 April 2020, is extended until 31 May 2020	KEP-156 (point number 8)	Application for objection, where deadline falls during BNPB determined force majeure period, is extended for a maximum of six months
Overpaid tax will be refunded within one month of the taxpayer's request for a refund (following the issuance of overpayment decision letters by the ITA)	KUP Law (article 11 (2))	The refund deadline is extended to two months
Deadline for the issuance of decision letters for: • Audit for tax restitution: Maximum 12 months from the date the completed restitution request is received; • Tax objection: Maximum 12 months from the date the tax objection letter is received; and • Request for reduction or annulment of administrative sanctions, reduction or cancellation of incorrect tax assessment letter, or cancellation of audit findings: Maximum six months from the date the request letter is received	KUP Law (articles 17B (1), 26(1) and 36(1), respectively)	The deadline for the issuance of the assessment or decision letter is extended for a maximum of six months

PERPU-1 does not provide examples or clear guidance on how to calculate the deadline extension, but it could be assumed that the extension would be calculated from the original deadline.

Taxpayers who plan to submit requests or for whom the deadline for the tax procedures above are approaching should monitor the changes in the deadlines.

Delegation of authority to the MoF to determine goods eligible for import duty exemption or reduction

The goods eligible for an import duty exemption or reduction are specified in articles 25(1) and 26(1) of the Customs Law. To improve the effectiveness in issuing policies related to imports during the COVID-19 outbreak, and to help maintain the stability of the state fiscal and financial system, the MoF is given the authority to update the list of eligible goods.

Comments

The application of some of the tax provisions in PERPU-1 require further implementing regulations, which, given the urgency of the situation, we expect to be issued very soon.

Israel

Tax filing deadlines postponed under COVID-19 emergency regulations

The Israeli government on 22 March 2020 announced various emergency measures in response to the COVID-19 situation. These include extensions to certain tax compliance deadlines, and additional funding for companies successful in submitting proposals for the development of systems, products, or technological solutions to address the challenges created by the virus. An earlier statement by the Israeli Investment and Development of Industry and Economy Authority on 16 March 2020 addressed the measurement of the performance of approved investment programs in light of the outbreak.

Tax compliance procedures

On 22 March 2020, the Israeli Minister of Law published a notification that the period 23 March to 16 April 2020 is considered an "emergency period" under the Courts and Execution Regulations (Order of Judgment in Special Emergency Situation), 1991. Under the regulations, in a special emergency situation, the designated emergency period may be discounted when determining the number of days to take legal action. This would apply to actions such as the filing of a notice of appeal by a taxpayer against an income tax order, and the issue of statements by the Israeli Tax Authority (ITA) explaining the basis of a tax assessment, or explaining an appeal decision etc. (i.e., in each case the relevant deadline would be calculated without regard to the days within the emergency period).

The Israeli government also has enacted the Emergency Period Regulations (Covid-19 Virus) (Delay of Periods for Tax Procedures), 2020. The regulations specify that when calculating the deadlines for tax procedures, the period between 22 March and 31 May 2020 (the determined period) will not be taken into account where the deadlines otherwise would fall during the determined period or within two months afterwards. The regulations apply to income tax, VAT, customs duty, and real estate tax, among others.

The Israeli Tax Authority has announced extensions to various tax filing deadlines, as follows:

- The deadline for filing the 2019 individual annual income tax return is extended from 30 April 2020 to 30 July for electronic returns, or 30 June otherwise;

- The 2019 annual income tax return for corporations must be submitted by 30 July 2020. Where a special extension until 31 March had been approved, the revised deadline is 30 April; and

- The deadline for submitting VAT bimonthly reports for February and March is extended from 15 to 27 April 2020.

Withholding tax certificates that would otherwise have expired on 31 March will be valid until 30 April 2020.

Request for proposals to manufacture products or develop solutions to address COVID-19

The Israeli government also has issued two requests for companies to submit proposals for the manufacture of products, or development of other solutions to address the challenges of COVID-19. Successful companies will receive significant financial support.

Manufacturing enterprises

The Israeli government is encouraging enterprises that manufacture industrial products that could assist in preventing, treating, or otherwise dealing with the COVID-19 virus, to submit a research and development (R&D) program. The program should include product development, raw materials, technologies and innovative manufacturing processes, applied demonstration, final R&D prototype development, or development of a scale-up process in transition from experimental production to serial production. Applications may be submitted for innovative products such as protective equipment and materials to enable effective isolation, antiseptics, medicines, and equipment for monitoring and control of infection, etc.

Proposals are invited from industrial companies in various fields, including manufacturers of medical equipment, treatment equipment, adhesive prevention equipment, remote medicine, measuring and control devices, textiles, chemicals, and polymers and plastics, etc.

Successful applications may receive government funding of between 30% and 70% of the approved R&D expenses. The deadline for the first round of proposals under the scheme was 26 March 2020, but proposals may be submitted until 20 April (second round), 4 May (third round), and 18 May (fourth round).

Companies developing digital systems, products, or technological solutions

The Israeli Innovation Authority (IIA) and the Israeli Health Ministry will grant an initial amount of NIS 50 million to companies for R&D programs and demonstration of digital systems, products, or technological solutions to address the challenges of the COVID-19 virus.

The developed technology may be in various fields, such as streamlining and improving the diagnostic process, measures to reduce and prevent infection, expanding remote medical services, developing and reapplying anti-viral products, solutions for hospital patients in isolation, or physical activity solutions for individuals required to stay in their own homes, etc.

In addition, funding of 20%-50% (exceptionally 60% or 75%) of the approved R&D expenses will be provided where a program has the potential to make an exceptional impact on the health system and public health in Israel and worldwide, or represents breakthrough technology in its field.

Proposals must be submitted by 2pm IL time on 7 April 2020.

Measurement of the performance of programs approved by the Israeli Investment and Development of Industry and Economy Authority

On 16 March 2020, the Israeli Investment and Development of Industry and Economy Authority issued a statement addressing the impact of the COVID-19 virus on the measurement of the performance of approved investment programs. Companies with active programs at the authority, whether under the Law to Encourage Capital Investment (Grants Track) or according to various directives (such as the Industry Productivity Increase Program (Directive 4.44) or the Integration of Advanced Manufacturing Technologies (Directive 4.54)), are instructed to collate documentation to demonstrate the effects of the COVID-19 outbreak on their business. Relevant supporting documents may include those evidencing cancellation of customer orders, non-delivery of raw material shipments, etc. The existence of these documents may prevent companies from losing some or all of the benefits of the program due to not meeting the necessary business conditions.

Italy

Extension of additional tax payment deadlines announced

The Italian government issued a press release (No. 39) dated 6 April 2020, announcing that it will introduce additional urgent tax and fiscal measures in response to the coronavirus (COVID-19), including the extension of more tax payment deadlines for certain taxpayers.

More specifically, the new measures will postpone the deadline for payments of VAT, payroll tax, and social contributions due in the months of April and May 2020 for certain taxpayers that have their tax residence, registered office, or operational headquarters in Italy:

- Taxpayers with turnover of up to EUR 50 million in the prior tax year, whose turnover in March and April 2020 decreased by at least 33% compared to the same months of the prior tax year;

- Taxpayers with turnover exceeding EUR 50 million in the prior tax year, whose turnover in March and April 2020 decreased by at least 50% compared to the same months of the prior tax year;

- Taxpayers that have their tax residence, registered office, or operational headquarters in the provinces most affected by COVID-19 (Bergamo, Brescia, Cremona, Lodi, or Piacenza), regardless of their overall turnover in the prior tax year, whose turnover in March and April 2020 decreased by at least 33% compared to the same months of the prior tax year; and

- Taxpayers whose operations began on or after 1 April 2019, regardless of their level of turnover.

The extended deadline is 30 June 2020. Payment may be made in up to five equal monthly installments if the first installment is paid by 30 June 2020, and no penalties will apply.

In addition, for all taxpayers, in consideration of the national state of emergency declared in response to COVID-19, tax payments that were due on 16 March 2020 (for which the deadline previously was extended to 20 March 2020) will be considered as timely made if paid by 16 April 2020, and no penalties or interest will apply.

Italy

Guidance clarifies certain COVID-19-related tax measures, including VAT measures

The Italian tax authorities issued a circular letter (No. 8/E) dated 3 April 2020 that provides further official clarifications regarding the tax measures that were introduced in response to the coronavirus (COVID-19) through a law decree (No. 18) that is effective as from 17 March 2020, including VAT-related clarifications.

The most significant VAT clarifications relate to the following topics:

- **Invoicing obligation:** The obligation to issue invoices (in electronic or paper format) is not among the tax obligations (due from 8 March 2020 to 31 May 2020) that currently are postponed to 30 June 2020.

- **Refund procedures:** During the COVID-19 situation, the tax authorities will continue to perform their ordinary procedures aimed at verifying the legitimacy of VAT credits where taxpayers request a refund. Requests for documentation or clarifications will be raised by the tax authorities where appropriate, as usual, and taxpayers will be required to comply with the applicable social distancing measures when responding to these requests.

- **Postponement of deadline for VAT payments under VAT grouping and VAT consolidation regimes:** The deadlines postponed to 31 May 2020 include the deadline for VAT payments due in March 2020 under the Italian VAT grouping regime (introduced in Italy as from January 2019) or the VAT consolidation regime, provided certain conditions are fulfilled. In particular, under both VAT regimes, for the postponement to be granted, one or more activities carried out by group members must relate to sectors more heavily affected by COVID-19 (as listed by the tax authorities in Resolution No. 12/E (dated 18 March 2020) and clarified through Resolution No. 14/E (dated 21 March 2020)), and the revenue derived from these activities must represent a predominant portion of the overall amount of revenue earned at the group level.

Italy

Law decree introduces additional urgent tax measures in response to COVID-19

Through Law Decree No. 23/2020, published in the official gazette on 8 April 2020, Italy introduced additional urgent tax measures in response to the coronavirus (COVID-19), including the postponement of several tax payment deadlines due in April and May 2020. Although the decree is in force, it must be converted into law by the parliament within 60 days of its publication to avoid being retroactively null and void, and there could be changes to its provisions.

The main tax measures affecting Italian companies include the following:

Postponement of tax and social contribution payments

The deadlines for withholding tax payments on employees' income (i.e., payroll tax) and similar items (including the local tax surcharge), VAT payments, and social security contribution payments (including mandatory insurance) due in the months of April and May 2020 are postponed to 30 June 2020 for certain companies. To qualify for the deadline extensions, companies must have their tax residence, legal seat, or center of operations (place of effective management or main business activity) in Italy and meet the following requirements:

- For companies with turnover less than or equal to EUR 50 million in the prior fiscal year (FY), the turnover for the months of March and April 2020 decreased by more than 33% compared to the same months of the prior FY; or

- For companies with turnover exceeding EUR 50 million in the prior FY, the turnover for the months of March and April 2020 decreased by more than 50% compared to the same months of the prior FY.

Payments may be made in up to five equal monthly installments if the first installment is paid by 30 June 2020, and no penalties or interest will apply. No refund is available for payments that already have been made.

The same deadline postponements apply to:

- Companies that started their business after 31 March 2019;

- Non-commercial (i.e., nonprofit) entities (for payroll tax and social security contributions only); and

- Companies that have their tax residence, legal seat, or center of operations in the municipalities of Bergamo, Brescia, Cremona, Lodi, or Piacenza and whose turnover for the months of March and April 2020 decreased by more than 33% compared to the same months of the prior FY (for VAT payments only).

The decree also confirms that, regardless of the company's level of turnover, the postponements of tax payments already provided for by the previous Italian legislation issued in response to COVID-19 (Law Decrees No. 9/2020 and No. 18/2020) continue to apply for taxpayers operating in business sectors more heavily affected by COVID-19 (such as tourism and accommodations, sports, theatres, cinemas, conventions and exhibitions, restaurants, bars or pubs, assistance for the elderly or disabled, childcare, thermal sites (hot springs), and tour guides, etc.).

Extension of withholding tax postponement for certain income

The decree extends the postponement of the deadline for paying withholding tax on certain income that was provided by Law Decree No. 18/2020. In particular, for taxpayers that have their tax residence, legal seat, or center of operations in Italy and that had turnover lower than EUR 400,000 in the previous FY, revenue derived during the period between 17 March 2020 and 31 May 2020 (extended from 31 March 2020) is not subject to the withholding taxes on self-employment income and commissions (provided under articles 25 and 25-bis of Presidential Decree No. 600/1973) if, in the preceding month, no employment costs were incurred by the taxpayer. To benefit from this provision, a taxpayer must:

- Make a specific declaration to its withholding agent that the revenue to be paid is not subject to withholding tax based on this provision; and

- Directly pay the withholding tax not applied by the withholding agent by 31 July 2020 (the previous deadline was 31 May 2020) in a single payment or in up to five equal monthly installments if the first installment is paid by 31 July, and no penalties or interest will apply.

Additional extension of deadline for tax payments originally due on 16 March 2020

For all taxpayers, in consideration of the national state of emergency declared in response to COVID-19, tax payments that were due on 16 March 2020 (for which the deadline previously was extended to 20 March 2020) will be considered as timely made if paid by 16 April 2020, and no penalties or interest will apply.

Calculation of advance payments of corporate income taxes

As a general rule, advance payments of tax for direct tax purposes (i.e., individual income tax (IRPEF), corporate income tax (IRES)) and the regional tax on productive activities (IRAP) are calculated and paid based on the taxes due for the previous FY (the "historical method"). However, taxpayers have the option to calculate their advance payments based on the taxes actually due for the FY to which they relate (the "provisional method"). If the taxpayer does not make sufficient payments under this method to cover the taxes actually due for the year, penalties and interest generally are applied.

The new decree provides that for the FY subsequent to the year in progress on 31 December 2019, no penalties and interest will be applied in the case of advance payments calculated based on the provisional method if the payments made cover at least 80% of the taxes actually due for the year.

Japan

FAQs clarify relief available for taxpayers affected by COVID-19

To assist companies whose business has been disrupted by the coronavirus (COVID-19) in meeting their tax obligations, Japan's National Tax Agency (NTA) released a set of frequently asked questions ((FAQs), in Japanese only) on 25 March 2020 to clarify the application of existing relief measures in light of the spread of COVID-19. The FAQs describe the conditions under which companies will be entitled to relief from the deadlines for filing tax returns and making tax payments (including an option to defer the payment of taxes), and outline the procedures companies must follow to benefit from the relief. The FAQs also indicate that companies may be able to deduct certain expenses related to donations to support those affected by COVID-19.

The relief measures described in the FAQs apply to national taxes (e.g., corporation tax, Japanese consumption tax (JCT), payroll tax (i.e., withholding tax on salary), etc.). While the specific relief measures discussed in the FAQs do not apply to local taxes (e.g., enterprise tax, inhabitants tax, etc.), similar relief generally is available under local tax law.

Extension of filing/payment deadlines

The NTA has not issued a general filing extension for all corporation tax returns in relation to COVID-19. However, an extension may be granted on a taxpayer-by-taxpayer basis for companies having difficulty in filing returns or making payments due to unavoidable circumstances (e.g., natural disasters, serious injury/illness, etc.) if the company files an application with the tax office. Specifically with regard to COVID-19, the FAQs indicate that the tax authorities recognize that there may be cases in which a company cannot file a tax return or pay tax by the deadline due to unavoidable circumstances (e.g., where its employees have been requested to refrain from going outside if proximity to an infected patient is identified). In such cases, taxpayers may be granted an extension upon application. Filings and payments for which such an extension is granted will not be subject to late filing/payment penalties or interest.

Additionally, if, as a result of COVID-19, the preparation of documents necessary for the submission of the tax return/payment (e.g., tax return/financial statement documents, etc.) is delayed for any of the following reasons that makes it difficult to file a return/payment by the due date, the due date may be extended by application:

- A tax accountant who provides tax compliance services, etc. (or a member of the accountant's office staff) contracts the virus.
- Restrictions are placed on the entry/departure of taxpayers, corporate officers, accounting managers, etc. that are in foreign countries, resulting in their inability to obtain a visa.
- Companies, tax accountants' offices, etc. are unable to maintain normal business operations for the following reasons:
    - The accounting department must be closed for a considerable period of time (e.g., when an employee of the department in charge of accounting has been infected or had close contact with an infected patient); or
    - A significant number of employees in the accounting department use vacation time in response to temporary school closures and/or to companies encouraging them to use vacation time to prevent the spread of infection.
- The company takes emergency measures to prevent the spread of infectious disease, such as delaying the timing of the ordinary general shareholders' meeting, so as not to create a large gathering of shareholders. Note, however, that for JCT purposes, an extension is not available merely because the ordinary general shareholders' meeting is postponed due to COVID-19, since, unlike the corporation tax return, the JCT return is not based on the final settlement of accounts.
- In addition to the specific reasons above, the tax authorities may grant an extension based on the individual circumstances relating to each application.
- When applying for an extension, the taxpayer will be asked to confirm the circumstances under which it is unable to file a tax return or make a payment. As a result, specific facts should be included when completing the application form (e.g., regarding the situation of the applicant, the involvement of a tax accountant, the situation relating to the closure of a department or restrictions on business, and/or an outline of the emergency measures taken).

Process to apply for extensions

Taxpayers wishing to apply for an extension must submit the form "Application for Extension of Due Date for Filing of Return, Payment, etc. Due to Disaster," generally within one month after the date on which the disaster or other unavoidable circumstance ends, and the filing deadline will be extended until a date designated by the tax authorities (generally within two months from the day when the disaster/circumstance ends). No guidance is provided in the FAQs regarding the day when the disaster/unavoidable circumstance relating to COVID-19 will be considered to end.

To complete the application, the taxpayer will need to include, among other things, basic information (i.e., name, address, corporate number, etc.), the type of deadline for which the extension is sought (e.g., income tax return and payment deadline, etc.), the dates on which the applicable damage due to the disaster/unavoidable circumstance began and ended, and a description of the damage sustained, along with any supporting reference materials.

Deferral of payment of taxes

The extension of the filing/payment deadline for national tax outlined above applies to situations where a company is incapable of filing a return/paying tax due to a natural disaster or other unavoidable circumstance. Alternatively, for taxpayers that are capable of filing a return but are unable to pay the national tax liability in a lump sum due to a lack of funds caused by other reasons (e.g., a decline in sales or other cash flow issues related to the disaster/unavoidable circumstance), there is a relief measure for payment deferral. In general, such taxpayers may apply for a grace period that allows for payment of tax in installments over a maximum of one year with no penalties and reduced or no interest (where interest applies, the rate in 2020 is reduced from 8.9% annually to 1.6% annually), by submitting an application to the tax office. Two types of grace periods exist, one providing a moratorium on the sale of property and the other permitting the deferral of tax payments:

- **Moratorium on sale of property:** If, as a result of COVID-19, a taxpayer has difficulty paying an existing overdue national tax liability and its assets have been seized to be sold to cover the tax liability, the taxpayer generally may be eligible for a moratorium on the sale of the assets for a period of up to one year if all of the following requirements are met and the taxpayer submits an application to the tax office within six months of the payment deadline:

    - Payment of national tax in a lump sum would appear to make it difficult to continue business operations;

    - The taxpayer appears to have a sincere intention to pay the tax; and

    - The taxpayer is not delinquent in paying national taxes other than the national tax for which the moratorium on the sale of property is sought.

- **Deferral of payment:** Deferral of payment may be available if the taxpayer experiences any of the following as a result of COVID-19:

    - A considerable loss of assets occurs;

- The taxpayer or the taxpayer's family become ill;

- Business operations are discontinued or suspended; or

- The business incurs significant losses.

The tax authorities note in the FAQs that they will be flexible in the event that a tax payment cannot be made due to COVID-19. In an effort to simplify the application and examination process for the grace period, the tax authorities request that taxpayers contact their local tax office as soon as possible in the event that payments are not able to be made due to the virus.

As mentioned above, where a grace period is granted, the national tax to which the grace period applies may be paid in installments (determined based on the status of the taxpayer's assets) over the grace period. The payments generally will not be subject to penalties, but interest may be imposed at the reduced rate mentioned above (1.6% annually for 2020). If there is a compelling reason for being unable to pay tax during the grace period, the tax authorities may grant an additional grace period of one year.

Process to apply for deferral of tax payments

To apply for a grace period for deferral of tax payments, taxpayers must submit an application, documents clarifying the status of their assets and liabilities, documents estimating future income and expenditures, documents through which the individual circumstances of the taxpayer can be evaluated, etc. If the taxpayer has difficulty preparing the necessary documents, the person in charge of tax collection at the local tax office may orally confirm the required information.

Additionally, while collateral normally is required for a taxpayer to be eligible for the grace period for deferral of tax payments, for taxpayers that are eligible due to the effects of COVID-19, collateral will not be required unless it is clear from the state of the taxpayer's assets that it is capable of providing collateral.

Deductibility of expenses related to COVID-19

The FAQs clarify that if, in response to COVID-19, a company donates its own products to assist unspecified persons or a group of affected persons, etc. (during the period up to the date on which the disaster/unavoidable circumstance relating to COVID-19 is considered to end), the expenses required to provide such support (including delivery costs) generally may be deductible from the company's taxable income for corporation tax purposes.

Comments

Taxpayers that are concerned that they may not meet (or that already have missed) a filing or payment deadline related to any national tax imposed in Japan due to challenges associated with COVID-19 may wish to consult with their tax advisor and/or discuss their specific situation with the relevant NTA tax office before filing an application for a deadline extension or deferral of tax payments.

In particular, for taxpayers applying for deferral of tax payments, the specific amount and timing of payments is determined based on the specific circumstances of the taxpayer, so taxpayers may wish to contact the NTA to discuss their specific situation as soon as possible if they believe they will have difficulty in paying tax.

As there is no specific deadline to file an application for an extension of filing/payment deadlines or for the deferral of tax payments, companies that already have missed the filing or payment deadline still may be able to apply for relief.

It is important to note that any relief is granted entirely at the discretion of the NTA; however, it is expected that the NTA will be flexible in granting relief to taxpayers that can demonstrate they fall within the circumstances described in the FAQs.

As the economic impact from COVID-19 continues to unfold, additional economic relief (including tax relief) may be introduced and could supersede the guidance currently provided in the FAQs. Taxpayers may access the NTA website (in Japanese) and other government websites for the latest information.

The Netherlands

Additional VAT measures in response to COVID-19

On 24 April 2020, the Dutch State Secretary of Finance published a decree containing further tax relief measures in response to COVID-19. The decree follows consultation with various interest groups and includes VAT-related measures. Upon publication, the measures became final and generally are retroactive to 12 March 2020.

Outsourcing healthcare workers

Due to COVID-19, healthcare providers and institutions outsource among each other healthcare workers. This outsourcing could result in VAT being charged but not deductible (in full or in part). The decree introduces a measure that allows outsourcing of healthcare workers to be exempt from VAT, subject to the following three conditions:

- The healthcare worker must be hired by a healthcare provider or institution that qualifies for the VAT exemption on medical services;

- The outsourcer must state on the invoices that the VAT exemption on medical services is being used and keep in its records the supporting documentation; and

- If the outsourcer requests reimbursement of its healthcare workers' costs, the outsourcer may charge only the gross payroll costs (with any markup capped at 5% of such costs), thus prohibiting the outsourcer from making a profit on the transaction.

For purposes of this measure, the identity of the outsourcer is irrelevant. Furthermore, the measure will not affect the outsourcer's recovery of input tax. This measure will be effective retroactively as from 16 March 2020 and apply until 16 June 2020.

Medical supplies and equipment supplied free of charge

VAT will not be required to be charged on medical supplies and equipment supplied free of charge to healthcare providers and institutions and will not affect the supplier's recovery of input VAT, subject to the following four conditions:

- The goods supplied must be on the World Customs Organization's classification reference list for COVID-19;

- The supplier must include the cost of the goods in its general overhead costs;

- The recovery of input VAT on these general overhead costs must be determined based on the VAT taxable turnover without regard to the goods provided free of charge; and

- The supplier must issue an invoice and state on the invoice that the VAT exemption on the free supply of medical supplies and equipment is being used and keep in its records the supporting documentation.

Reduced VAT rate for online fitness classes

The reduced 9% VAT rate that currently applies to the use of sports facilities also will apply to online fitness classes as from 16 March 2020 until the government's mandatory restrictions on free movement are lifted.

Norway

Parliament adopts measures in response to COVID-19

On 24 March 2020, Norway's parliament adopted several measures to meet the financial challenges created by COVID-19. A summary of these measures and other proposed measures introduced follows.

Payment of advance tax

The deadline for the second advance payment of tax for companies (including limited companies) has been extended from 15 April 2020 to 1 September 2020. The extended deadline does not apply to companies subject to the special tax regimes for natural resources.

For sole proprietorships that normally make the first payment of advance tax on 15 March, the deadline for payment has been extended to 1 May 2020. The deadline for the second payment is extended to 15 July 2020.

The deadline for payment of the financial activity tax has been extended from 15 April 2020 to 1 September 2020.

Loss carryback

Companies may carryback losses incurred in 2020 of up to NOK 30 million per entity against the previous two years' income. This measure does not apply to entities and sole proprietorships newly established in 2020, or sole proprietorships converted to joint stock companies in 2020.

The loss carryback will be applied automatically upon submission of the 2020 tax return (due in 2021) and any refund will be paid once the assessment is finalized. Companies may request to be excluded from this automatic loss carryback when they submit their 2020 tax return.

Deferred wealth tax

In order to improve liquidity for business owners, the government implemented a measure allowing certain business owners to apply for deferral of the 2020 wealth tax payment to 2022 (ordinarily due in 2021). This deferral applies to individual taxpayers that own a business that incurs losses in 2020. The wealth tax due must be at least NOK 30,000 in order to qualify for the deferral. With respect to advance payments of wealth tax, if a taxpayer can show that the business likely will incur losses in 2020, then the taxpayer may apply for a deferral of advance tax payments due on 15 May, 15 September, and 15 November 2020.

Extension of VAT payments

The first installment payment deadline for VAT has been extended from 14 April 2020 to 10 June 2020. The deadline to file VAT declarations, however, has not been extended and is still 14 April 2020.

Reduction in certain VAT rates

The VAT rate for domestic travel, hotels and similar accommodations, and cultural and sporting events has been reduced from 12% to 6% as from 1 April 2020 through 31 October 2020.

Enforcement fines on employer reporting temporarily stopped

Employers required to file information reports on income and employees (referred to as the "a-ordning" report) will not be subject to late filing penalties starting with the report due on 5 March 2020. The reporting deadline has not been extended and is due still on the fifth of each month.

Air passenger tax abolished

Air passenger tax has been abolished as from 1 January 2020 through 31 October 2020. Air passenger tax already paid by the airline companies during this period will be reimbursed.

Employers' national insurance contributions

A proposal has been introduced to extend the deadline for employers' national insurance contributions, which are due on 15 May 2020, to 15 August 2020.

Another proposal would reduce employers' national insurance contributions by 4% for a two-month period. This proposal will be presented in May 2020 with the revised national budget. In the meantime, employers must continue to report their contributions using the regular rates.

Compensation for certain operating costs

The government has proposed compensating businesses suffering from financial hardship caused by COVID-19 for operating costs such as rent, lease payments, utilities, insurance, and accounting fees. Compensation would be granted proportionally based on the percentage of reduced income, which must be significant in order to qualify for compensation. Businesses prohibited from operating due to COVID-19 (e.g., hairdressers, physiotherapists) would be compensated in full for their operating costs. The proposal might not be available for businesses that benefit from other COVID-19 measures.

Businesses would apply for compensation electronically on a new digital platform specifically designed for this measure, and the government would disburse payments directly within two to three weeks from application. The measure would be available for a two-month period, subject to extensions if necessary.

Portugal

COVID-19 – Support measures for companies and employees

The Portuguese govenment has adopted a set of measures aimed at mitigating the economic impact of the COVID-19 outbreak and is considering others. The measures already in place include:

- Tax measures, including exceptional actions to support companies' treasury needs, relief from tax compliance requirements, and the extension of various deadlines;

- Economic activity funding, including new credit lines for various economic sectors and the expansion of existing ones, as well as actions to offset the impact of COVID-19 on the execution of projects in the context of various incentive programs; and

- Support for business and employment continuity, including a simplified layoff scheme, professional training support, financial incentives to support the normalization of companies' activities, a temporary exemption from social security contributions, support for the self-employed, and measures to support employees and families, such as extended unemployment benefits and illness/isolation allowances.

For full details, see the slides from our webinars.

Portugal

Deadline for issuing e-invoices for B2G transactions postponed to 2021

In response to COVID-19 and the complexities involved in implementing electronic invoicing in public procurement, the Portuguese government on 7 April 2020 published Decree-Law Number 14-A/2020, which postpones the deadlines relating to electronic invoicing for B2G transactions that were previously provided in a decree-law issued on 31 August 2017.

The new decree-law generally extends to 31 December 2020 the transition period during which contractors may use billing mechanisms other than electronic invoices. This means that the deadline to begin issuing electronic invoices in public contracts generally has been postponed to 1 January 2021.

However, the decree-law also extends the transition period during which invoices may be issued through the usual procedures until 30 June 2021 for small and medium sized companies (SMEs, i.e., companies with less than EUR 50 million in turnover and less than 250 employees) and until 31 December 2021 for micro-companies. Therefore, for these companies the deadline to begin issuing electronic invoices in public contracts has been further postponed (i.e., to 1 July 2021 for SMEs and 1 January 2022 for micro-companies).

Qatar

Government temporarily exempts 905 items from customs duties in response to COVID-19

On 15 March 2020, the Qatar government announced economic stimulus measures in response to COVID-19. As part of these measures, 905 items were exempted from customs duties for a period of six months (effective as from 23 March 2020). The commodities exempted are mainly food and medical supplies including meat, fish, dairy products, vegetables, cereals, sugar and sugar confectionary, cocoa and cocoa preparations, soap, disinfectant, surgical masks and face masks, medical gloves, and medical sterilizers.

Saudi Arabia

VAT return and payment deadlines extended due to COVID-19

On 20 March 2020, Saudi Arabia's General Authority of Zakat and Tax (GAZT) announced VAT relief measures, which include a three-month extension to submit VAT returns and payments and relief from certain penalties. These measures are intended to help businesses deal with cash flow issues over the next few months due to COVID-19.

Overview of VAT relief measures

The VAT relief measures apply to taxpayers who are registered (or required to be registered) under VAT law, including nonresidents subject to VAT in Saudi Arabia.

The deadlines to submit VAT returns and payments that are due during the time period 18 March through 30 June 2020 have been extended by three months (e.g., monthly and quarterly VAT returns due on 30 April 2020 are now due on 31 July 2020); late filing and payment penalties will not be imposed.

Penalties that were imposed by the GAZT prior to 18 March 2020 will not be revoked, but the payment deadlines for such penalties have been extended to 30 June 2020.

No penalties will be imposed on the following if voluntarily disclosed (and any resulting amounts due are paid) during the time period 18 March through 30 June 2020:

- VAT registrations (including those required by nonresidents) that should have occurred prior to 18 March 2020;

- VAT returns that should have been filed prior to 18 March 2020; and

- Corrections to previously submitted VAT returns including amendments to returns already audited by the GAZT.

For these voluntary disclosures, rather than pay any tax due in full by 30 June 2020, taxpayers may apply to the GAZT through 30 June 2020 to make payments in installments. Late payment penalties will apply only on any unpaid portion as from 1 July 2020 until such time the tax is paid in full.

Requests for refunds generally will be expedited through 30 June 2020; however, requests for refunds as a result of amendments to VAT returns due to voluntary disclosures will be processed normally as set forth under VAT law.

Comments

These measures, which likely will not extend beyond 30 June 2020, offer taxpayers a rare and significant way to seek relief from penalties for late registration and historic omissions and errors. Therefore, taxpayers should review their VAT compliance positions (both current and prior) to determine whether they should seek such relief before 30 June 2020.

Singapore

Managing GST compliance and cashflow during COVID-19

This article highlights some opportunities available to businesses to assist in GST compliance and/or improve cashflow during the period of the COVID-19 outbreak.

Extension of due date for filing of GST return and GST payment

To reduce the risks of a worsening outbreak occurring, heightened safe-distancing measures (so-called "circuit breaker" measures), that include the closure of most workplaces except for essential services, are implemented from 7 April to 4 May 2020. As a consequence, the Inland Revenue Authority of Singapore (IRAS) has announced an automatic extension until 11 May 2020 for all GST-registered businesses to submit their GST returns for the accounting period ended 31 March 2020 (the original due date was 30 April 2020).

For businesses that have a General Interbank Recurring Order (GIRO) arrangement in place, automatic deductions will be made as normal on 15 May 2020 via their designated bank accounts. For businesses that do not have a GIRO arrangement, the payment due date is extended to 11 May 2020, from 30 April 2020.

Notwithstanding this extension, businesses in a net GST refundable position for the accounting period ended 31 March 2020 still may wish to submit their GST returns as soon as possible to obtain the GST refund from the IRAS.

The IRAS also may grant a further extension until 31 May 2020 for the first GST return for a newly GST-registered business, or where staff responsible for GST reporting are:

- Subject to a quarantine order or stay-home notice, or are on leave of absence, and unable to access accounting systems or records remotely;

- Located in "lockdown" countries outside Singapore (e.g., India and Malaysia) and are unable to work; or

- Overseas and unable to return to Singapore due to border restrictions.

Businesses are encouraged to apply to the IRAS for the further extension by 24 April 2020.

GST payment via installments

Businesses facing cashflow challenges as a result of the current COVID-19 situation, and that are unable to make their GST payments in full may apply for installment payments via the "Apply for Payment Plan" e-Services at myTax Portal. The IRAS will review each application on its merits.

Change GST filing frequency from quarterly to monthly

Businesses usually in a significant net GST refundable position could consider changing their GST filing frequency from quarterly to monthly. This would accelerate the receipt of GST refunds from the IRAS.

For example, a business with a standard quarterly filing cycle incurs GST in January 2020. The GST incurred would be recovered in April 2020, as an input tax credit when the business files its GST return for the period ended 31 March 2020. However, if the business were on a monthly filing cycle, the GST could have been recovered in February 2020 as an input tax credit, when the business filed its GST return for the month ended 31 January 2020.

Businesses also should consider the additional compliance resources required to file GST returns on a monthly basis. However, businesses generally may apply to the IRAS to revert to quarterly GST filing when the situation improves.

Expedite the closure of GST audits by the IRAS or negotiate for a partial GST refund

Businesses currently subject to a GST audit by the IRAS whose input tax refund has been withheld, should work closely with the IRAS to expedite the closure of the audit, or negotiate for a partial GST refund in advance.

Conduct reasonableness checks on GST returns before submission to mitigate potential risk of being selected for audit

GST returns usually are selected by the IRAS for audit where there are noticeable fluctuations compared to prior returns, or where the values declared do not make logical sense (e.g., output tax is only 5% of the value of standard-rated supplies declared).

Businesses should ensure that they perform pre-filing reasonableness checks before filing GST returns. Where there are fluctuations (e.g., a significant increase in the value of input tax claims due to a one-off purchase of an expensive fixed asset) between the current GST return and previous returns, it may be advisable to contact the IRAS to explain the fluctuation before the return is selected for audit.

Apply for special schemes to suspend upfront import GST payment

Businesses that continue to import goods of significant value into Singapore may consider applying for a suitable trade facilitation scheme, such as the Major Exporter Scheme (MES) or Import GST Deferment Scheme (IDGS), so that no upfront payment of import GST is

required. These schemes are specifically designed to alleviate any potential cashflow disadvantage faced by businesses importing goods into Singapore. GST group registration to manage administration costs and GST charges on intra-group transactions.

GST group registration is a facility to allow a group of related companies to file a consolidated GST return. Further, any sales and purchases made between members of a GST group are disregarded for GST purposes (i.e., no GST is chargeable on the transactions and no tax invoices are required to be issued).

GST grouping should help to ease GST compliance costs. In addition, it improves the GST cashflow of group members, since one member is not required to charge GST to another member, who subsequently recovers the GST.

South Africa

Update on tax developments in response to COVID-19

Below is a summary of some recent tax developments in South Africa in response to the coronavirus (COVID-19) as at 6 April 2020, including draft tax legislation that requires additional consultation and import and export relief measures.

Draft tax legislation: Update

Following exceptional tax measures, as part of the fiscal package outlined by South Africa's president on 23 March 2020 in his speech on the "Escalation of Measures to Combat COVID-19," the South African Ministry of Finance issued draft explanatory notes on the proposed COVID-19 tax measures and an accompanying media release on 29 March 2020. The tax measures go beyond the tax proposals made in the 2020 National Budget on 26 February 2020.

On 1 April 2020, the following draft tax legislation and accompanying explanatory memoranda were released:

- Draft Disaster Management Tax Relief Administration Bill, 2020: This draft bill deals with the deferral of the deadlines for payment of employees' tax and provisional tax that were announced on 23 March 2020. In addition, the draft bill contains provisions that would allow the deferral of interim payments by a "micro business," as defined in the sixth schedule to the Income Tax Act. The draft bill also provides for the extension of time periods for specific tax obligations that are listed in the bill, as a result of the national lockdown that is scheduled to last from 26 March to 16 April 2020. These include, for example, the extension of time periods for purposes of South African Revenue Service (SARS) tax audits, search and seizure warrants, the running of prescription periods in respect of assessments, tax dispute resolution proceedings, certain obligations under the Customs and Excise Act, and the period of validity of withholding tax declaration forms. The extension provisions are intended to provide individuals and businesses with additional time to comply with selected tax obligations and would not extend to tax return filings or payments (payment deferral requests must be dealt with by way of rules set out in section 167 of the Tax Administration Act). In general, the amendments effected by the bill are proposed to enter into effect as from 1 April 2020.

- Draft Disaster Management Tax Relief Bill, 2020: This draft bill deals with the extension of the Employment Tax Incentive relief measures that were announced on 23 March 2020. In addition, the draft bill contains provisions that would prescribe the tax treatment of donations made to any COVID-19 disaster relief fund and the employees' tax treatment of amounts paid from such funds.

Comments on the draft bills must be submitted to the National Treasury of South Africa by 15 April 2020.

Import and export relief measures

SARS Interpretation Note No. 30 (IN 30) and the Export Regulations prescribe the time periods to export movable goods, apply for a refund from the VAT Refund Administrator, and obtain the relevant documentary proof of export. On 26 March 2020, SARS issued Binding General Ruling (BGR) No. 52 dealing with the time frame (for purposes of the VAT rules) for the export of goods by vendors and qualifying purchasers affected by COVID-19, permitting an extension of the deadlines prescribed by IN 30 and the Export Regulations under certain circumstances. Deloitte's VAT Update: Extended timelines for export transactions provides a summary of the concessions with regard to timeframes that apply to goods exported.

Deloitte's South Africa TradeSmart Special Edition highlights other recent measures announced regarding the import and export of goods, including restrictions, priority flows, and special measures in place during the South Africa COVID-19 lockdown.

Spain

Economic and fiscal measures introduced to address impact of COVID-19

The Spanish executive branch declared a state of emergency on 14 March 2020 in response to the coronavirus (COVID-19), and public officials have introduced a series of fiscal and economic measures aimed at tackling some of the socioeconomic challenges brought about by COVID-19. While the measures that have been adopted are not highly significant for most companies (particularly not for multinational corporations), some of the most relevant pieces of legislation that were enacted between 14 March and 31 March 2020 are summarized below, and additional updates may be announced.

General economic/fiscal measures

In general terms, the deadlines to file tax returns and self-assessments remain unchanged, and no extensions have been granted. However, an extension (deferral) of the deadline to pay tax is granted to qualifying individuals and small and medium-sized companies (defined as those with turnover below EUR 6,010,121.04 in the 12 months prior to the start of the current fiscal year) for qualifying tax liabilities accrued between 13 March 2020 and 30 May 2020. The deferral is granted for tax liabilities of less than EUR 30,000 for a period of up to six months for qualifying taxpayers that make an election on the relevant tax return, without the need for the taxpayer to provide security or a guarantee. The deferral will be free of interest for the first three months.

Certain procedural deadlines at all levels of government (including regional and local authorities) involving periods that began to run prior to 18 March 2020 are extended to 30 April 2020. Deadlines of which an entity or individual is notified on or after 18 March 2020 are extended to 20 May 2020, unless the deadline under the general rules for the particular situation falls after this date, in which case the later date will apply. The deadlines extended include the following:

- Deadlines for payment of tax due following an assessment from the tax authorities, as well as deadlines for payments of liabilities that are overdue and in the "enforcement period" of collection;

- Deadlines under filing extensions granted prior to 18 March 2020;

- Deadlines on auctions and adjudication processes involving the use of the taxpayer's assets to cover a tax debt;

- Deadlines to address requests from the tax authorities, "embargo" (tax lien) notices, and tax-related information requests; and

- Deadlines to submit certain appeals to the tax authorities.

In addition, foreclosures on real estate carried out by the tax authorities will be suspended until 30 April 2020.

The period between 18 March 2020 and 30 April 2020 will not be taken into account for the purposes of calculating the following periods:

- The maximum period granted to the tax authorities to carry out procedures or audits related to the application of taxes and levies, penalty procedures, or review procedures; and

- The statute of limitations deadlines and expiration periods relating to tax matters (generally, four years in Spain).

From 14 March 2020 up to 30 April 2020, the computation of all expiration and statute of limitations periods related to tax proceedings has been suspended. This also applies to regional and local bodies.

Certain other administrative periods and deadlines also are suspended:

- The period between 14 March 2020 and 30 April 2020 will not be taken into account when computing the maximum period granted to the economic-administrative bodies for executing their resolutions. This also applies to regional and local bodies.

- For the purposes of calculating the deadlines for submitting administrative appeals, the period will begin to run starting 30 April 2020, regardless of whether the entity or individual had been notified of the administrative act or resolution being appealed and the deadline had not been reached before 13 March 2020, or whether the entity or individual had not yet been notified on 13 March.

- In general terms, the filing window to bring certain actions before certain administrative bodies will not open until the first working day following the end of the state of emergency.

Measures relating to cadastral proceedings

- Deadlines to respond to requests from the cadastral authorities that had not yet expired at 18 March 2020 are extended to 30 April 2020.

- The deadline to respond to the commencement of proceedings by the cadastral office of which an entity or individual is notified on or after 18 March 2020 is extended to 20 May 2020, unless the deadline under the general rules for the particular situation falls after this date, in which case the later date will apply.

- The period between 18 March 2020 and 30 April 2020 will not be taken into account for the purposes of calculating the maximum period for proceedings initiated by the cadastral authorities.

Customs measures

- Various customs procedures are simplified and the use of information technology resources is enabled as an extraordinary measure to facilitate the import of goods in the industrial sector and procedures related to exports, with the purpose of alleviating supply chain issues arising from COVID-19.

- Deferral is granted for the payment of qualifying customs duty liabilities for returns filed from 2 April 2020 through 30 May 2020, provided the payer is either an individual or an entity with turnover below EUR 6,010,121.04 in 2019. The deferral will be granted for six months as from the date that payment is due for qualifying taxpayers that make an election on the relevant return, and no interest will accrue for the first three months.

Measures affecting energy companies

Companies that supply electricity and gas, as well as those that distribute gas and liquified petroleum gas, will not have to file VAT returns or electricity tax or hydrocarbon tax returns in relation to invoices due from small and medium-sized companies whose payments temporarily have been suspended. These returns must be filed either when the customer has completely paid the relevant invoices or, if earlier, when more than six months have elapsed since the state of emergency was declared; in the latter case, there should be a gradual and proportional declaration of the deferred liabilities in the returns filed over the next six months.

Stamp duty measures

An exemption is granted from the graduated stamp duty rates on notarial deeds formalizing qualifying moratoria on the payment of mortgage loans to finance the acquisition of a primary residence.

Switzerland

SFTA modifies its approach to net tax rate scheme due to COVID-19

As from 7 April 2020, taxpayers may use a second net tax rate if turnover from activities that previously represented less than 10% of their total turnover increases suddenly and significantly as these activities will be treated as new activities.

Under the net tax rate scheme, net VAT due to the Swiss Federal Tax Administration (SFTA) is calculated by multiplying the taxpayer's turnover by the flat tax rate set by the SFTA for the taxpayer's business sector (subject to certain conditions).

In principle, taxpayers using this method to calculate their VAT are allowed to use two net tax rates if:

a. They conduct two or more business activities for which the SFTA has set different net tax rates; and

b. At least two of these business activities each represent more than 10% of the taxpayer's total turnover realized from taxable supplies.

The 10% threshold to determine new business activity is calculated as follows:

a. Based on expected turnover for persons who become newly taxable and for taxable persons who adopt a new business activity; and

b. Based on turnover from the two preceding tax periods for all other taxable persons.

A sudden and significant increase in business activity is deemed to occur when:

- The main activity (for which the net tax rate was set) is temporary or definitely abandoned; or

- The turnover from the main activity represents at least 25% (50% for mixed business sectors) of the taxpayer's total turnover for the fiscal year (forecast included).

The change announced by the SFTA eases the process of setting a second net tax rate and allows businesses to adapt their VAT liability to the current situation.

The new rule applies retroactively as from 1 January 2020 and until the end of 2022 if the change in net tax rate is favorable to the taxpayer. The rule is expected to apply to all taxpayers as from 1 January 2023.

Thailand

Customs Alert Thailand Covid-19 Customs,

Trade and Excise Update

Introduction

The Thai Government has introduced a series of customs, trade and exciserelated measures as part of a larger fiscal stimulus package to mitigate the negative economic implications caused by the Covid-19 outbreak. The measures cover importation facilitations, certification

of origin validity extension, and tariff reductions for essential medical equipment used for prevention and treatment of the virus. The government has also imposed restrictions on the export of facial masks in order to meet the increased domestic demand while controlling the price.

Who is impacted

Some of the measures are aimed specifically at Thai importers and exporters of facial masks, protective gear and related items. However, the government also introduced broader trade facilitation measures that can be utilized by importers and exporters in general.

What to know

Please find here below an overview of the latest measures as of the beginning of April:

1) Imports of surgical masks (HS Code: 6307.90.40) and anti-pollution masks (HS Code 6307.90.90) as well as imported raw materials to be used for the production of masks, will be duty exempt upon importation. The exemption took effect on 24 March 2020 and will expire on 20 September 2020.

2) Since imports of masks are subject to an import license by the Food and Drug Administration (FDA), the FDA also introduced a dedicated electronic channel to accelerate the license process for these items.

3) Importers utilising duty privileges under the ASEAN-China Free Trade Agreement (ACFTA) can temporarily use a photocopy of Form E as replacement of the original form. Under normal practice, to utilise ACFTA tariff preferential rates, the importers are required to provide an original Form E to Customs upon importation. Customs will temporarily accept a photocopy of Form E for customs clearance purposes. The temporary facilitation started on 4 March 2020 and will last until 31 May 2020.

4) The Department of Foreign Trade (DFT) announced that exporters who obtained the pre-verification approval to issue a preferential certificate of origin (C/O) for their products, which is due to expire between 20 March 2020 and 30 September 2020, will automatically have their validity extended for 6 months. Exporters that have pending applications to obtain pre-verification approval to issue the preferential C/O will receive the result of the Rules of Origin verification via an electronic channel instead of having to present themselves at the DFT.

5) Renewal requests for identification of importer/exporter and new applications can be submitted by post, the result of which will be notified via DFT's Registration Database.

6) Companies with 'Good Exporter' status will receive their VAT refund faster by 15 days for e-filing; and 45 days for paper-filing at the area branch.

7) On export side, export restrictions are imposed on respiratory masks including N95 and disposable dust masks. Exporters can only export these items upon obtaining approval from Internal Trade Department. Such approvals will generally not be granted unless for exceptional cases.

8) The Excise Department has abolished excise duty on alcohol above 80% that is used for sanitary gel/other products with a similar purpose.

9) The excise form submission and payment for petroleum product producers in Thailand has been extended for any excise liability between 1 April and 30 June 2020. The producers can submit the excise form/payment within 15th of the next month of the date when petroleum products move out of the plant. Moreover, the monthly balance sheet submission of March – May, can be submitted within 15 July 2020

10) Service Place owners may submit excise form/payment for the excise duty that occurred from 1 March – 31 May 2020; within 15 July 2020.

What to do

To benefit from the trade and tax facilitation measures, companies must first identify if they are eligible and if yes, what steps they need to follow to utilize the privileges.

Imports of medical masks and raw materials which are now entitled to zero tariffs must be used within one year from the importing date, with the possibility of maximum extension of 6 months (granted by the Customs Department), otherwise the masks will be subject to tariff or be exported overseas.

To utilise ACFTA privileges with a Form E copy, Customs requires the importer to declare the intention to use a photocopy as temporary replacement of original Form E and with a statement to provide the original copy within 30 days after the Customs release date.

The FDA fast-track channel to obtain a mask import license requires a registration to use the e-submission system and submit a medical device import certificate request. After submitting the request online, the applicant needs to inform the request no. to the officer at the Medical Device Control Division and indicate that the submitted request is for importation of medical mask.

Exporters of masks must determine whether they are still eligible to export and obtain the necessary approvals. If not, exporters should not attempt to export at the risk of seizure and penalties.

How can we help?

Deloitte is offering companies free digital resources to stay on top of the tax and non-tax measures taken by governments all over the world in response to the Covid-19 crisis, including in Thailand. Please find here the link to our Covid-19 response website where you can register to receive continuous updates on new measures being taken globally and consult our global tax atlas, where we document and summarize of all the global tax & fiscal measures, including customs, excise and trade.

https://www2.deloitte.com/global/en/pages/tax/solutions/tax-atlassignal.html

In addition, Deloitte Global Trade Advisory offers tailor-made customs, excise and trade services focussing on import/export compliance, duty minimization and supply chain strategy.

We can advise you how to comply with changing customs and excise rules and help you to make use of the released trade facilitation measures. We also assist in dealing with government authorities such as Customs and DFT.

Thailand

Tax relief measures announced in response to COVID-19

Thailand's government has provided the following deadline extensions and other tax relief measures in response to COVID-19.

Personal income tax returns

On 31 March 2020, the Ministry of Finance issued a notification that extends the deadline for filing personal income tax returns (PND.90, PND.91 and PND.95) for 2019, which normally are due on 31 March 2020 or 8 April 2020 (for online submissions), to 31 August 2020. In addition, taxpayers may pay the tax due in three installments without a surcharge. The 31 March notification supersedes the Ministry of Finance notification issued on 28 February 2020 that extended the personal income tax return filing and personal income tax payment deadlines to 30 June 2020.

Corporate income tax returns

On 31 March 2020, the Ministry of Finance issued a notification (no. 2) that extends the deadline for companies and juristic partnerships to file annual corporate income tax returns (PND.50) and transfer pricing disclosure forms, which normally are due between April and August 2020, to 31 August 2020. The submission deadline for a form PND.50 originally due between 24 August 2020 and 31 August 2020 is still extended for eight days from the original due date for electronic fillings.

The deadline for filing half year corporate income tax returns (PND. 51) by companies and juristic partnerships, which normally are due between April and September 2020, is extended to 30 September 2020. The submission deadline for a form PND.51 originally due between 23 September 2020 and 30 September 2020 is still extended for eight days from the original due date for electronic fillings.

The above extensions for filing annual corporate income tax returns, transfer pricing disclosure forms, and half year corporate income tax returns do not apply to companies or juristic partnerships that are listed on the Thailand stock exchange.

Withholding tax, specific business tax, value added tax, and stamp duty

A Ministry of Finance notification issued on 31 March 2020 announces the following deadline extensions:

- The deadlines for filing withholding tax returns (PND.1, PND.2, PND.3, PND.53, and PND.54) for March and April 2020, which normally are due on 7 April 2020 and 7 May 2020 or 15 April 2020 and 15 May 2020 (for online submissions), are extended to 15 May 2020;

- The deadlines for filing offshore value added tax (VAT) returns (Por.Por.36) for March and April 2020, which normally are due on 7 April 2020 and 7 May 2020 or 15 April 2020 and 15 May 2020 (for online submissions), are extended to 15 May 2020;

- The deadlines for filing VAT returns (Por.Por.30) and specific business tax (SBT) returns (Por.Tor.40) for March and April 2020, which normally are due on 15 April 2020 and 15 May 2020 or 23 April 2020 and 23 May 2020 (for online submissions), are extended to 23 May 2020. However, the extension does not apply to SBT due on a sale of an immovable property for a commercial or profitable purpose, which is required to be paid at the time of the relevant registration of rights and juristic acts; and

- The deadline for submitting stamp duty returns (Aor.Sor.4, Aor.Sor.4 Gor, and Aor.Sor.4 Kor) and payments in cash that normally are due during 1 April 2020 to 15 May 2020 is extended to 15 May 2020.

This notification applies only to return filings of headquarters or branches that are closed as the result of an order of the government, and to return filings of business operators that have business operations located in areas that are closed as the result of such an order. However, on 3 April 2020, the Ministry of Finance issued another notification that provides the same deadline extensions to any business operator that is directly or indirectly affected by COVID-19.

Reports required under electronic payment laws

On 2 April 2020, the Ministry of Finance issued a notification extending the deadline from 31 March 2020 to 30 June 2020 for financial institutions and e-money service providers to report information about certain transactions. These include specific transactions of persons who make, in the aggregate, (i) at least 3,000 annual electronic deposits/transfers or (ii) at least 400 annual deposits/transfers where the total value of all transactions is at least THB 2 million.

Reduction of withholding tax rates

Ministerial Regulation No. 361, issued on 27 March 2020, reduces the withholding tax rates for the following payments:

- Payments of income from performance of work under section 40(2) and income from goodwill, copyrights or other rights under section 40(3) to companies and juristic partnerships;

- Payments of income from liberal professions under section 40(6) and income from contracts of work where the contractor has to provide essential materials besides tools under section 40(7) to personal income taxpayers and corporate income taxpayers; and

- Payments of other income under section 40(8) limited to income from hire of work, prizes, discounts and other benefits from sales promotion and other services apart from public entertainers, advertisement, non-life insurance and transportation as prescribed under Clause 2 (3) (15) (16) and (17) of Ministerial Regulation No. 144. The other income excludes payments of hotel and restaurant service charges and life insurance premiums to personal income taxpayers and corporate income taxpayers.

The withholding tax rates on the above payments are reduced as follows:

- For payments between 1 April 2020 and 30 September 2020, the withholding tax rate is reduced from 3% to 1.5%, and the withholding tax may be submitted either manually or electronically.

- For payments between 1 October 2020 and 31 December 2021, the withholding tax rate is reduced from 3% to 2%, and the withholding tax must be submitted electronically.

No reduction applies to payments made to foundations or associations with operating business income, or to foundations or associations published by the Minister of Finance under Section 47(7)(b) of the Revenue Code.

Other tax measures

On 10 March 2020 and 24 March 2020, the Thai cabinet approved the following tax measures:

- A person, company, or juristic partnership may deduct the amount of cash or property donated to the government for the prevention of COVID-19; however, the deduction and tax reduction may not exceed the amounts or rates specified in the relevant cabinet resolution;

- VAT registered businesses are exempt from VAT on donations made to support the prevention of COVID-19;

- The maximum income tax deduction for health insurance premiums paid by individuals is increased to THB 25,000 (from THB 15,000) as from the 2020 tax year. The total annual deduction for health insurance premiums, other life insurance contributions, and payments to savings accounts in respect of life insurance is limited to THB 100,000; and

- "Risk payments" received by medical and public health workers for the 2020 tax year are exempt from individual income tax.

United States

Update on US global trade regulatory developments in response to COVID-19

US government agencies that regulate various aspects of global trade with the US continue to issue guidance on regulatory changes and temporary exceptions associated with COVID-19 developments, as described below.

CBP offers 90-day postponement on payments of certain duties, taxes, and fees for certain importers

Beginning on 20 April 2020, the Secretary of the Treasury and US Customs and Border Protection (CBP) will be postponing for 90 calendar days the deadline for payment for the deposit of certain estimated duties, taxes, and fees for importers experiencing a significant financial hardship due to COVID-19.

The opportunity for temporary postponement applies to formal entries of merchandise entered, or withdrawn from warehouse, for consumption (including entries for consumption from a foreign trade zone) in March 2020 or April 2020, with several exceptions. Specifically, the temporary postponement does not apply where the imported goods are subject to (or temporarily excluded from) one or more of the following supplemental duty types:

- Anti-dumping duties;

- Countervailing duties;

- Duties assessed under section 232 of the Trade Expansion Act of 1962 (e.g., current tariffs on steel and aluminium articles);

- Duties assessed under section 201 of the Trade Act of 1974 (e.g., current tariffs on washing machines and solar cells/modules); and

- Duties assessed under section 301 of the Trade Act of 1974 (e.g., current tariffs on numerous goods of Chinese origin).

FEMA announces additional exemptions to prohibitions on exports of certain PPE

On 10 April 2020, FEMA published a temporary final rule to prevent certain scarce or threatened personal protective equipment (PPE) from being exported unless subject to an exemption. The covered materials defined in the temporary final rule included:

- N-95 filtering facepiece respirators;

- Other filtering facepiece respirators of various designations;

- Elastomeric, air-purifying respirators, and appropriate particulate filters/cartridges;

- PPE surgical masks; and

- PPE gloves or surgical gloves.

The temporary final rule also set forth a preliminary exemption for the export of covered materials by or on behalf of US manufacturers with continuous export agreements with customers in other countries since at least 1 January 2020, as long as at least 80% of a manufacturer's domestic production of covered materials, on a per item basis, was distributed in the US in the preceding 12 months.

On 17 April 2020, the Federal Emergency Management Agency (FEMA) published additional exemptions, including:

1. Shipments to US Commonwealths and Territories, which will not be considered exports under the temporary final rule;

2. Exports of covered materials by non-profit or nongovernmental organizations that are solely for donation to foreign charities or governments, and are for free distribution (not for sale) in their destination(s);

3. Intracompany transfers of covered materials by US companies from their domestic facilities to company-owned or affiliated foreign facilities;

4. Shipments of covered materials that are exported solely for assembly into medical kits and diagnostic testing kits destined for return to the US for sale and delivery;

5. Sealed, sterile medical kits and diagnostic testing kits where only a portion of the kit is made up of one or more covered materials that cannot be easily removed without damaging the kits;

6. Declared diplomatic shipments from foreign embassies and consulates to their home countries;

7. Shipments to overseas US military addresses, foreign service posts (e.g., diplomatic post offices), and embassies;

8. In-transit merchandise, including shipments in transit through the US with a foreign shipper and consignee, and shipments temporarily entered into a warehouse or temporarily admitted to a foreign trade zone; and

9. Shipments for which the final destination is Canada or Mexico.

For exemptions 2, 3, 4, 8, and 9, FEMA will require a letter of attestation to be submitted to FEMA via CBP's document imaging system and placed on file with CBP, certifying to FEMA the purpose of the shipment of covered materials. The attestation letter must contain the following three elements:

- A description of which exemption(s) the exporter is claiming;

- Details regarding the shipment that are sufficient for CBP and FEMA officials to determine whether the shipment falls under the exemption(s); and

- A statement that the provided information is true and accurate to the best of the exporter's knowledge, and that the exporter is aware that false information is subject to prosecution.

- For the remaining exemptions, no additional requirements have been identified.

Developments are evolving quickly

The information presented herein is intended as a high level indicator of US global trade regulatory measures introduced in response to COVID-19. It reflects the position as of the date of this article, but developments are quickly evolving, and measures taken by the US government may change on short notice. Accordingly, the information presented herein should be considered directional, and any use you make of the information is at your own risk.

Venezuela

Value of tax unit adjusted

An administrative ruling published in Venezuela's official gazette on 13 March 2020 that is effective as from the same date significantly increased the value of the tax unit (TU) from VES 50 to VES 1,500. The issuance of the ruling is based on a decree (No. 4090) published on 5 January 2020 that declared a "state of exception and emergency" throughout the country.

As a result of the new version of the Organic Tax Code (OTC) that was enacted in January 2020, the TU must be used as a measurement of value only for purposes of the determination of national taxes administered by the national tax and customs authorities (SENIAT). The TU may not be used by other government agencies and bodies for the determination of employment benefits or other rates.

Although the administrative ruling states that the applicable value of the TU for taxes that are settled for annual periods will be the value that is in effect for at least 183 continuous days of the relevant period, the new OTC (which carries the highest authority for tax purposes) states that the applicable value will be the value in effect at the end of the relevant annual period. The administrative ruling provides no explanation for the difference.

For non-annual taxes, the applicable value of the TU will be the value in effect at the beginning of the tax period.

Venezuela

Measures in response to COVID-19 include tax exemptions for certain imported goods

Venezuela's government introduced various tax, financial, and employment-related measures in response to the coronavirus (COVID-19) through presidential decrees published in the country's official gazette between 17 March 2020 and 2 April 2020. The measures include a tax and customs duty exemption for certain imported goods, a 2019 income tax exemption for certain lower-income individuals, a special regime relating to the repayment of loans from the banking sector, a suspension of the requirement to make certain rental payments for commercial and residential real property, and a ratification and extension of the prohibition on firing employees without an approved justified reason.

Tax and customs duty exemptions for certain imported goods

Presidential Decree No. 4166—providing an exemption from the payment of value-added tax (VAT), import tax, and customs duties, and any other applicable tax or rate, for certain final imports of wearable goods and subsequent sales of the same goods—was published in the official gazette (No. 41841) on 17 March 2020 and is effective for one year as from this date. The most relevant aspects of the decree are described below.

The exemption applies to final imports of certain wearable goods (partial-face masks, scarves, and other related goods) made by national public administrative agencies and institutions, to prevent the spread of COVID-19. The exemption applies for purposes of the VAT, import tax, and customs duties, and any other tax or rate that applies under the current legal system.

Exempt wearable goods also are not subject to other legal regimes applicable in Venezuela for the import of goods.

The goods that are exempt under the decree are as follows:

Tariff code	Tariff description
6217.10.00.00	Clothing accessories
9020.00.10.00	Gas masks
9020.00.90.00	Other (subheading under classification for breathing appliances and gas masks)

The Ministry of Health is authorized to issue a resolution to expand the exemption to include other goods it deems necessary to prevent the spread of COVID-19.

As noted above, sales of wearable goods that qualify for the exemption are exempt from VAT at the national level.

To benefit from the exemption, the following must be submitted to the relevant customs office when filing the import declaration:

- A description of the wearable goods to be imported;

- An invoice issued on behalf of the administrative institution or agency responsible for obtaining the goods; and

- A written communication issued to the taxpayer by the national tax authorities (SENIAT) exempting the goods from import tax and customs duties.

The exemption will be subject to the periodic evaluation of beneficiaries of incentives that the SENIAT carries out on a quarterly basis, in conformity with the VAT Act. Beneficiaries that do not fulfill the relevant conditions or evaluation requirements, or that fail to meet obligations imposed by the Organic Tax Code, the VAT Act, or other tax regulations, will lose the benefit of the exemption.

Exemption from 2019 income tax for resident individuals

Presidential Decree No. 4171, published in an extraordinary issue of the official gazette (No. 6523) on 2 April 2020 and effective as from the same date, provides an income tax exemption for the domestic-source income derived by certain resident individuals during 2019. The exemption is available for individuals whose normal salary or income from the performance of business activities for 2019 did not exceed an amount equivalent to three times the annual minimum wage at the rate effective on 31 December 2019. The minimum wage effective on 31 December 2019 was VES 150,000, so the exemption applies to individuals whose normal salary or income from the performance of business activities did not exceed VES 450,000 for 2019.

The decree was published after the official deadline for paying the 2019 income tax, which fell on 31 March 2020. Individuals who already had paid the 2019 income tax, totally or partially, on or before the effective date of the exemption will benefit from tax credits that may be used in subsequent years.

Special regime for repayment of loans from banks

Presidential Decree No. 4168, published in an extraordinary issue of the official gazette (No. 6521) on 23 March 2020 and effective as from the same date, provides for a special regime to be implemented by the Ministry of Economy and Finance through the Superintendence of Banking Sector Institutions (SUDEBAN) regarding the repayment of loans from domestic public and private banks.

The most relevant aspects of the regime are the following:

- It will apply to all loans granted by banking institutions that were totally or partially outstanding on 13 March 2020.

- It will extend to the payment of principal and interest, restructuring terms, and any other clause included in the loan contracts.

- A suspension of the requirement to make payments on loans and any other related conditions may be established for a period not exceeding 180 days.

- Special conditions may be imposed for certain categories of debt.

- Interest may not be imposed during the suspension period and the immediate total or partial payment of the loan may not be demanded at the end of the suspension period.

- Loans agreed upon based on the commercial credit value unit (UVCC) or the productive credit value unit (UVCP) will maintain their specific calculation mechanism, but will be paid under the new conditions.

Additionally, financial institutions must prioritize the granting of credit for the food, pharmaceutical, and hygiene product industries, since the activities of these industries are key to facing the current situation and preventing the spread of COVID-19.

Suspension of rental payments for commercial premises and residences

Presidential Decree No. 4169, published in an extraordinary issue of the official gazette (No. 6522) on 23 March 2020 and effective as from the same date, provides for the suspension of the requirement to make rental payments for certain commercial premises and primary residences. The most relevant aspects of the decree are the following:

- The suspension of rental payments will apply until 1 September 2020.

- Rental payments due as of 23 March 2020 and other monetary amounts agreed upon under the relevant contracts may not be demanded.

- The basis for eviction of failing to pay four rental payments without justification, set forth by article 91 of the Housing Leasing Regularization and Control Act, is suspended for six months, until 1 September 2020.

- The basis for eviction of failing to pay two rental and/or joint ownership payments, established in item "a" of article 40 of the Commercial Property Leasing Regulation Act, is suspended until 1 September 2020.

- The parties may agree on special terms to restructure payments in conformity with the suspension; however, under no circumstance may the tenant be required to pay the total amount of the accumulated rental payments at the end of the suspension period.

- If the parties do not come to a restructured agreement, they must settle their differences before the National Housing Leasing Superintendence (SUNAVI) in the case of buildings used as a primary residence, or the National Superintendence for the Defense of the Socioeconomic Rights (SUNDDE) in the case of premises used for commercial purposes.

- The payment suspension will cease to apply for commercial premises if a business that was required to suspend its activities in response to COVID-19 resumes its activities before the end of the period provided in the decree (i.e., before 1 September 2020).

- The payment suspension will not apply for commercial premises if a business continues to render services by virtue of its activities and in conformity with the guidelines issued by the executive branch.

Prohibition of unjustified firing of employees

Presidential Decree No. 4167, published in an extraordinary issue of the official gazette (No. 6520) on 23 March 2020 and effective as from the same date, ratifies measures that prohibit an employer from firing employees without an approved justified reason and extends the period during which the measures are effective up to 31 December 2020 (from 28 December 2020). The decree is applicable to any employee from the public and private sectors, except for those holding management positions and seasonal or temporary workers.

Employees fired without a justified reason previously evaluated and approved by a labor officer of the relevant jurisdiction will have a 30-day period from the dismissal day to file a claim with the labor inspectorate requesting reinstatement and payment of lost wages. Employers failing to comply with the provisions set forth in the decree will be subject to sanctions established in the law.

Labor courts will not accept any administrative appeals by the employer until verification of the employee's reinstatement and restoration of the rights that were violated through the unjustified dismissal.

Other news

USMCA update

USMCA update: Canada and Mexico confirm completion of entry into force procedures

On 2 and 3 April 2020, respectively, Mexico and Canada certified they have completed their local internal procedures required for the US-Mexico-Canada Agreement (USMCA or agreement) to take effect. As of 15 April 2020, US certification of the same remained pending. Under the terms of the agreement, the USMCA will enter into force on the first day of the third month after all three countries have notified the others that its internal procedures required to execute the agreement have been completed.

Key events

The US, Mexico, and Canada signed the USMCA on 30 November 2018 to modernize the terms of trade between the three nations. By 13 March 2020, the agreement was ratified by all three countries. In addition to requiring each country to confirm its completion of internal procedures, the three countries must also work together to finalize the administrative aspects of the agreement, such as the organization of committees and panels, the development of rosters for dispute panels, the implementation of specific required revisions to the Harmonized Tariff Schedule, the finalization of product-specific rules, and any other necessary administrative and regulatory changes.

As of now, based on the terms of the agreement, the earliest possible entry into force date is 1 July 2020 if the US provides its notification of completion of internal procedures in April. However, there remains much discussion amongst industry, legislative, and government leaders of potentially delaying the entry into force deadline due to the global COVID-19 outbreak as well as to allow heavily impacted importers to implement changes once the final requirements are issued.

About the agreement

The USMCA builds upon the foundation of the North American Free Trade Agreement (NAFTA), incorporating 12 additional chapters that modify specific NAFTA provisions. The modifications affect a variety of industries, including automotive, energy, chemicals and pharmaceuticals, textiles, and electronics industries, among others.

Major changes include:

- Enhanced protection and enforcement measures for intellectual property rights;

- Prohibition of customs duties, fees, and taxes on digital products;

- Increased *de minimis* thresholds for low value shipments free of duty and tax;

- Increased *de minimis* threshold for non-originating content to 10%;

- Obligations to prevent discrimination against US financial service suppliers and facilitate a level playing field;

- Enforceable labor obligations that include common minimum standards for domestic laws;

- Environmental obligations to combat trafficking in wildlife, timber, and fish, to strengthen law enforcement networks to stem such trafficking, and to address pressing environmental issues such as air quality and marine litter; and

- Higher Regional Value Content requirements, with new minimum Labor Value Content and minimum requirements for US, Canada, and Mexico origin steel and aluminum content for automotive manufacturers.

Readiness considerations

Companies planning to benefit from the USMCA should consider assessing their operational readiness to manage their imports and exports within the region under the new requirements. Specifically, companies should consider undertaking the following activities:

- Assess systems and tools used to qualify imports under the NAFTA and incorporate the USMCA requirements;

- Conduct a thorough review of policies and procedures, and update documentation to reflect new requirements;

- Update training materials and provide training to relevant personnel;

- Establish how best to document origin certification and implement new protocols;

- Identify linkages and dependencies between global trade compliance, operations, and other business functional areas with respect to implementing the USMCA requirements; and

- Focus resources on qualifying goods and verifying supplier compliance under the new rules of origin.

Companies that need to manage their transition to the new USMCA rules should consult with global trade advisors who can help companies proactively manage the potential impacts of this change by:

- Conducting a USMCA readiness assessment, which may include:

    - Analyzing trade data to assess the current NAFTA footprint and identifying products that are impacted by the new USMCA rules of origin;

    - Reviewing impacts of new product-specific rules to confirm that goods will meet the new rules and will continue to benefit from preferential duty treatment;

    - Identifying potential savings opportunities based on the new rules of origin;

    - Assessing potential changes to internal activities related to the solicitation of certificates of origin, and origin qualification and certification; and

    - Establishing a roadmap to define and implement a future state USMCA operating model (i.e., updates to process flows, work instructions, training materials, etc.);

- Supporting the upgrade, implementation, and maintenance of technology tools used to qualify goods;

- Supporting customs duty, origin, and value planning;

- Supporting HTS classification and origin determination under the new rules of origin;

- Providing solicitation services for certificates of origin from suppliers; and

- Preparing certifications of origin.

European Union

Commission closes infringement procedures against three states over VAT quick fixes

On 2 April 2020, the European Commission announced that the infringement procedures against Belgium, France, and Luxembourg, in respect of their failure to implement the four VAT "quick fixes" in connection with intra-Community supplies contained in EU Directive 2018/1910 as from 1 January 2020 had been closed, since the three member states had amended their legislation.

The quick fixes (concerning call-off stock arrangements, chain transactions, and application of the VAT exemption for intra-EU supplies of goods) were included in a package of measures adopted by the EU Council in 2018 to improve the cross-border VAT regime pending the introduction of the "definitive" VAT system, which is not expected until 2022. On 24 January 2020, the European Commission had issued "letters of formal notice" to 12 EU member states.

The commission also announced on 31 March 2020 that the explanatory notes on the quick fixes now are available in all 23 official EU languages.

European Union

CJEU AG opines on VAT treatment of investment fund management services

On 11 March 2020, Advocate General (AG) Pikamäe of the Court of Justice of the European Union (CJEU) delivered his opinion in the BlackRock Investment Management (UK) Ltd (C-231/19) case. He stated that a single supply of management services to a fund management company, which itself manages investment funds eligible to receive VAT-exempt management services, as well as other ineligible funds, does not fall within the scope of the VAT exemption for special investment funds (SIFs) in the EU VAT directive.

Background

Blackrock Investment Management UK Ltd (Blackrock UK) manages a number of investment funds, some of which qualify under UK law for the VAT exemption provided in article 135(1)(g) of the VAT Directive for the "management of special investment funds," as defined in the law of EU member states. Blackrock UK also manages funds that are not eligible for the exemption. The portion of services rendered to non-eligible funds exceeds the portion of services rendered to SIFs.

BlackRock Financial Management Inc. (BFMI), an affiliated company based in the US, provides Blackrock UK with "Aladdin" services. Aladdin is a sophisticated and automated software that offers end-to-end portfolio management tools to assist asset managers. Aladdin thus may be viewed as artificial intelligence (AI).

Blackrock UK uses Aladdin to render services to two fund categories: (i) SIFs, which are eligible to receive VAT-exempt services, and (ii) funds that do not qualify for the exemption.

The question arose whether Blackrock UK should self-assess VAT on both types of fund services or only on the services provided to ineligible funds.

The UK First Tier Tribunal in 2017 and the UK Upper Tribunal in 2018 both decided that the services provided by BFMI, in principle, could be VAT-exempt as services for the management of SIFs. However, the services provided by BFMI constituted a single supply used for the management of both eligible and ineligible funds. Therefore, this single supply could not benefit from the VAT exemption.

In December 2018, the UK Upper Tribunal referred questions to the CJEU for the court to decide whether it is possible to allocate VAT charges for Aladdin, treated as consideration for a single supply, between SIFs (VAT-exempt) and other funds (taxable). The Tribunal noted that CJEU decisions, such as EC v Luxembourg (addressing the VAT exemption for services provided by independent groups of persons (C-274/15)), suggest that an apportionment may be possible between exempt and taxable elements of a single supply, and the questions referred sought to determine whether and how this is possible.

Questions referred by the UK Upper Tribunal

On the proper interpretation of article 135(1)(g) of Council Directive 2006/112/EC, where a single supply of management services within the meaning of that article is made by a third-party provider to a fund manager and is used by that fund manager both in the management of SIFs and in the management of funds that are non-SIFs:

a. Whether the single supply should be subject to a single rate of tax, and if so, how that rate is to be determined; or

b. Whether the consideration for that single supply is be apportioned in accordance with the use of the management services (e.g., by reference to the amounts of the funds under management in the SIFs and non-SIFs, respectively) so as to treat part of the single supply as exempt and part as taxable?

Summary of AG opinion

AG Pikamäe assumed that the UK Upper Tribunal decision regarding the VAT treatment of the Aladdin services was correct, i.e., the services provided by BFMI were specific to and essential for the management of investment funds and the supply did constitute a single indivisible supply.

AG Pikamäe then focused on the apportionment question. With respect to whether the supply should be subject to a single rate of VAT, the AG noted that, in principle, CJEU jurisprudence does not allow a single supply to be split between different VAT liabilities. Although there are some exceptions, the AG found that these did not apply to the case at hand.

When evaluating the approaches to apportion the supply between VAT-exempt and taxable parts, AG Pikamäe took the position that the CJEU decision in EC v Luxembourg (C-274/15) was not relevant because it dealt with a different type of VAT exemption (i.e., the exemption for services provided by independent groups of persons).

He also considered that applying the VAT exemption to only a portion of the Aladdin services would risk applying it (even if only in part) to the management of ineligible funds, which would contravene the principle of the strict interpretation of VAT exemptions.

AG Pikamäe also rejected Blackrock UK's argument that a pro rata calculation could be applied to the value of assets under management. Not only did he feel that an apportionment based on fund value would be practically unworkable, but the AG also felt that applying the exemption based on the assets of the eligible funds under management would fail to interpret the exemption correctly since the VAT directive exempts transactions relating to the management of investment funds. In this regard, AG Pikamäe's approach may appear not to take business realities into account as the asset management industry usually issues invoices based on the value of the assets under management. However, the AG commented that, had Blackrock UK been able to provide detailed data enabling a tax authority to identify precisely the services provided for funds eligible for the VAT exemption, those services would have been exempt.

While such data was absent in the case at hand—making the observation purely hypothetical—it will be interesting to see if the CJEU, in its decision, comments on the extent to which the VAT exemption could apply, should a split in services be identifiable.

Ultimately, AG Pikamäe opined that management services provided to a combination of eligible and ineligible funds as a single supply should be subject to VAT in their entirety.

Next steps

Some in the asset management industry may find that AG's Pikamäe's opinion could complicate the VAT treatment of outsourced services and, thus, could result in additional VAT costs. Others may see his opinion as potentially opening the door to the application of the VAT exemption to automated asset management services because the denial of the VAT exemption in the case seems to have been based on practical considerations rather than VAT principles. Should the latter view prove to be correct, it would be encouraging for the VAT treatment of AI in the asset management industry, and, more generally, in the financial services industry.

The CJEU is expected to issue its decision in the case within four to six months (i.e., during the second half of 2020), and the decision could have a significant impact on the asset management industry. In the meantime, concerned businesses should consider reviewing their services agreements to evaluate how the CJEU's decision potentially could affect them.

Belgium

New guidance on intra-Community VAT regime and quick fixes issued

On 3 April 2020, the Belgian VAT authorities published a new circular letter that provides a comprehensive overview of the practical application of the VAT rules for intra-Community supplies of goods (Dutch|French). It is a comprehensive, 270-page summary of administrative positions developed since 1993 in this field, including a detailed synopsis of the EU VAT quick fixes, that came into force on 1 January 2020.

Further guidance on EU VAT quick fixes

The circular letter contains detailed guidance on different topics where the EU VAT quick fixes have resulted in changes to the intra-Community VAT regime. It integrates a significant part of the EU VAT quick fixes explanatory notes developed by the European Commission into Belgian administrative guidance.

The circular letter not only explains the importance of communicating and checking the VAT number as a substantive condition for exempting intra-Community supplies, but also lays down detailed practical rules for situations where a valid VAT number is not available at the time of supply. In such cases, Belgian VAT must be charged on the invoice where Belgium is the country from which the goods are despatched. Where the customer subsequently provides a valid VAT number, the supplier may annul the VAT charged, and reimburse it to the customer, under specific conditions. VAT charged because a VAT number was not available in respect of intra-Community supplies is not recoverable by the foreign customer through a VAT refund request, other than in exceptional cases where a refund would be the only way for the purchaser to recover the VAT (e.g., if the seller faces bankruptcy).

Regarding the proof of transport for intra-Community supplies, the circular letter explains the two "safe haven" rules contained in Belgian legislation, namely the EU VAT quick fix solution, and the preexisting Belgian regime to accept a "destination document" as key evidence. The possibility to evidence transport with appropriate documentation also remains available.

For the remaining two quick fixes, the allocation of transport in chain supplies and the simplified call off stock regime, the Belgian guidance is closely aligned with the EU VAT quick fixes explanatory notes.

Integrated commentary on the intra-Community VAT regime

The Belgian VAT authorities have incorporated changes initiated by the EU VAT quick fixes in a comprehensively updated and structured overview of all aspects of the VAT regime applicable to intra-Community supplies and assimilated transactions.

The requirements and consequences of intra-Community supplies, acquisitions and transfers, as well as chain transactions and triangular supplies, are thoroughly explained with practical examples and details in terms of VAT reporting requirements.

The circular letter also provides insights into some specific topics where the Belgian VAT authorities approach intra-Community transactions in a particular way, sometimes deviating from the manner in which the same legislation is being applied in other EU member states.

Examples include:

- The possibility for suppliers making cross-border supplies of goods to another EU member state, to split the transaction into in an intra-Community transfer of own goods (whereby they make an acquisition themselves under a local VAT number), followed by a domestic supply to the customer in the destination country. This approach allows the supplier to relieve their customers of the formalities linked to intra-EU purchases, and of any uncertainties regarding customers' missing or invalid VAT numbers. Although this

system is based on an unpublished agreement between EU member states in 1993, in practice, not all member states accept the split of an intra-Community supply into a transfer followed by a local supply.

- The determination of the tax point for intra-Community supplies by reference to the actual delivery date, rather than the invoice date, where this precedes the delivery date. This means that advance invoices for intra-Community supplies, even where they are for the full price, cannot be reported in the VAT return and European Sales Listing (ESL, or btw-opgave van intracommunautaire handelingen, or relevé à la TVA des operations intracommunautaires) according to the invoice date, leading to administrative complexities for businesses.

Changes to the ESL

The circular letter also clarifies changes made to the ESL as from 1 January 2020.

To integrate specific reporting obligations for goods despatched to business partners in other EU member states, under the simplified call off stock regime, a second part was added to the ESL on the Intervat portal, to be completed only by companies engaging in such transactions. A further change concerns the situation when transactions undertaken in previous reporting periods need to be corrected, and where specific instructions on how to report such corrections apply.

Entry into force

The circular letter aims to provide a better understanding of legislation covering the intra-Community VAT regime, and applies retroactively. For rules that are part of the EU VAT quick fixes, the letter enters into force as from 1 January 2020.

The guidance published by the VAT authorities is not only a very instructive overview for practitioners, but also a guide to which businesses may refer to establish whether they are applying the rules appropriately, and in the most efficient way in their daily operations.

Belgium

New circular letter regarding the VAT treatment of tour operators and travel agents

On 24 March 2020, the Belgian VAT authorities published a new circular letter regarding the VAT treatment of tour operators and travel agents (Dutch | French). This replaces the previous guidance on the subject in Circular Letter No. 33 of 8 November 1978, and all subsequent related legislative documents, including decisions, responses to parliamentary questions, etc.

The main changes introduced by the new guidance relate to the invoicing process of tour operators and travel agents. The intention is that the new rules will be implemented by the travel sector for bookings received as from 1 April 2021.

Impact on invoicing process

Current invoicing process

The current invoicing process of tour operators and travel agents usually entails the tour operator issuing an invoice to a travel agent, rather than directly to the traveller, even where the travel agent is selling the travel service "in the name and on behalf of" the tour operator.

The amount invoiced to the travel agent typically will be the price of the travel service, less the travel agent's commission.

Nevertheless, the tour operator will account for the VAT due, taking into consideration the full price to be paid by the traveller, applying a lump sum margin scheme.

Any administrative fee (covering telephone, correspondence, etc.) that may additionally be charged by the travel agent to the traveller, may in principle be excluded from the scope of VAT.

The new invoicing process

For new bookings as from 1 April 2021, the new circular letter no longer will allow a tour operator to issue an invoice to a travel agent when that travel agent is selling travel services in the name and on behalf of the tour operator. In that case, the new circular requires the:

- Tour operator to issue an invoice to the traveller for the full price of the travel service (and account for the VAT due on that service where applicable); and

- Travel agent to issue an invoice for their commission to the tour operator.

Tour operator invoice to traveller

For business-to-business (B2B) and business-to-government (B2G) invoices, the tour operator will be responsible for obtaining the client's details (i.e., name, address, VAT number, etc.) from the travel agent to issue a valid invoice to the customer.

In a business-to-consumer (B2C) context, the tour operator still may issue its invoice to the travel agent, but the tour operator must provide the traveller's unique client reference on the invoice. The tour operator will need to rely on the travel agent to provide the full details of the traveller (particularly for VAT audits), and the travel agent must forward the tour operator's invoice to the traveller.

Invoice from agent to tour operator

A new requirement is that the travel agent will need to issue an invoice in respect of commission to the tour operator. However, VAT may not be charged where this would be fully deductible for the tour operator.

The travel agent and tour operator also may agree to apply self-billing, whereby the tour operator will issue the invoice on the agent's behalf. Self-billing is subject to a number of formalities (i.e., advance agreement between the parties, separate invoice numbering, etc.) and requires specific attention in the implementation process.

Administrative fees charged by the agent

Under the new regime, administrative fees charged by an agent to a traveller generally will be subject to VAT. The element of the fee that relates to international airline traffic will be VAT-exempt.

Potential double charge to VAT

Belgian VAT legislation was changed in May 2019, following a February 2018 decision of the Court of Justice of the European Union, in which it was held that B2B supplies of travel services, in addition to B2C supplies, are subject to the EU Tour Operators Margin Scheme (TOMS).

Consequently, if intermediaries sell travel services in their own name, those intermediaries also will be subject to the TOMS for their sales. As a result, they will not be able to deduct the margin-VAT already charged on the invoice received from the tour operator, and will again need to pay VAT (generally at 13%) on a lump sum margin.

Action required

To prepare for the entry into force of the new rules on 1 April 2021, businesses in the travel sector will need to:

- Make any necessary changes to their sales processes and IT systems; and
- Ensure the necessary practical and contractual arrangements with agents are in place.

China

Export VAT refund rates increased on over 1,400 goods

On 17 March 2020, China's Ministry of Finance and the State Taxation Administration (STA) issued Bulletin 15 increasing VAT refund rates for 1,464 goods as from 20 March 2020, in order to reduce VAT costs for exporters.

Background

Exporters generally obtain a refund of VAT incurred on exported goods. The refund is implemented through a refund rate based on the HS customs code used for the exported goods (which can be different from applicable VAT rates on the same goods). If the refund rate is lower than the applicable VAT rate on such goods, the excess VAT incurred on the exported goods is not refundable and such VAT costs must be absorbed by the exporter.

In order to encourage exports, the State Council decided on 10 March 2020 (as later implemented by the issuance of Bulletin 15) to increase the refund rates on certain goods to correlate with the applicable VAT rates on the same goods (except for goods considered to be highly pollutant, consume high amounts of energy, or be resource intensive in the manufacture of such goods).

Rates

Prior to Bulletin 15, the refund rates for exported goods were 13%, 10%, 9%, 6%, and 0%. The new rates implemented in Bulletin 15 are 13%, 9%, and 0%. As before, for the 0% rate, no refund is allowed.

Affected goods

Bulletin 15 increases export VAT refund rates on 1,464 goods, which represents about 16% of the total HS code items in the tariff schedule, including:

- 1,084 goods with an increased rate of 13% (e.g., certain silicon dioxide products and certain acyclic hydrocarbons formerly subject to a 10% rate); and

- 380 goods with an increased rate of 9% (e.g., pork, beef, lamb, certain nuts, and coffee products formerly subject to a 6% rate).

The rate increases affect a broad range of sectors such as agriculture, animal husbandry, food processing, chemicals, plastic and rubber, paper, ceramics, iron and steel, and non-ferrous metal. Furthermore, a substantial number of goods with increased rates (more than 620) are organic chemical products.

Most goods in chapters 54 through 66 (certain textile products) and chapters 84 through 96 (machinery and mechanical appliances; vehicles, aircraft, vessels, and associated transport equipment; and measuring, checking, precision, and medical or surgical instruments and apparatus) of the harmonized tariff schedule are not affected by the rate increases as their rate was already 13%.

Comments

With the increased refund rates, many exporters will obtain a full refund of the VAT incurred on exported goods. Affected exporters should:

- Update the export VAT refund rate information in their systems and monitor the implementation guidance issued by local tax authorities;

- Evaluate the potential economic impact of the increased export VAT refund rates;

- Review pricing strategy and negotiate with foreign buyers on price adjustments if necessary and commercially feasible; and

- Consider whether their overall business model can be optimized further due to the increased refund rates.

China

2020 tariff survey process underway

Beginning each January, China's General Administration of Customs (GAC) and the Tariff Committee of the State Council (CTCSC) collect and evaluate proposals from businesses on import and export tariffs, export VAT refund rates, and license controls (the "tariff survey").

The deadlines for businesses to submit proposals to the regional customs offices generally are in March and April.

The tariff survey

The government uses the tariff survey to determine economic policies that will promote development of various industries, generally by updating import and export tariffs and amending or implementing tax laws that affect such industries.

With the current global economic and trade environment impacted by COVID-19, and with the signing of the China-US trade agreement, businesses are encouraged to voice their concerns and propose specific tariff adjustments or other solutions that will facilitate trade during this unprecedented time.

The tariff survey generally covers the following areas:

Areas covered	Potential benefit for importer/exporter	Examples
Import/export interim tariff rates	Lower interim tariff rate for import/export.	Machines for semiconductor testing, sorting, and tape braiding (8422.4000.10): import tariff cut from 8% to 5% via interim tariff rate as from 1 January 2020.
Tariff exemptions	Tariff exemption or a reduction to zero rate.	Equipment for deep sea farming: import tariff exemption from being added to the catalogue of major technical equipment and products supported by the state as from 1 January 2019.
Export VAT refund rates	Higher export VAT refund rate.	Aluminium plated paper and paperboard coated, impregnated or covered with plastics (4811.5991): increase of export VAT refund rate from 0% to 13% as from 15 September 2018.
License requirement for import/export	Waiver or simplification of the license requirement.	X-ray thickness measuring apparatus of wafer manufacture (9022.1990.20): waiver of prohibition on import of used mechanical and electrical equipment.
Adding or removing HS codes for specific goods	More clarity on HS codes.	Removal and simplification of the HS codes for toys (from 12 to 7) effective as from 1 January 2018, to increase customs declarations efficiency and reduce logistics costs.
Adding or removing commodities to or from the cross-border e-commerce (CBEC) retail import list	Eligibility to import commodities under the CBEC retail program (to enjoy exemption of product registration requirement and preferential import tax treatment).	Steam eye mask added to the CBEC list as from 1 January 2019.

The preparation of the tariff survey with subsequent adjustments usually takes one year and includes three stages:

- Proposals are submitted by businesses;

- The GAC and regional customs offices review the proposals and submit the agreed-upon proposals to the CTCSC; and

- The CTCSC reviews the proposals and makes the final determinations on tariff adjustments.

The 2020 tariff survey likely will address:

- Preferential measures in connection with products for the prevention and control of COVID-19, such as medical devices, drugs, and epidemic prevention products. Epidemic control and prevention products will continue to be in global demand, resulting in tariff rates and license control requirements of production materials, equipment, and parts, being one of the main focuses in the 2020 tariff survey.

- Import and export companies needing financial assistance, including companies that are resuming business and trade. For example, exporters, especially those with products that are heavily impacted by COVID-19 and the China–US trade agreement, could propose to increase the export VAT refund rate to reduce export business costs. In fact, on 17 March 2020, the Ministry of Finance announced a policy to grant a full refund for various products by increasing the export VAT refund rates of 1,084 items to 13% and 380 items to 9% as from 20 March 2020.

- Increasing consumption of certain consumer products such as higher-quality goods. These products have been subject to tariff reductions since 2015 and increasing consumption likely will be a way to encourage steady economic recovery.

- Increasing accessibility of pharmaceutical products by making such products more affordable to patients through a reduction in tariffs.

- Expansion of the CBEC retail import list. CBEC goods are exempt from the registration requirement for first-time importers, and enjoy preferential import tariff treatment (i.e., no duty and 70% of standard VAT and consumption tax levied within a set threshold). Currently, the CBEC list includes 1,413 HS codes of eligible goods.

- Reduction of import tariffs to encourage high-tech machinery and components (such as those for 5G devices), which currently can be sourced only from foreign suppliers.

- Supporting companies with businesses involved in energy conservation and environmental protection. For example, companies that import new energy vehicles could propose an adjustment to the HS code structure or to lower the import tariff rates.

- Bolstering the supply of certain natural resource products, such as wood and paper, by lowering the tariff rates of such products.

Proposal submission

Businesses should submit proposals following the process of the regional customs office in which they are registered. Proposals also may be submitted informally to the GAC, the Ministry of Commerce, the National Development and Reform Commission, and industry associations.

The proposal should be short and concise, and provide an overview of the products involved, any necessary background information, the main issues under current tariff policies, and suggestions to revise such policies.

Companies submitting a proposal should:

- Review the correctness of the HS codes of the products involved;

- Assess the supply chain arrangements and tax burdens to identify proposed tariff adjustments (considered in conjunction with national economic policies and industry issues);

- Prepare a data analysis to submit with the proposal that contains evidence in support of the proposal; and

- Follow the appropriate process for submission of the proposal and communicate thereafter with the customs authorities to facilitate the adoption of the proposal.

Finland

Tax authorities update VAT guidance

The Finnish Tax Administration (FTA) has updated its guidelines on several indirect tax topics as of January 2020, including, *inter alia*, the following:

- Taxation of virtual currencies (value added tax (VAT) rules well as income tax rules);
- VAT rules for non-profit organizations;
- VAT rules for the travel industry;
- The option to charge VAT on the letting of immovable property;
- VAT rules for letting of parking spaces for vehicles; and
- VAT on the private use of goods and the disposal of goods below fair market value.

Among other changes, the updated guidelines increase the value of promotional gifts considered to be goods for private use for VAT purposes. According to the FTA, promotional gifts with a purchase price of up to EUR 50 (increased from EUR 35) including VAT can be considered customary, and the supply of such promotional gifts will not be considered as taking the goods into private use.

Finland

E-invoicing mandatory for B2B sales upon request of purchaser

On 1 April 2020, Finland extended the provisions of the EU e-invoicing directive (Directive 2014/55/EU) in its national law to cover B2B transactions, resulting in the right of businesses to demand from their suppliers an electronic invoice that complies with the EU e-invoicing standard. The new e-invoicing rules do not prohibit businesses from receiving invoices in formats differing from the EU standard; however, the rules grant them the right to require e-invoices that are compliant with the standard and to reject non-compliant invoices. Finland has applied the directive's provisions to B2G transactions since 1 April 2019.

The directive's extension to B2B transactions has been included in Article 4 of the Finnish E-invoicing Act, which states that businesses have the right to request an invoice from their supplier in an electronic format. The consequences for not sending e-invoices in line with the EU standard are contractual consequences, and no other sanctions have been included in the legislation.

The goal of the legislative change is to promote the use of electronic invoices in Finland more widely. The provision is expected to create a framework for automatic processing of invoices and significantly improve the financial management of businesses.

Many companies are still changing their e-invoicing processes as a result of the new rules. As the matter is primarily contractual, the parties to the transactions should consider discussing and documenting the process in writing in an effort to avoid any misunderstandings.

India

Mandatory e-invoicing for GST purposes deferred until 1 October 2020

On 14 March 2020, India's goods and services tax (GST) council announced that the introduction of mandatory electronic invoicing (e-invoicing) for GST-registered persons whose aggregate annual turnover exceeds INR 1 billion for all supplies made to other GST-registered persons (i.e., business-to-business (B2B) supplies) is deferred from 1 April to 1 October 2020.

Background

E-invoicing is the next critical phase in the evolution of the GST regime in India. The GST council has implemented a phased approach to the introduction of e-invoicing, intended to provide both the goods and services tax network (GSTN) and businesses with the opportunity to prepare for a major transformation in GST compliance. E-invoicing already is operating successfully in many countries and, with the introduction of this measure, India will be in line with current global standards of invoicing for business transactions.

E-invoicing for GST purposes broadly introduces a process of authenticating an electronically generated invoice via the invoice registration portal. With little increase in GST revenues over the last couple of years, and significant noncompliance in filing GST returns, the GST council sought to introduce measures to close "loopholes" in the system that could not

detect incorrect and possibly even fraudulent claims for input tax credits. E-invoicing is a step in that direction and is intended to be a self-regulated system for claiming GST input tax credit, hopefully streamlining tax payments and enhancing tax collections in the longer term.

Journey so far

The following are some key milestones in India's e-invoicing journey to date:

- **5 July 2019:** Announcement in Budget 2019;
- **20 August 2019:** Release of draft e-invoicing standards for public feedback;
- **20 September 2019:** Approval of e-invoicing standards by the GST council;
- **10 October 2019:** Release of FAQs and e-invoicing schema by the GST council;
- **13 December 2019:** Issuance of notifications regarding e-invoicing;
- **1 January 2020:** Implementation of e-invoicing on a trial basis for businesses with aggregate turnover of at least INR 5 billion;
- **7 January 2020:** Release of application programming interfaces (APIs);
- **11 February 2020:** Release of offline utility for direct upload;
- **4 March 2020:** Release of updated APIs and other related papers; and
- **14 March 2020:** Announcement by the GST council of the deferral of the implementation date from 1 April to 1 October 2020.

A welcome move for businesses

While changing the technological structure of a business may seem a Herculean task, there undoubtedly are benefits in the long term.

E-invoicing proposes to:

- Introduce three-way interaction between various GST portals;
- Enhance tax transparency by updating credits in real time;
- Make invoice reporting an integral part of business processes;
- Optimize a business' IT environment and reduce human intervention in the compliance process; and
- Initiate a paperless return filing process for indirect tax compliance.

These changes can be expected to have a number of positive effects on businesses:

- Convenience of auto-populated returns and e-way bills;

- Better management of vendor relationships, improved reconciliations, and minimized credit loss;

- More time for businesses to focus on higher value added activities and simultaneously improve compliance;

- Improved accuracy through use of the enhanced IT environment; and

- Robust record-keeping, data management, and resource management, creating a dynamic e-trail for the business.

Government objectives

The government's commitment to introduce e-invoicing is evident from the periodic release of updates including e-invoicing concept papers and related technical documents, and constant engagement with stakeholders. With e-invoicing, the government intends to achieve the following diverse objectives:

- Make e-invoicing a key data collection point for the tax authorities. The data will be further used for in-depth analysis and to identify suspicious transactions at an early stage;

- Identify and restrict improper activities with regard to GST compliance by taxpayers and reduce the number of fraud cases by having real-time access to tax data;

- Reduce tax evasion by digitizing the entire invoicing process, from generation of the invoice until a credit is claimed based on the same electronically authenticated invoice;

- Streamline input tax credit reconciliation by increasing transparency of the transaction between the taxpayer and the vendor; and

- Enable interoperability across the entire GST system by interpreting in a uniform manner the information across various GST portals.

Business concerns and government measures to address them

With the implementation of e-invoicing under way, businesses continue to have concerns and face uncertainties about the process. The government recognizes those concerns and regularly issues updates, FAQs, and other technical guidance intended to resolve the uncertainties.

Key concerns of business include:

- Speculation around the time limit for the generation of invoices;

- Treatment of industry-specific exemptions under e-invoicing;

- Integration of the new QR code requirements for corporate tax with GST;

- Reporting of business-to-consumer (B2C) transactions; and

- Implementation of a robust technological structure with minimal problems and downtime issues.

Government initiatives to address these concerns include:

- Timely release of APIs, offline utilities, and FAQs;

- Implementing a pilot to assist business become accustomed to the process;

- Addressing industry feedback before going live;

- Hosting webinars and seminars;

- Establishing a consultation committee to provide suggestions related to technology and policy; and

- Extending the implementation date by six months to allow businesses to adequately prepare and test the systems.

Conclusion

E-invoicing is one initiative within the Modi government's "Digital India" campaign, and is a product of the interaction between commerce and technology. E-invoicing represents a tax technological revolution that is expected to change the dynamics around B2B and B2C invoicing and compliances, and synchronize GST reporting and claiming of GST credits.

The implementation of the e-invoicing system is a welcome move and has the potential to convert the transactional landscape of India's commercial economy into a digital and transparent system. E-invoicing is an opportunity for digital transformation, requiring-real time e-invoice generation by businesses, and creating an automated e-trail. It enables real time tax reporting, reduces mismatches of input tax credits, and provides for the retention of records in an e-environment. It is a significant step towards a paperless compliance regime.

India

GST council recommends changes in law, procedures, and GST rates

India's goods and services tax (GST) council at its 39th meeting on 14 March 2020 recommended changes in law, procedures, and GST rates to be introduced by the issue of notifications. Key recommendations include the deferral of electronic invoicing (e-invoicing), further postponement of the introduction of the new GST return filing system, extension of the filing deadline for the annual return and reconciliation statement for the financial year 2018-19, and an increase in the GST rate applicable to mobile phones and certain accessories.

Key recommended changes to law and procedures include the following:

- With retroactive effect as from 1 July 2017, interest on the delayed payment of GST would be charged on the net tax liability discharged in cash, after adjusting for the input tax credit. Interest currently is charged on the gross amount of the liability;

- An extension from 31 March until 30 June 2020 of the due date for filing the GST annual return (Form GSTR-9) and the reconciliation statement (Form GSTR-9C) for financial year 2018-19, and an exemption from filing Form GSTR-9C for taxpayers with annual turnover less than INR 50 million;

- A further postponement of the introduction of the new GST return filing system, originally proposed to be introduced on a trial basis as from 1 April 2019 and on a mandatory basis as from 1 July 2019. Forms GSTR-1 and GSTR-3B would continue to be used until September 2020;

- A further extension in the date for implementation of e-invoicing and the generation of QR codes to 1 October 2020. (GST-registered persons whose aggregate turnover exceeds INR 1 billion were to have been required to issue e-invoices for all supplies made to other GST-registered persons (i.e., business-to-business (B2B) supplies) as from 1 April 2020);

- An exemption from issuing e-invoices or capturing the dynamic QR code for certain classes of GST-registered persons, including insurance companies, banks, and financial institutions, non-banking financial institutions, goods transport agencies, and providers of passenger transportation services;

- The ability for exporters to submit combine refund applications across financial years;

- An extension until 31 March 2021 of the exemption from integrated goods and services tax (IGST) and cess on imports under the Advance Authorization Scheme, Export Promotion Capital Goods Scheme, and Export Oriented Units Scheme;

- The introduction of a ”Know Your Supplier” facility to provide each GST-registered person with basic information about the suppliers with whom they conduct or propose to conduct business;

- An extension until 30 June 2020 of the period to revoke cancellations of registrations made on or before 14 March 2020;

- The introduction of a special procedure for GST-registered persons that are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 and are undergoing the Corporate Insolvency Resolution Process to enable them to comply with the GST legislation during the course of the procedure;

- Amendments to the Central Goods and Services Tax Rules, 2017 to:

    - Introduce a procedure for the reversal of input tax credit in respect of capital goods used partly for making taxable supplies and partly for exempt supplies;

    - Set a ceiling on the value of the supply of exports for the purpose of calculating the refund on zero-rated supplies;

    - Allow refunds of overpaid GST to be made both in cash and credit; and

    - Provide for the recovery of GST refunds on exported goods where payment for the goods is not received within the time prescribed under the Foreign Exchange Management Act, 1999.

- The issue of circulars to clarify the following:

    - Apportionment of the input tax credit (ITC) on a business reorganization;

    - Appeals pending the establishment of GST Appellate Tribunals;

    - Issues related to refunds; and

    - The special procedure for registered persons that are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 and are undergoing the Corporate Insolvency Resolution Process.

The council also has recommended the following changes to GST rates on goods and services to apply as from 1 April 2020:

- An increase in the rate of GST on mobile phones and specified accessories from 12% to 18%; and

- A reduction in the GST rate on aircraft maintenance, repair, and overhaul (MRO) services from 18% to 5% with full ITC. The place of supply for B2B MRO services is proposed to be changed to the location of the recipient of the services, rather than the place of performance, and should assist in setting up MRO services in India.

The following suggestions have been made to resolve system-related issues:

- Linking of details of statements of outward supplies on Form GSTR-1 to the liability on Form GSTR-3B, followed by the linking of ITC on Form GSTR-3B to the details of the supplies reflected on Form GSTR-2A; and

- Implementation of the Aadhaar authentication (a mandatory requirement for taxpayers claiming a refund of GST to have an Aadhaar (a unique 12-digit identification number), and a number of IT-related measures to tackle tax evasion.

Comments

Among the GST council recommendations, the further extension to the e-invoicing system is perhaps the most significant. Although the system has been trialled by large taxpayers, businesses still need time to become accustomed to the new processes and implement the required enterprise resource planning changes. The deferral should assist in enabling the remaining technological issues to be resolved, resulting in a robust system for effective implementation.

India

Round up of recent customs developments, including Finance Act, 2020 measures

This article provides a round up of customs developments in India in the period January to March 2020.

2020/21 budget

A focus of the 2020/21 union budget delivered on 1 February 2020 was increasing the ease of doing business in India and ensuring a level playing field for domestic industry. Details of a scheme to boost domestic manufacturing and encourage significant investments in mobile phones, electronic equipment, and semiconductor packaging are awaited. Customs duty exemptions will be comprehensively reviewed by the government by September 2020. Customs law and procedures also will be reviewed.

On 27 March 2020, the Finance Bill, 2020 received the assent of the president and was enacted as Finance Act, 2020 (FA 2020).

Introduction of electronic duty credit ledger

An electronic duty credit ledger facility will be set up in the customs' automated system to enable duty credit in lieu of duty remission to be granted for exports, or any other benefit provided by the customs authorities. Once available, importers may use the amounts credited in the ledger for the payment of duty on imported goods.

Preferential trade agreements: compliance requirements

Provisions relating to the administration of rules of origin under various free trade agreements (FTAs) have been introduced in customs legislation as from 27 March 2020 via FA 2020. The objective is to reduce unwarranted concessions claimed under FTAs and to protect India's domestic industry. Key features include:

- The importer must provide a declaration that the goods qualify for benefits under an FTA;

- The importer must have certain required information regarding the place of origin, value added content, etc.;

- The mere submission of a certificate of origin does not absolve the importer from the responsibility of reasonable care;

- The authorities may temporarily suspend preferential tariff treatment pending verification in accordance with the rules of the relevant FTA;

- Goods imported with unwarranted benefits under an FTA may be confiscated, but may be released on the provision of appropriate security, or the payment of the differential duty; and

- A request for verification to determine the origin of goods may be made within five years from the date of import under the FTA, and the suspension of preferential benefits under an FTA also may be extended to identical goods imported from the same producer or exporter.

Indian importers in India benefitting from a concessional rate under various FTAs may need to adopt an "origin management" system to ensure compliance with the new provisions, and a seamless supply chain.

Additional measures to safeguard India's domestic industry will include the application of tariff-rate quotas.

Additional incentive of 2% for exports of mobile phones under the Merchandise Exports from India Scheme (MEIS)

The Directorate General of Foreign Trade (DGFT) in Notification No. 43/2015-2020, issued on 29 January 2020, granted an additional incentive of 2% on the export of mobile phones by amending the provisions of chapter 3 of the Foreign Trade Policy, 2015-2020 for exports with an order date between 1 January and 31 March 2020. The DGFT in December 2019 had reduced this export incentive from 4% to 2% for all exports except garments and made-ups (articles other than clothing made of textiles) as from 31 December 2019.

Alignment between Indian customs tariff and Harmonized System of Nomenclature (HSN) code

Changes to the customs tariff introduced by section 88(b) of Finance (No.2) Act, 2019 and applicable as from 1 January 2020 are intended to:

- Create specific tariff line items for certain products, previously classified as "others;" and

- Align India's customs tariff with the updated HSN codes issued by the World Customs Organization.

Following a change in India's customs tariff at the eight-digit level, the DGFT has amended the import policy to align with the new tariff. Importers must use the amended customs tariff and also may need to review their existing classification practices.

Remission of duties and taxes on exported products

On 13 March 2020, the cabinet approved the "Remission of Duties and Taxes on Exported Products" (RoDTEP) scheme, for all products other than those in the textiles sector. The objective of the scheme is to boost exports to the international market by making Indian exports cost competitive, and creating a level playing field for exporters in the international market. The appropriate notifications to implement the scheme and set out the relevant procedures are awaited. Key features of the proposed scheme include:

- Compliant with World Trade Organization rules;

- Would reimburse taxes, duties, and levies at the central, state, and local level that are currently not being refunded (e.g., VAT on fuel used in transportation, mandi tax (a market fee), duty on electricity used for manufacturing, etc.);

- Intended to generate employment in various sectors;

- Items would be transferred in a phased manner from the existing MEIS to the RoDTEP scheme, subject to an appropriate monitoring and audit mechanism; and

- The RoDTEP scheme would apply in addition to the refund of duty drawback, and integrated goods and services tax.

Introduction of faceless customs assessment

The Central Board of Indirect Taxes and Customs (CBIC) on 18 February 2020 issued a white paper on faceless assessment as a part of its "Turant Customs," an initiative to improve the ease of doing business. Key features of the faceless assessment scheme would include:

- Restructuring of existing commissionerates into two distinct categories, National Assessment Commissionerates (NACs), and Jurisdictional Port Commissionerates (JPCs);

- The NACs would be "virtual commissionerates" with jurisdiction across India. NACs would comprise a cluster of "Faceless Assessments Groups" (FAGs). The FAGs would review the bills of entry (BOEs). The NACs would monitor the assessment practices followed by the FAGs, and also ensure uniformity of classification, valuation, exemption benefit, and enforcement of import policy conditions;

- Under the faceless assessment scheme, products would be assessed based on the chapter of the Indian Tariff Act under which the product falls, irrespective of the port at which the goods have arrived. For example, assessment of products under chapters 1-26 would be at Nhava Sheva II, chapters 30-38 at Mumbai I import, chapters 72-83 at Delhi TKD, etc. This would result in the assessments being anonymous, and remove the assessment element from the geographical location of the goods;

- Where the importer does not agree with the FAG's assessment, an appeal would be conducted exclusively via video conferencing, or another reliable technological means, reducing the physical interaction between the Assessing Officer and the importer; and

- The JPCs will have one Port Assessment Group (PAG) to deal with assessments where a reference is made by an FAG to the port of import for any reason.

The introduction of faceless assessment would require less dependency on custom house agents to perform routine compliance functions such as filing BOEs, etc. Companies may wish to consider setting up in-house teams to handle routine customs clearance matters.

New duty drawback rates on exports of goods

Revised rates of duty drawback (also referred to as all industry rates) were introduced by Notification No. 07/2020-Customs (N.T.) issued on 28 January and effective as from 4 February 2020. Key aspects of the revised duty drawback rates are explained in Circular No. 06/2020-Customs issued on 30 January 2020.

Clarification of payments for terminal handling charges (THC)

THCs are collected by the terminal authorities at each port in respect of handling equipment and maintenance. Prior to 13 January 2020, THC was levied by the port terminals on the shipping lines for services in relation to exports and imports. The shipping lines recovered the amount from the importers and exporters as an extra charge, together with the ocean freight. Importers and exporters had filed various representations that the shipping lines were recovering THC charges higher than the amount actually paid by them at the port. As a result, on 13 January 2020, the CBIC issued guidance to all customs houses to take the necessary steps with immediate effect to allow direct port delivery and authorized economic operator companies to pay terminal charges directly to the terminals.

Incoterms® 2020 published

The Incoterms®, first introduced by International Chamber of Commerce (ICC) in 1936, are periodically revised, and the ICC has revised and published the International Commercial Terms, introducing Incoterms® 2020 as from 1 January 2020. If contractually agreed between the parties, the Incoterms® 2020 will apply from that date, otherwise the Incoterms® 2010 may continue to apply. The revised edition of Incoterms® 2020 has been issued in response to changes in global commercial practices, and to enhance accessibility and ease of use.

Businesses should ensure that new contracts or import/export orders are aligned with Incoterms® 2020, and also may wish to revisit existing terms agreed in procurement supply chains.

Relaxation in procedure to set-up SEZ

In a notification issued on 17 December 2019 and effective as from that date, the Ministry of Commerce introduced the Special Economic Zones (SEZ) Rules, 2019 to boost the setup of SEZs in India. One of the benefits for companies operating in SEZs is an exemption from customs duty. The minimum land area required to establish an SEZ is reduced to encourage smaller companies to develop SEZs (e.g., the minimum land required to establish a multiproduct SEZ is reduced from 500 to 50 hectares). New SEZs also are permitted to become multisector SEZs, enabling an SEZ unit from any sector to coexist with another SEZ unit.

India

Utilizing free trade agreements requires robust origin management system

India has signed more than 18 trade agreements including key trade agreements with ASEAN countries—Japan, Korea, Singapore, South Asian Association for Regional Cooperation (SAARC) countries, and the South Asian Free Trade Area (SAFTA). Indian exports also are subject to a concessional rate of import duty by developed countries under the Generalized System of Preferences.

India, being a donor country in the case of imported goods under a free trade agreement (FTA), wishes to ensure that sufficient information is available to Indian importers when claiming benefits under FTAs. Businesses involved in international trade need to be aware of the trade agreements, rules of origin (ROO), certifying agencies, etc., to minimize the costs of international trade. New requirements under customs law also require companies to have a robust "origin management system."

Origin management – need for exporters

Origin management is a holistic approach towards creating a single, auditable, global platform that enables companies successfully to claim preferential origin and sustain, review, and audit preferential claims. Origin management is important for setting up processes and systems for origin claims, improved market access for exporters, and better price discovery.

This can be achieved by an FTA origin management system set up with the objective of gaining knowledge and expertise about FTA, and familiarity with ROO and the method of obtaining a certificate of origin (COO). An origin management process broadly involves:

- Determining the bill of materials used for the production of exports;

- Calculating value addition or local value content requirements;

- Evaluating the significant transformation requirements under ROO;

- Enhancing the exporter's ability to negotiate a price with the FTA partner country;

- Sourcing the pricing information for inputs and raw materials used;

- Integrating the company enterprise resource planning software to support the application for a COO; and

- Organizing regular training sessions around trade agreements for operations, finance, commercial, and logistics teams

Developed countries and large multinational organizations generally have established origin management systems and, as a result, have been able to benefit from FTAs with minimal financial risk and disruption to supply chains.

Origin management – need for importers

Where goods are imported with preferential treatment, India examines the accuracy and correctness of the origin claim, and customs is one agency that may investigate any fraudulent or wrongful claim of preferential duty. The Finance Act, 2020 (No.12 of 2020, FA 2020) has introduced a new chapter in the Customs Act, 1962 to administer, monitor, and investigate the claim of preferential duty benefits. The new provisions empower customs authorities to seek information from Indian importers and impose restrictions or deny benefits where the response is not satisfactory.

In light of this, importers must achieve a fine balance between claiming preferential duty benefits, and maintaining sufficient checks and processes to reduce the potential for conflicts or protracted litigation with customs authorities. Importers need to ensure that in case of an enquiry, audit, or investigation by customs, they have appropriate systems and processes in place to be able to demonstrate that:

- Goods have been directly brought into India from the country of export as per the ROO;

- Duty benefit has correctly been claimed, and there is a verifiable audit trail supporting the claim of country of origin;

- Goods satisfy the value addition conditions, and appropriate documentation/evidence is available;

- Reasonable care was exercised in determining and claiming the preferential duty benefits;

- All the details required in the COO are correctly populated, and the COO is complete; and

- The customs classification of the products, and the product and valuation details, are correctly and consistently disclosed in the import invoice and the COO.

Implications of new customs law provisions

Companies may wish to evaluate their existing processes and procedures in light of the new powers granted to the customs authorities by FA 2020. This may include:

- Reviewing existing controls for origin management in India;

- Considering setting up a "FTA solicitation process" to receive data from overseas suppliers to determine the eligibility for preferential duty under the relevant FTA, and to ensure sufficient information is available in India;

- Preparing an origin management procedure manual for strengthening controls; and

- Conducting an on-site examination at the supplier's location, where significant FTA benefits are claimed.

Taxpayers also should ensure that they are as well prepared as possible for audits and enquiries by the customs authorities by:

- Developing processes and procedures to deal with audits or enquiries initiated by customs;

- Maintaining all necessary records so that they are available in the event of an audit or enquiry;

- Training employees on recent changes to achieve higher levels of compliance with FTA claims; and

- Conducting timely discussions with customs authorities so that the FTA claim has no bearing on the supply chain.

Ireland

Guidance issued on VAT groups

On 31 March 2020, Irish Revenue updated the VAT Tax and Duty Manual to include a new chapter that provides guidance on the treatment of VAT groups.

A VAT group consists of two or more persons that have been approved by Revenue to operate as a single taxable person for purposes of VAT.

The update clarifies and provides examples on the requirement under section 15(1) of the VAT Consolidation Act 2020 that VAT group applicants must be bound closely by financial, economic, and organizational links.

The update also contains guidance on the membership and formation of a VAT group, application of VAT group provisions, consequences of joining a VAT group, VAT deductibility for a VAT group, cancelling membership of a VAT group, transactions excluded from VAT grouping provisions, and the territorial scope of VAT groups.

United Arab Emirates

Foreign businesses may submit 2019 VAT refund requests

As from 1 March 2020, foreign businesses may submit value-added tax (VAT) refund requests to the United Arab Emirates (UAE) Federal Tax Authority (FTA) for the 2019 calendar year. The refund requests must be submitted by 31 August 2020.

Requirements

To qualify for a refund, the business must not have a place of establishment in the UAE (i.e., must not be legally established or managed and controlled in the UAE) or fixed establishment (i.e., fixed place of business such as a branch) in the UAE.

The business also may not be a taxable person in the UAE (i.e., must not be registered or required to be registered for VAT purposes).

Additionally, the business must be registered for VAT (or the equivalent) in the country in which the business is established. However, only businesses established in the following countries (as specified in the VAT Refund User Guide for Business Visitors published by the FTA) are eligible to claim a refund:

- Austria
- Bahrain
- Belgium
- Denmark
- Finland
- France
- Germany
- Iceland
- Isle of Man
- Korea
- Kuwait
- Lebanon (under certain circumstances)
- Luxembourg
- Namibia (under certain circumstances)
- Netherlands
- New Zealand

- Norway
- Oman
- Qatar
- Saudi Arabia
- South Africa
- Sweden
- Switzerland
- United Kingdom
- Zimbabwe

Comments

Businesses should assess whether they qualify for a refund and begin calculations on the amount of VAT they can claim as a refund. In order to receive a refund, businesses must submit original hard copy invoices (with proof of payment) along with their request for refund. As these administrative matters take time, businesses should begin this process now in order to make a timely claim.

Businesses that are not established in one of the countries listed in the VAT Refund User Guide for Business Visitors (but have incurred UAE VAT that cannot be recovered) may consider alternative measures that could minimize VAT costs in the future (e.g., review of VAT costs incurred to determine whether VAT was correctly charged, restructuring supply chains to minimize irrecoverable VAT costs).

United States

State Tax Matters (27 March 2020)

The 27 March 2020 edition of US State Tax Matters includes coverage of the following:

- Administrative developments in Alabama;
- Income/franchise tax developments in Indiana, Maine, and New Jersey; and
- Indirect tax developments in Louisiana, Missouri, and Texas.

The newsletter also features recent Multistate Tax Alerts:

- COVID-19: Updated State and Local Tax Due Date Relief Developments.
- New Washington law revises Workforce Education Surcharge and increases the business and occupation tax rate for service and other activities.

United States

State Tax Matters (3 April 2020)

The 3 April 2020 edition of US State Tax Matters includes coverage of the following:

- Income/franchise tax developments in Arizona, Florida, Massachusetts, New Jersey, New York, and Utah; and

- Indirect tax developments in Florida, Illinois, and Washington.

The newsletter also features a recent Multistate Tax Alert: *Texas Low Producing Oil Well incentive likely to be reinstated.*

United States

State Tax Matters (10 April 2020)

The 10 April 2020 edition of US State Tax Matters includes coverage of the following:

- Income/franchise tax developments in Indiana, Mississippi, New York, Ohio, and Texas; and

- Indirect tax developments in Rhode Island, South Carolina, and Tennessee.

The newsletter also features a recent Multistate Tax Alert: *COVID-19: Updated State and Local Tax Due Date Relief Developments* (Updated)

United States

State Tax Matters (17 April 2020)

The 17 April 2020 edition of US State Tax Matters includes coverage of the following:

- Income/franchise tax developments in the District of Columbia, Indiana, Pennsylvania, and Virginia; and

- Indirect tax developments in California, Louisiana, and Washington.

The newsletter also features recent Multistate Tax Alerts:

- *State Tax Controversies – The COVID-19 Effect*

- *COVID-19: Updated State and Local Tax Due Date Relief Developments*

- *New California Pass-Through Entity Withholding Forms for 2020*

- *Texas Supreme Court Issues Opinions on TX COGS Deduction & Revenue Exclusion*

Texas Supreme Court Reverses Appellate Court Ruling Involving COGS Eligibility

May

COVID-19 updates

The situation remains fast-moving as governments take measures in response to COVID-19. The below tax@hand items represent the situation at the time of writing, and may have been overtaken by subsequent events have been overtaken by subsequent events.

OECD

Report released on how tax authorities can prepare for recovery from COVID-19

On 26 May 2020, the OECD announced the release of a report prepared by the Forum on Tax Administration (FTA), in collaboration with the Intra-European Organisation of Tax Administrations (IOTA) and the Inter-American Center of Tax Administrations (CIAT), on how tax authorities can prepare to support business and individual taxpayers during the period of economic recovery from the coronavirus (COVID-19). The announcement also covers the release of an OECD report for tax authorities on privacy, disclosure, and fraud risks relating to COVID-19, including risks resulting from an increase in remote working arrangements. In addition, the OECD released a document on 26 May on *Policy measures to avoid corruption and bribery in the COVID-19 response and recovery.*

The report on recovery period planning is the third COVID-19 reference document produced by the FTA, IOTA, and CIAT; the previous documents covered measures to support taxpayers and business continuity considerations. The new report was prepared with input from tax authorities and examines some of the main issues that tax authorities may consider in planning for the potentially lengthy recovery from COVID-19. The report does not make recommendations regarding particular measures, due to the wide variety of circumstances and considerations among different jurisdictions. According to the report, early business restoration planning to identify the key challenges and opportunities for taxpayers and tax authorities (and to take early preparatory actions, where possible) may offer significant benefits.

Additional information and materials relating to COVID-19 are available through the OECD's digital content hub.

Eurasian Economic Union

Eurasian Economic Union trade and customs duty update

This article highlights several decisions on trade and customs procedures, classifications, and rates made by the Eurasian Economic Commission (EEC) in March and April 2020, many in response to the COVID-19 outbreak. The EEC is the permanent regulatory body of the Eurasian Economic Union (EEU), established to oversee the functioning and development of the EEU in areas including customs regulation, technical regulation, trade agreements, movement of goods, services, capital and labor, and harmonized industrial policies across EEU member states. The current EEU members are Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Russia.

Measures in response to COVID-19

Temporary ban on exports of medical products and personal protective equipment (PPE)

On 25 March 2020, the EEC adopted Decision No. 41 that applies as from 5 April 2020, and imposes a temporary ban through 30 September 2020 on exports of certain products outside the EEU to prevent a critical level of shortage of medical equipment, PPE and other protective equipment, and disinfectant. The list of prohibited goods includes cotton wool, gauze, bandages, masks, half masks, respirator masks, filters for PPE for respiratory organs, goggles, disinfectants, surgical boots, certain types of clothing and accessories, and gloves.

As from 10 May 2020, the EEC has eased some of the restrictions to allow the export of disinfectants from the EEU, provided confirmation is issued by the relevant authorities of the EEU member state. Exports of "Textile materials, impregnated, coated or duplicated with plastics, other than materials under heading 5902" classified under the commodity subheading 5903 10 of the Foreign Economic Activity Commodity Nomenclature (FEACN) also are allowed.

Temporary ban on exports of certain food products

Decision No. 43 of the EEC on 31 March 2020, prevents the exports of various foodstuffs as from 12 April 2020 through 30 June 2020. The list of prohibited exports includes onions, garlic, turnips, rye, rice, buckwheat, millet, grits, course-grained grits and granules from cereal grains, hulled buckwheat, finished products from buckwheat, crushed and whole soybeans, and sunflower seeds.

The ban does not apply to goods placed under export-related customs procedures before 12 April 2020, other than goods in respect of which an incomplete or periodic customs declaration procedure was performed, and goods declared under a special procedure for commodities transported by pipelines or power lines.

The Board of the EEC subsequently issued Decision No. 57 on 21 April 2020, liberalizing the restrictions for whole and crushed soybeans. As from 4 May 2020, export of crushed and whole soybeans classified under commodity heading 1201 of the FEACN of the EEU originating from Kazakhstan is allowed, provided the shipment does not exceed 20,000 tonnes, and confirmation issued by Kazakh authorities is available.

Simplification of the procedures for the certificate of origin

In accordance with Decision No. 36 of the EEC on 3 April 2020, a temporary simplification of the procedure of usage of the certificate of origin of goods in the form "A" applies as from 18 April 2020 through 30 September 2020. Under the simplified procedure, a hardcopy or electronic copy of the certificate of origin of goods may be used, without the requirement to submit the original certificate to the customs authorities within six months of making the customs declaration.

Zero import customs duty rates applicable to goods to help combat COVID-19

The EEC has adopted a number of decisions providing an exemption from customs duty on the import of certain goods necessary to prevent the spread of COVID-19. Decision No. 21 of 16 March 2020 came into effect on 3 April 2020, and applies to contracts entered into as from 16 March 2020; Decision No. 34 of 3 April 2020 came into effect on 18 April 2020; and Decision No. 38 of 8 April 2020 came into effect on 23 April 2020, and applies to contracts entered into as from 3 April 2020.

The list of products exempt from customs duty includes PPE (masks and respirators, glasses, gloves, suits, and surgical boots), vaccines, laboratory reagents, syringes and catheters, materials used for the production of PPE, and disinfectants.

The exemption applies where:

- The customs declaration on placement of the goods under the customs procedure of the release for domestic consumption is registered on or before 30 September 2020; and

- The document confirming the intended use of the imported goods has been submitted to the customs authorities.

A temporary procedure for the import of certain goods applies through 30 September 2020 that provides:

- Where goods are imported in order to help prevent the spread of COVID-19, when submitting to the customs authorities the document confirming the intended use of the imported goods, there is no requirement to submit the document on conformity of compliance with technical regulations; and

- For goods included in the following two lists, when submitting to the customs authorities the document confirming the intended use of the imported goods, submission of the certificate of the state registration is not required:

    - List of products subject to state sanitary and epidemiological surveillance (control) at the customs border, and within the EEU customs territory established by Decision No. 299 of the EEC on 28 May 2010, intended to prevent the spread of COVID-19; or

    - List of goods established by Decision No. 21 that provides for an exemption from import customs duty for goods necessary to prevent the spread of COVID-19.

Products imported into the territory of an EEU member state must be intended for distribution only within that state.

EEC changes classifications used for customs purposes

Decision No. 50 of the Board of the EEC issued on 21 April 2020, and generally applicable as from 24 May 2020, updates and amends the classifications for the following:

- Special regimes of goods movement;

- Special regimes of customs declaration;

- Customs payments relief;

- Types of documents and information; and

- Taxes, fees, and other payments collected by the customs authorities.

The classification of customs payments relief has been updated to include imported goods originating from Serbia or Singapore, but the date from which the changes apply is conditional on the effective dates of the EEU's free trade agreements with those jurisdictions.

Customs duty rate changes

- **Electric vehicles:** The Council of the EEC agreed a zero import customs duty rate on certain types of electric vehicle classified under the commodity code 8703 80 000 2 of the FEACN of the EEU from 4 May 2020 through 31 December 2021. As from 1 January 2022, import customs duty at a rate of 15% will be charged on the customs value of these goods.

- **Watch components:** The zero import customs duty rate for certain types of watch component is discontinued after 31 May 2020. As from 1 June 2020, the import customs duty rate is from 8% to 13% of the customs value.

- **Critical imported goods:** The Council of the EEC has announced the list of critical imported goods that are exempt from import customs duty on importation into the EEU as from 1 April 2020 through 30 June 2020. The list includes certain food and agricultural products (e.g., onion, garlic, cabbage, carrots, peppers, rye, long-grain rice, buckwheat, juices, and baby foods), as well as specific pharmaceutical products and medical goods (e.g., endoscopes, non-contact thermometers, disposable pipettes, and mobile disinfection systems).

Latin America

COVID-19: Economic and fiscal measures in Latin America

As COVID-19 spreads throughout Latin America (LATAM), the authorities in many countries not only have implemented emergency measures to contain the virus, they also have established various measures seeking to alleviate its economic, tax, and social security impact on individuals and businesses. Deloitte Mexico has published a report (in English and Spanish) detailing the measures adopted in various LATAM countries, including Argentina, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Panama, Peru, Uruguay, and Venezuela.

Austria

Customs procedures changed in response to COVID-19

The Austrian customs authorities have adopted various measures to assist companies in the event of difficulties caused by COVID-19.

Extended deadlines for customs procedures

Time limits may be extended for various customs procedures. If a delivery period cannot be met for goods already in transit, the period is extended automatically if the carrier or the holder of the transit authorization makes a written declaration to the destination's customs office (such declaration applying retrospectively) that the delay is caused by the COVID-19 pandemic. Requests for extensions of time limits on the basis of pandemic circumstances may be made in the event of reimbursements or remittances, special procedures and temporary importation. If the three-year period for re-importation of goods returned due to the corona virus cannot be met, this will be considered a special circumstance and the three-year deadline can be exceeded. Customs offices do not collect administrative charges for the processing of pandemic deadlines.

Adjustment of security

Companies that have provided an overall security (such as the deferred payment account for inward processing authorization or customs warehouses) may adjust the overall security on request, subject to the condition that the adjustment is necessary due to the pandemic.

Legal hearings

Applicants that are unable to comment on a decision of the customs office within 30 days due to pandemic issues should inform the responsible customs office. The customs office may then extend the period by an additional 30 days.

Payment facilitation

Customs authorities may facilitate payments of customs duty by granting, for example, approval to make the payments in installments, provided that the company proves that it is facing significant economic or social difficulties as a result of the COVID-19 pandemic.

Interest

Interest on late payments generally is suspended until 31 May 2020 due to the pandemic.

Presentation of export or transit documents

Export or transit documents no longer need to be physically presented at the customs office of departure or transit, provided that the MRN (the unique registration number for customs declarations, such as the registration number for export or shipping) is provided via other media such as text message, e-mail, or WhatsApp.

Excise duties

Deferrals also are possible for excise duty. Applications for deferrals of excise duty may be submitted in writing to the customs office. Due to the sharp increase in the consumption of hand sanitizer, pharmacies are now allowed to use untaxed alcohol for the production of disinfectants. Tax-free use is possible for pharmacies from the moment the applications are submitted (i.e., not only from the approval of the customs authorities).

Export restrictions on protective equipment

COVID-19 has greatly increased the need for medical protective equipment. To meet this demand, the EU has imposed an export restriction on medical protective equipment such as protective goggles and visors, face shields, mouth-nose protective equipment, protective clothing, gloves, etc. (Disinfectants are not covered by the export restriction.) An export authorization must be presented for exports of these products. The authorization requirement applies from 15 March 2020 to 25 May 2020. Norway, Iceland, Liechtenstein, Switzerland, Serbia and some other countries are excluded from the export restriction.

Austria

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

Austria's regulatory requirements could lead to liquidity issues for companies facing difficulties as a result of COVID-19. Therefore, the Austrian legislature, Federal Ministry of Finance (MOF) and social security institutions have provided relief by allowing certain deferrals and reductions of levies and contributions. In most cases, however, companies must take action to obtain the relief, including submitting appropriate applications.

Deferral and reduction of tax payments

A taxpayer with a credible liquidity constraint due to COVID-19 may submit an application for reduced tax prepayments as well as an application for a tax payment deferral or installment plan. The application for 2020 tax payment reductions must be filed by 31 October 2020. The tax payment deferral or installment plan application has no statutory deadline. The taxpayer also may submit an application to request that no interest or surcharges be imposed due to late payment. Information published by the MOF can be used to assess the credibility of the liquidity constraint. Companies that are indirectly affected by the government's measures to contain COVID-19 (e.g., they are not subject to an official closure ordinance or an access restriction) must provide additional justification for their specific request.

In addition, the MOF has provided its own tax relief application form, which can be filed by e-mail or uploaded via the tax authorities' website (FinanzOnline). The tax authorities are required to address the applications immediately. For approved applications for tax payment deferrals, the MOF has stated that a deferral must be granted, with no interest imposed, until 30 September 2020. Details of the information published by the MOF can be found on the MOF's website.

Tax declarations still must be submitted on time (e.g., VAT returns must be submitted by the 15th of the second month following the reporting period) and the tax liability must be reported in full. However, instead of paying the reported tax liability, the taxpayer may submit an application for deferral on the due date. In principle, this also is possible for payroll taxes and advance payments of income tax and corporate income tax.

Taxpayers that partially pay levies without submitting the corresponding applications can be subject to default surcharges (2% of the levies). Additionally, taxpayers may face financial criminal consequences. However, late payment surcharges may be reduced.

As from 15 March 2020, applications for tax payment deferrals and waivers of interest and late payment surcharges also may be submitted by e-mail to the following e-mail address: corona@bmf.gv.at (please note that applications may be filed by e-mail only until 31 May 2020). Applications for reduced income tax and corporate income tax prepayments also may be submitted by e-mail. Please note that the original copy of the application must be duly signed before submission and must be retained for seven years.

Extended deadlines for tax return filings

The general deadline for filing the 2019 annual income tax, corporate income tax and VAT returns as well as the taxable income assessment declaration is extended until 31 August 2020. Accordingly, late filing surcharges will not be imposed until this date.

Deferral of social security contributions

The Austrian Health Insurance Fund (ÖGK) has automatically deferred social security contributions by businesses affected by a closure ordinance or an access restriction for the February, March, and April 2020 contribution periods. Other businesses that are not directly affected by such measures but that suffer from COVID-19-related liquidity constraints also can apply for deferral or installment plans. Deferrals granted for these periods are interest-free. Additional details may be found on the ÖGK's website.

The Social Insurance of the Self-Employed (SVS) also accepts applications for deferrals and installment payments of insurance contributions. Prepayments also may be reduced. Applications can be filed by e-mail or via appropriate forms online. Additional details may be found on the SVS's website.

In cases where the amount of social security contributions owed is not reported by the statutory deadline, interest on overdue payments may be charged. In addition, the withholding of social security contributions from employees without payment to insurance agencies is punishable by law. Taxpayers should report the relevant amounts payable to the respective authorities before applying for the above-mentioned payment relief programs.

File 2019 tax return early to obtain tax credits

Filing FY 2019 tax returns early will help taxpayers obtain early tax refunds in cases where prepayments made exceed the calculated tax.

Use extended 2018 tax return filing date

The deadline for filing tax returns for 2018 is extended until 31 August 2020 for taxpayers that are represented by a tax advisor.

Exemptions for grants related to COVID-19

All grants received by taxpayers due to COVID-19 are tax-exempt. The exemption includes grants awarded since 1 March 2020 from both the COVID-19 Crisis Management Fund and the Hardship Fund, as well as all other grants made due to COVID-19, e.g., by the federal states, municipalities or interest groups.

COVID-19: Tax and other financial measures approved

During the month of April 2020, the Brazilian government approved several new emergency tax measures, and the Chamber of Deputies approved a bill proposing that the federal government compensate Brazilian states and municipalities due to the COVID-19 pandemic. These measures are discussed below.

On 8 April 2020, the government published Ordinance no. 150/20, which extends the deadlines for certain social contributions from April and May 2020 to July and September 2020, respectively. These social contributions include:

- Employer social security contributions on employees' remuneration;
- Social security contributions on remuneration of individuals performing independent services;
- Occupational accident insurance (SAT) contributions;
- FUNRURAL (Rural Workers Assistance Fund) contributions; and
- Social security contributions on remuneration of "domestic" employees (i.e., housekeepers, etc.).

On 9 April 2020, the government approved the following measures:

- The PIS/COFINS rates on revenues from internal sales and imports of zinc sulfate for medicines used in parenteral nutrition are reduced to 0% from 9 April to 1 October 2020 (Decree no. 10,318/20);
- Financial institutions and other institutions authorized by the Brazilian Central Bank are allowed to reclassify transactions renegotiated between 1 March 2020 to 30 September 2020 where the rules previously determined by the central bank are observed (Resolution no. 4,803/20); and
- The deadlines for financial statement disclosures due from March 2020 to November 2020 by financial institutions and other institutions authorized by the central bank are extended. The disclosure may be remitted to the central bank by the 22nd day following the due date, the last day of the month following the due date, or 45 days after the due date, depending on the specific document codes (Circular no. 3,999/20).

The following measures also were issued in April:

- On 14 April 2020, the National Treasury's Attorney's Office established the conditions for the federal government to defer payments of tax debts , e.g., via installment payments or extended deadlines, to help mitigate the financial-economic impact of the COVID-19 pandemic (Ordinance no. 9,924/20);

- Three different sets of measures were announced on 15 April 2020:

    - 1. The president extended the deadline for payments of the following taxes on telecommunication services from 31 March 2020 to 31 August 2020 (Provisory Measure no. 952/20):

      Functioning Supervisory Fee;

      Contribution for the National Cinematographic Industry Development; and

      Contribution to the promotion of public broadcasting

    - 2. The Minister of Economy and the Federal Revenue Office issued Normative Instruction no. 1,936/20, which regulates the import customs clearance process and modifies a previous instruction (i.e., Normative Instruction no. 680/06). The new normative instruction provides that, as from the date the state of emergency or pandemic declared by the World Health Organization was recognized by the Brazilian government , the certificate of origin of the imported goods can be presented within 60 days of filing the import declaration with the administrative registry.

    - 3.Normative Instruction no. 1,938/20 revises normative instruction (no. 1,548/15) that regulates individual taxpayer registration numbers (CPFs), to authorize the ex officio issuance of a CPF by the tax administration;

- On 16 April 2020, the Minister of Economy temporarily reduced to 0% the import duty on certain goods, where the import arises from a postal consignment or international air order not exceeding USD 10,000 or the equivalent in another currency (Ordinance MF no. 158/2020). The 0% rate applies until 30 September 2020. This ordinance amends Ordinance MF no. 156/1999, which established requirements and conditions for the simplified taxation regime introduced by Decree-Law no. 1,804/1980; and

- The Director-Counsel of the PIS/PASEP (Social Integration Program) fund suspended the payment of quotas and earnings of the fund as from 1 May 2020 (Resolution no. 1/2020).

Compensation to be granted to states and municipalities

On 13 April 2020, the Brazilian Chamber of Deputies approved a bill (PL no. 149/2019) that proposes the federal government compensate Brazilian states and municipalities for the reductions to their collections of ICMS (state VAT) and ISS (municipal tax on services) due to the COVID-19 pandemic.

According to the bill, the amount of compensation received by the states and municipalities would have to be used to combat COVID-19. The compensation would be granted from May to October 2020, and would comprise the decrease in current year collections of ICMS and ISS as compared to collections for the 2019 fiscal year. It is estimated that collections of ICMS/ISS have decreased by roughly 30% as compared to 2019, which is approximately BRL 80 billion.

Under the Brazilian federal constitution, 25% of the ICMS collected by a state is to be distributed to the state's municipalities, based on a municipalty's proportional share of collections. Thus, the bill proposes that the federal government pay the municipalities using this approach, based on collections for 2019.

To receive the monthly financial support, states and municipalities would be required to submit to the federal government a statement of their current net revenues by the 15th day of the following month. If the statement is not submitted on time, only 10% of the revenues would be distributed until a complete statement is submitted.

In a case where the amount transferred is higher than the compensation that is due, the difference would be deducted from the following month's distribution or, for overpayments made for October 2020 (i.e., the last month for which the compensation is to be granted), from the State and Municipal Participation Funds.

Brazil

COVID-19: FAQs and additional emergency tax measures published

On 20 April 2020, the Brazilian Federal Revenue (RFB) published a list of frequently asked questions (FAQs) on the emergency tax measures approved to date by the government to help mitigate the economic impacts to businesses and individuals of the COVID-19 pandemic. The FAQs are published on the RFB's website.

In addition, the government approved the following emergency tax measures in mid-April and early May 2020:

- Ordinance PGFN no. 10,205/20, published on 17 April 2020, suspends for 90 days the commencement of the procedures for excluding taxpayers that are non-compliant as of February 2020 from debt installment programs administered by the National Treasury Attorney's Office (PGFN).

The following tax measures were published on 20 April 2020:

- Provisional Measure (PM) no. 955/20 revokes PM no. 905/19, which established a new form of labor contract intended to create new job openings for people between ages 18 and 29 and provided several social contribution exemptions for employers using this contract.

- Normative Instruction (NI) 1,940/20 provides, through 30 September 2020, an exemption from import duty (II) on imports of goods classified in the Mercosul Common Nomenclature listed in the Sole Annex of MF Ordinance no. 156/1999. To qualify, the goods must be imported via postal consignment or international air order and have a total value that does not exceed USD 10,000 or the equivalent in another currency.

- The Brazilian Administrative Council of Tax Appeals published Ordinance CARF no. 10,199, which extends until 29 May 2020 the deadlines for certain procedural acts that were initially extended until 30 April 2020.

- Provisional Measure no. 960/20, published on 4 May 2020, extends by one year the suspension of taxes granted under Brazil's drawback customs regime.

- Ordinance no. 194/20, published by the Minister of Economy on 7 May 2020, extends the list of imported goods that are exempt from II until 30 September 2020 under NI 1,940/20 (see above).

- Ordinance no. 201/20, published on 12 May 2020, extends the deadlines for payments under installment programs administered by the RFB and the PGFN from May, June and July 2020 to August, October, and December 2020, respectively.

- Normative Instruction no. 1,950/20, published on 13 May 2020, extends to the last working day of July 2020 the deadline for filing the ECD (Digital Accounting Bookkeeping) return for the 2019 calendar year.

France

VAT measures introduced to address impact of COVID-19

Since it declared a health emergency on 22 March 2020, the French government has announced a series of VAT measures aimed at addressing the impact of COVID-19 on businesses.

Changes to VAT return filing rules during the quarantine period

During the quarantine period, the French Tax Authority (FTA) indicated on its website (impots.gouv) that businesses unable to gather all the relevant supporting documentation to file their March and April 2020 VAT returns could apply the "holiday forbearance." This means that businesses are allowed to pay only 80% of the VAT due in a particular month, with the remainder to be settled with their VAT return filed the following month (regularization VAT return). Therefore, in April, the forbearance applied to the March 2020 VAT return and, in May, the forbearance may be applied to the April 2020 VAT return.

The FTA also indicated that businesses that suffered a reduction in turnover due to COVID-19 may make a VAT installment payment with their April 2020 VAT return as follows:

- By default: 80% of the VAT amount declared for March or February 2020 if an installment payment was already made for March 2020;

- If business activity has ceased since mid-March (total closure) or significantly decreased (estimated reduction of 50% or more): 50% of the VAT amount declared for March or February 2020 if an installment payment was already made for March 2020;

- Regularization VAT return: Settlement of the VAT due for previous months when the installment method was used, based on accurate figures for those months and a deduction for installment payments made.

The quarantine period ended on 11 May 2020.

Reduction of VAT rate

The Amending Finance Bill for 2020, published on 26 April 2020, provides for the temporary application of the reduced VAT rate of 5.5%, instead of the standard VAT rate of 20%, to supplies and intra-EU acquisitions of the following products:

- Masks and protective clothing suitable for protection against COVID-19, retroactively as from 24 March 2020; and

- Products intended for personal hygiene and adapted to the fight against the spread of COVID-19, retroactively as from 1 March 2020.

The reduced VAT rate will be applicable until 31 December 2021.

The criteria for the relevant products were listed in a decree dated 7 May 2020, published on 8 May 2020.

Acceleration of VAT refunds

The VAT refund procedure is accelerated thanks to an increase in the sign-off delegation threshold from EUR 100,000 to EUR 500,000, as announced in an 18 March 2020 decree published on 22 March 2020.

In practice, VAT refund claims exceeding a certain threshold amount are first reviewed by a local tax center and are then sent for final review and sign-off to the competent FTA office. Further to the March decree, only VAT refund claims exceeding EUR 500,000 will be subject to this long process.

This procedural change will apply until the end of the second month following the end of the measures limiting travel and prohibiting assembly or certain activities.

Ability to donate medical equipment without detriment to right to deduct input VAT

In a public ruling dated 7 April 2020, the FTA indicated that, from 1 March 2020 and until the end of the 30-day period following the end of the COVID-19 health emergency period, certain health equipment may be donated without the donor having to declare a self-supply and without detriment to the donor's ability to deduct input VAT (there is no requirement to recapture the VAT initially deducted). The relevant health equipment includes masks, hydroalcoholic gels (hand sanitizers), protective clothing, and ventilators that are manufactured, purchased, subject to an intra-EU acquisition, or imported. These may be donated to:

- Health establishments listed in article L. 6111-1 of the French Public Health Code;

- Social and medico-social establishments listed in 6° and 7° of I of article L. 312-1 of the Social Action and Family Code;

- Health professionals listed in 1° of 4 of article 261 of the General Tax Code; and

- State and local authority services.

This rule applies even if the equipment is acquired with a view to donating it.

The benefit of this measure is not dependent on the recipient providing a donation certificate to the donor. However, the donor company must retain the necessary information to substantiate the date of the donation, its beneficiary, and the nature and quantity of the goods donated.

A law dated 11 May 2020 postponed the end of the health emergency period to 10 July 2020 such that this rule should apply until 9 August 2020.

13th Council Directive on VAT refunds: Extension of filing deadline to 30 September 2020

Taxable persons established outside of the EU and that do not carry out VAT taxable transactions in France may claim a refund of VAT incurred in France under certain conditions (13th Council Directive 86/560/EEC, 17 November 1986). In principle, the refund claim must be submitted, through a fiscal representative established in France, before 30 June of the year following the year during which the tax event occurred. The claim has to be submitted on paper.

However, due to the COVID-19 pandemic, the DINR (i.e., the nonresidents tax center) announced that the deadline to submit a 2019 VAT refund claim using the 13th Council Directive procedure is extended to 30 September 2020.

Acceptability of scanned invoices

The FTA has indicated on its website that scanned paper invoices may be provided by e-mail during the health emergency period, which ends on 10 July 2020. The original invoice does not have to be mailed later on (including to retain the right to recover VAT).

Controls establishing a reliable audit trail must be put in place by taxable persons issuing and/or receiving paper invoices to guarantee the authenticity of their origin, the integrity of their content, and their legibility, whether or not they are scanned for storage.

During this period, customers are allowed to keep in PDF format the "paper" invoices received by e-mail. At the end of the health emergency period, it will be up to them to keep the invoices in paper form by printing them or to scan them in accordance with French rules.

India

Overview of tax and regulatory incentives for manufacturers

India currently is one of the world’s fastest-growing economies, and continues to provide a special impetus to the manufacturing sector in the form of various tax and non-tax incentives. “Make in India” is a flagship government program designed to facilitate investment, foster innovation, enhance the development of skills , protect intellectual property, and build best-in-class manufacturing infrastructure in the country. The initiative’s primary objective is to attract investment from across the globe and strengthen India’s manufacturing sector, while generating widespread employment opportunities.

According to the World Bank's report *Doing Business 2020*, India has jumped 79 places from 142 to 63 in the Ease of Doing Business index. Reasons for this include:

- Simplification and acceleration of the process for establishing an entity in India via a digitalized platform;

- Implementation of a customs "single window" to facilitate trade;

- Introduction of a fast-track approval system for issuing building permits and online scrutiny of building plans; and

- Major initiatives towards a digitization drive to deliver faster and clear processes, and standardization among businesses.

Other aspects of India's broader economic and trade policies of benefit to the manufacturing sector include:

- Liberalization of foreign direct investment (FDI) rules, with 100% FDI now permitted in most sectors;

- Replacement of multiple indirect tax laws by a simplified indirect tax law (Goods and Services Tax (GST)) as from July 2017;

- A Foreign Trade Policy aimed at providing various incentive schemes for the promotion of exports of goods and services from India. Concessional duty benefits can be claimed under bilateral or multilateral free-trade agreements such as those with Japan, Korea, The Association of Southeast Asian Nations (ASEAN), and The South Asian Free Trade Area (SAFTA); and

- Commitment towards a non-adversarial tax regime.

Key tax and non-tax incentives

Key tax and non-tax incentives available specifically to companies in the manufacturing sector include the following:

Tax incentives

- Domestic corporate tax rate of 17.16% for new manufacturing companies (subject to conditions);

- Enhanced deduction of an additional 30% of the additional cost of new employees for three years (subject to conditions);

- Tax-free export of goods, with no indirect taxes levied;

- Duty exemption or deferral on the import of capital goods and inputs for use in manufacturing;

- Reimbursement of state-level GST by way of refund, exemption, or loan (calculated on a gross or net basis depending on the state, and amount of fixed capital investment, or the size of the project); and

- Refund or exemption of stamp duty payable on the sale or lease of industrial land.

Non-tax incentives

- Capital subsidy in the form of a grant given by the government to support the business, typically calculated as a certain percentage of capital investment (i.e., investment in land, buildings, plant and machinery, etc.);

- Employment generation and training subsidies;

- Support to vendors who provide input material/job workers;

- Uninterrupted water and power supplies at preferential rates, and electricity duty and water charge concessions;

- Enhanced rail and road connectivity;

- Land at a concessional price;

- Dedicated port facilities;

- "Single window" clearance to grant promptly approvals and licenses for establishing a plant or unit; and

- Most preferred status for the grant of various industrial licenses, and single window clearances.

Comments

With multiple incentives and schemes introduced by both central and state governments, now is a great opportunity to set up a manufacturing base in India. While the state policies lay down the broad framework of the incentives (including certain location-specific benefits), customized incentive packages with substantial cash flow benefits may be negotiated with state governments depending on the amount of the investment, and other factors.

Indonesia

Additional tax relief announced and deadlines further extended in view of COVID-19

This article highlights additional fiscal measures introduced by the Indonesian government in April 2020 in response to COVID-19. These include, tax reliefs for medical goods and activities, updated deadlines for tax administrative services, and further extensions of the COVID-19 prevention periods in the courts, and Directorate General of Taxation (DGT).

Tax reliefs for medical goods and activities during the COVID-19 pandemic

In order to support the quick provision of medicines, medical equipment, and other supplies essential for handling the COVID-19 pandemic, the Minister of Finance (MoF) has issued Regulation Number 28/PMK.02/2020 (PMK-28). PMK-28 provides tax reliefs in the form of VAT facilities, and an exemption from Article 21, 22, and 23 withholding taxes (WHT) to "certain parties," and other third parties with whom the certain parties transact.

Certain parties are defined as:

- Appointed governmental bodies or institutions (central or local) that handle the COVID-19 pandemic;

- Hospitals appointed as referral hospitals for COVID-19 patients; or

- Other parties appointed by governmental bodies or institutions, or hospitals to assist in handling the COVID-19 pandemic.

VAT facilities

PMK-28 defines the following as "essential goods and/or services":

Taxable goods	Taxable services
• Medicines; • Vaccines; • Laboratory equipment; • Testing kits; • Personal protective equipment; • Nursing equipment; and/or • Other supporting equipment declared necessary to handle the COVID-19 pandemic	• Construction services; • Consulting, technical, and management services; • Rental services; and/or • Other supporting services declared necessary to handle the COVID-19 pandemic

The VAT facilities available to certain parties in relation to the provision of essential goods and/or services are as follows:

Topic	VAT-not-collected	Government-borne VAT	VAT exempt
Eligible activities	Import of essential taxable goods by certain parties Procedures must follow existing regulations	• Delivery of essential taxable goods and/or services by VATable entrepreneurs (PKPs) to certain parties, including free gifts; and • Utilization within the customs area by certain parties of essential taxable services from outside the customs area PKPs that deliver essential taxable goods and/or services to certain parties must issue VAT invoices, stamped/affixed with the statement "PPN ditanggung Pemerintah Eks PMK 28/PMK.03/2020"	Import of essential taxable goods used for the utilization of essential taxable services, provided that the importer has obtained a Statement Letter on Utilization of Offshore Taxable Services within Customs Area (Surat Keterangan Jasa Luar Negeri (SKJLN)) before importation
Tax payment slip (Surat Setoran Pajak (SSP)) requirement		SSP or billing code printout must be stamped/affixed with the statement "PPN ditanggung Pemerintah Eks PMK 28/PMK.03/2020"	
Reporting requirement		Reports of the reliefs that have been utilized must be submitted quarterly by the following deadlines: • 20 July 2020 (covering the tax period from April 2020 to June 2020); and • 20 October 2020 (covering the tax period from July 2020 to September 2020)	

WHT exemptions

PMK-28 provides an exemption for the following taxes:

Topic	Article 21 WHT	Article 22 WHT	Article 23 WHT
Eligible activities	Income received by domestic individuals from certain parties related to the provision of services essential for handling the COVID-19 pandemic (other than services subject to Article 4 (2) Income Tax)	• Certain parties who import goods essential for handling the COVID-19 pandemic; and • Sales of goods essential for handling the COVID-19 pandemic to certain parties	Income received by domestic corporate taxpayers or permanent establishments from certain parties related to services that are essential for handling the COVID-19 pandemic

Topic	Article 21 WHT	Article 22 WHT	Article 23 WHT
How to apply		• Certain parties who import essential goods automatically are exempt from Article 22 Income Tax by the Directorate General of Customs and Excise. There is no requirement to apply for a tax exemption letter (Surat Keterangan Bebas (SKB)) • Certain Parties who purchase essential goods or sellers of essential goods to certain parties who wish to be exempt from Article 22 WHT must apply to the tax office for an SKB via the appropriate channel. The tax office will issue a decision letter within five working days	Parties delivering essential services to certain parties must apply to the tax office for an SKB via the appropriate channel The tax office will issue a decision letter within five working days
Period covered	Tax period from April 2020 to September 2020	• For imports, the exemption facility applies from 6 April 2020 to 30 September 2020 • For domestic sales exempt from Article 22 WHT under PMK-28, exemption starts from the date of issuance of the SKB (for which the earliest tax period open for the facility is April 2020), until 30 September 2020	Starting from the date of issuance of SKB (for which the earliest tax period open for the facility is April 2020), until 30 September 2020
Reporting requirement		Reports of the exemptions that have been utilized must be submitted quarterly by the following deadlines: • 20 July 2020 (covering the tax period from April 2020 to June 2020); and • 20 October 2020 (covering the tax period from July 2020 to September 2020)	

On 21 April 2020, the DGT issued Circular Letter Number SE-24/PJ/2020 (SE-24) providing implementation guidance for PMK-28. SE-24 provides detailed administrative guidance on how the VAT invoices, SSPs, and tax returns should be completed where the taxpayer utilizes the facilities under PMK-28. SE-24 also provides examples of various transactions that may be eligible for the facilities.

PMK-28 and SE-24 entered into effect as from 6 April 2020. Taxpayers delivering goods and/or services that are essential to handling the COVID-19 pandemic should consider the new tax facilities provided under PMK-28.

Updated deadlines for tax administrative services during the "force majeure" period declared in response to the COVID-19 pandemic

The COVID-19 pandemic has severely affected the provision of tax administrative services by tax offices. To provide guidance on the provision of such services during the force majeure period declared in response to COVID-19, the MoF issued Regulation Number 29/PMK.03/2020 (PMK-29), after which the DGT issued Decision Letter Number KEP-178/PJ/2020 (KEP-178).

PMK-29 provides that during the force majeure period, the DGT is authorized to extend the deadline for tax administration processes, whose regular deadlines are regulated by MoF regulations, DGT regulations, or circular letters. However, the DGT is not authorized to extend deadlines stipulated by law, government regulations in lieu of laws, or government regulations; or deadlines for the issuance of letters/certificates from DGT to taxpayers regarding tax administrative services that could be performed online. Furthermore, if the letters/certificates of the tax administrative services expire during the force majeure period, the current letters/certificates remain applicable until the force majeure period ends, at which time the taxpayer may request an extension, or reapply.

Under KEP-178, the deadlines for tax administrative processes during the force majeure period (currently this is set to expire on 29 May 2020, but may be extended further by the Government depending on the situation) are extended as follows:

Regular processing deadline	Processing deadline during COVID-19
One to seven working days	Maximum 15 working days
More than seven working days but less than one month	Maximum one month
One month or more	Unchanged

The above extensions do not apply to services related to:

- Article 22 income tax exemption on imports; or

- VAT-not-collected, and VAT exemption on import of taxable goods.

During the force majeure period, requests for tax administrative services must be submitted electronically. Applications must be signed by taxpayers, either in the form of a hand-written signature, stamped signature, or electronic/digital signature in accordance with the existing regulations on information and electronic transactions.

Further extension of COVID-19 prevention period in the Tax Court and Supreme Court

On 21 April 2020, the Tax Court issued Circular Letter Number SE-05/PP/2020 to extend the COVID-19 prevention period in the Tax Court, initially from 17 March 2020 to 21 April 2020, to 13 May 2020. All other arrangements under SE-03/PP/2020 are unchanged.

The Supreme Court issued Circular Letter Number 3 Year 2020, extending the prevention period in the Supreme Court also until 13 May 2020.

Further extension of COVID-19 prevention period in the DGT

On 17 April 2020, the DGT issued Circular Letter Number SE-23/PJ/2020 (SE-23) to extend the COVID-19 prevention period in relation to the implementation of the DGT's services that previously was governed by Circular Letter Number SE-13/PJ/2020, as amended by SE-21/PJ/2020. SE-23 extends the prevention period to 29 May 2020. During this period, the services available in tax offices that require direct contact will continue to be limited.

Indonesia

Additional businesses eligible for tax incentives during COVID-19 pandemic

On 21 March 2020, the Minister of Finance (MOF) issued Regulation Number 23/PMK.03/2020 (PMK-23), which was followed by the issuance on 31 March 2020 of the implementing regulation (Circular Letter Number 19/PJ/2020 (SE-19)) by the Director General of Taxation (DGT). Both regulations introduce a number of tax incentives designed to support businesses and individuals in certain manufacturing sectors.

In response to the COVID-19 pandemic, the MOF has decided to expand the tax incentives to include additional business sectors, including small and medium enterprises (SMEs). As such, on 27 April 2020, the MOF issued Regulation Number 44/PMK.03/2020 (PMK-44), which was followed by the issuance of DGT Circular Letter Number SE-29/PJ/2020 (SE-29). PMK-44 revokes PMK-23.

PMK-44 provides the following tax incentives to certain sectors:

- Article 21 employee income tax (EIT) borne by the government;
- 0.5% final tax for SMEs borne by the government;
- Exemption from Article 22 income tax on import;
- A 30% reduction of Article 25 income tax (monthly tax installments); and
- Preliminary refunds of overpayments of value added tax (VAT) for low-risk VAT-able entrepreneurs (PKPs).

EIT borne by the government

Under PMK-44, EIT on income received by employees who fulfill the following criteria will be borne by the government:

- The income is received from:
    - An employer (including branches) whose business classification *(Klasifikasi Lapangan Usaha* (KLU)) is included in the list provided in Attachment A of PMK-44 and was reported in the employer's fiscal year (FY) 2018 corporate income tax return (CITR). For taxpayers that registered for tax purposes after FY 2018 and for government institutions, the KLU will be based on the tax office's masterfile data. Under PMK-23, there were 440 KLUs for processing industries that were eligible for the incentive, whereas under PMK-44, the list has been expanded to 1,062 KLUs covering various business sectors;

  - An employer that is a KITE company (i.e., a company that is entitled to relaxed conditions for the importation of goods for export purposes); or

  - An employer that has obtained a bonded zone (*Kawasan Berikat*) license; and

- The employee has a tax identification number; and

- The employee's annualized fixed and regular gross employment income for the month is less than IDR 200 million.

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. The tax relief applies from the fiscal period stated in the employer's notification letter, for which the earliest period is April 2020, until September 2020 (or until the fiscal period when the KITE facility or bonded zone license is revoked during the incentive utilization period).

To be eligible for the facility, the employer has to submit a notification letter to the DGT through the DGT's website. The taxpayer will receive confirmation or rejection of the submission from the system. To receive the tax incentive for the April 2020 fiscal period, the notification must be submitted by 20 May 2020.

The employer must submit a realization report of EIT borne by the government, together with the tax payment slip (*Surat Setoran Pajak* (SSP)) or billing code print-out stamped/written with "*PPh PASAL 21 DITANGGUNG PEMERINTAH EKS PMK NOMOR 44/PMK.03/2020.*" The report must be submitted through the DGT's website by the 20th day of the following month.

Final tax borne by the government

Under Government Regulation Number 23/2018 (PP-23), certain enterprises with gross turnover of not more than IDR 4.8 billion (i.e., SMEs) are subject to final tax at a rate of 0.5% of turnover. Final tax is settled through:

- Self-settlement by the taxpayer; or

- Withholding tax (WHT) settlement by the transaction counterparty that is a tax withholder.

PMK-44 provides tax relief for SMEs under which the final tax will be borne by the government.

In general, the procedures to apply for the tax relief are as follows:

- The taxpayer submits an application for a statement letter to the DGT through the DGT's website. (A statement letter is a letter issued by the DGT stating that the taxpayer is subject to final tax and eligible for tax relief.) The taxpayer will receive confirmation or rejection of the application from the system. SMEs that already have statement letters dated prior to the issuance of PMK-44 will need to re-apply for a statement letter to qualify for this tax incentive. The statement letter issued under PMK-44 will continue to be valid after 30 September 2020 for PP-23 purposes, even though the relief from final tax ends on that date.

- The taxpayer provides a copy of the statement letter when:
    - Performing a transaction subject to WHT with a party that is a tax withholder; or
    - Performing an importation, for which the statement letter will be considered as a tax exemption letter *(Surat Keterangan Bebas (SKB))* and the Directorate General of Customs and Excise (DGCE) will not collect Article 22 income tax on import.
- The tax withholder will check the validity of the statement letter through certain DGT channels, and the WHT treatment will depend on the results as follows:
    - If the statement letter is confirmed to be valid, the tax withholder will not withhold the final tax but will provide an SSP to the taxpayer stamped/written with "*PPh FINAL DITANGGUNG PEMERINTAH EKS PMK NOMOR 44/PMK.03/2020.*" The final tax that is borne by government is not regarded as part of the taxpayer's taxable income; or
    - If the statement letter is not confirmed to be valid, the tax withholder will have to withhold income tax pursuant to the regular WHT regime.
- The taxpayer must submit a realization report of final tax borne by the government, enclosed with the SSPs from the tax withholder. The report must be submitted through the DGT's online channel on the 20th day of the following month. The realization report will be regarded as a monthly tax report required for submission under PP-23.

The tax relief applies as long as the statement letter is provided to the tax withholder before the realization report is submitted. The taxpayer can request a tax refund or an overbooking (offset) for a tax overpayment resulting from this incentive.

Exemption from Article 22 income tax on import

The exemption from Article 22 income tax on import will be available to taxpayers that fulfill the following criteria:

- The taxpayer's KLU is included in the list provided in Attachment I of PMK-44 and was reported in the employer's FY 2018 CITR. For taxpayers that registered for tax purpose after FY 2018, the KLU will be based on the tax office's masterfile data. Under PMK-23, there were 102 KLUs for processing industries that were eligible for the exemption, whereas under PMK-44, the list has been expanded to 431 KLUs covering the following business sectors:
    - Agriculture, forestry, and fishery;
    - Mining and excavation;
    - Processing industries;
    - Procurement of electricity, gas, steam/hot water and cold air energy;
    - Water supply, waste and recycling management, waste and waste disposal, and cleaning construction;
    - Wholesale and retail trade; car and motorcycle repair and maintenance;

  - Transportation and warehousing; and
  - Real estate.
- The taxpayer is a KITE company; or
- The taxpayer is a company that has obtained a bonded zone license.

To claim the exemption, the taxpayer must apply for a tax exemption letter (SKB) through the DGT's website, and the tax office will either issue the SKB or decide to reject the exemption. PMK-44 is silent on when the tax office must issue its decision. Under PMK-23, the decision must be issued within three working days.

The exemption will apply starting from the date of issuance of the SKB until 30 September 2020. If the KITE facility or bonded zone license is revoked by the DGCE, the DGT will revoke the SKB, and the taxpayer no longer will be eligible to utilize the incentive from the KITE facility or license revocation date.

The taxpayer must submit a quarterly realization report of import through the DGT's website by the following dates:

- 20 July 2020, for the April to June 2020 fiscal periods; and
- 20 October 2020, for the July to September 2020 fiscal periods.

30% Reduction of monthly tax installments

A 30% reduction of monthly tax installments is available for taxpayers that fulfill the following criteria:

- The taxpayer's KLU is included in the list provided in Attachment N of PMK-44 and was reported in the employer's FY 2018 CITR. For taxpayers that registered for tax purpose after FY 2018, the KLU will be based on the tax office's masterfile data. Under PMK-23, there were 102 KLUs for processing industries that were eligible for the reduction, whereas under PMK-44, the list has been expanded to 846 KLUs covering various business sectors;
- The taxpayer is a KITE company; or
- The taxpayer is a company that has obtained a bonded zone license.

The 30% reduction applies to calculations of:

- Monthly tax installments based on the FY 2019 CITR;
- Monthly tax installments using the corresponding amount to December 2019 where the FY 2019 CITR has not been submitted;
- Monthly tax installments based on a DGT decision letter reducing monthly tax installments due to weakening business conditions; and
- Monthly tax installments based on MOF regulations for certain taxpayers.

To be eligible for the reduction, the taxpayer must submit a notification letter to the tax office through the DGT's website. The taxpayer will receive confirmation or rejection of the submission from the system. To be eligible for the reduction for the April 2020 fiscal period, the notification letter must be submitted by 15 May 2020.

The tax relief will apply from the fiscal period stated in the notification letter, the earliest of which is April 2020, until the September 2020 fiscal period (or the fiscal period when the KITE facility or bonded zone license is revoked during the incentive utilization period). The taxpayer can request a tax refund or an overbooking (offset) for a tax overpayment resulting from this incentive.

The taxpayer must submit a quarterly realization report of monthly tax installment reduction through the DGT's website by the following dates:

- 20 July 2020, for the April to June 2020 fiscal periods; and

- 20 October 2020, for the July to September 2020 fiscal periods.

Preliminary refund of VAT overpayment

The process for preliminary VAT refunds will follow the procedures for low-risk PKPs, i.e., a one-month refund process, provided the PKP (including branches) fulfills the following criteria:

- The taxpayer meets the same KLU criteria as mentioned above for the exemption from Article 22 income tax on import;

- The taxpayer is a KITE company; or

- The taxpayer is a company that has obtained a bonded zone license.

The maximum amount of VAT overpayment for which a preliminary refund may be issued is IDR 5 billion and is limited to overpayments stated in VAT returns for the April 2020 to September 2020 fiscal periods. The refund request (in the form of a VAT return or a request letter) must be submitted by 31 October 2020 to the tax office where the PKP is registered.

SE-29 provides guidance for the refund process, which is similar to the guidance provided under SE-19.

Transitional Provisions

When PMK-44 comes into effect:

- Employers and taxpayers that have submitted notification letters for tax relief for EIT and monthly tax installments under PMK-23 are not required to re-submit notification letters pursuant to PMK-44;

- Taxpayers that have applied for or have been issued an SKB granting exemption from Article 22 income tax on import under PMK-23 are not required to re-apply for the exemption pursuant to PMK-44;

- Employers and taxpayers that have been granted tax incentives under PMK-23 can still enjoy those facilities; and

- Realization reports for employers and taxpayers that enjoy tax incentives under PMK-23 have to follow the prescribed formats under PMK-44.

Comments

PMK-44 also provides examples on how to apply the incentives, as well as templates of various notification letters and realization reports. Most of the procedures stipulated in SE-29 are similar to those under SE-19.

PMK-44 and SE-22 should provide answers and useful information for taxpayers that have been waiting for expanded tax incentives to ease the financial burden created by COVID-19.

Ireland

Guidance issued on temporary zero VAT rate for medical equipment and donations

On 6 May 2020, Irish Revenue updated the VAT Tax and Duty Manual to include a new chapter detailing the temporary zero rating of supplies of certain personal protective equipment, ventilators, and other medical products. These supplies will be zero rated when directly supplied to or acquired by the Health Service Executive, hospitals, nursing homes, care homes, and physician practices for use in the delivery of COVID-19 health care services to patients.

In addition, the new chapter provides details on donations of meals, food products (including cold food takeaways), and non-alcoholic drinks, which are subject to self-supply rules (i.e., rules pertaining to goods for private or exempt use) and have a temporary zero rating. The donations must be made to charities and health care providers involved in the response to COVID-19 for distribution to vulnerable groups or for consumption by frontline staff.

These measures apply as of 9 April 2020 to 31 July 2020 (subject to review).

Italy

Indirect tax highlights of new decree include more tax payment deadline extensions

A law decree (No. 23/2020) dated 8 April 2020 that is effective as from 9 April 2020 introduces a variety of urgent tax and fiscal measures in Italy to support businesses, professionals, and VAT payers affected by the coronavirus (COVID-19), including an extension of the deadline for certain tax payments for qualifying taxpayers. The most relevant measures from an indirect tax perspective are described below.

Postponement of VAT payments due on 16 April and 16 May 2020

In line with the government's press release on 6 April 2020, the new measures postpone the deadline for payments of VAT that otherwise would be due on 16 April and 16 May 2020 for certain taxpayers that have their tax residence, registered office, or operational headquarters in Italy:

- Taxpayers with turnover of up to EUR 50 million in the prior tax year, whose turnover in March and April 2020 decreased by at least 33% compared to the same months of the prior tax year;

- Taxpayers with turnover exceeding EUR 50 million in the prior tax year, whose turnover in March and April 2020 decreased by at least 50% compared to the same months of the prior tax year;

- Taxpayers that have their tax residence, registered office, or operational headquarters in the provinces most affected by COVID-19 (Bergamo, Brescia, Cremona, Lodi, or Piacenza), regardless of their overall turnover in the prior tax year, whose turnover in March and April 2020 decreased by at least 33% compared to the same months of the prior tax year; and

- Taxpayers whose operations began on or after 1 April 2019, regardless of their level of turnover.

The extended deadline is 30 June 2020. Payment may be made in up to five equal monthly installments if the first installment is paid by 30 June 2020, and no penalties will apply.

In addition, for all taxpayers, in consideration of the national state of emergency declared in response to COVID-19, tax payments that were due on 16 March 2020 (for which the deadline previously was extended to 20 March 2020) will be considered as timely made if paid by 16 April 2020, and no penalties or interest will apply.

Postponement of stamp duty payments for Q1 and Q2 2020

The law decree also includes simplification measures to postpone the deadline for certain stamp duty payments for electronic invoices (e-invoices). The deadline for the stamp duty payment for the first quarter (Q1) of 2020 (which ordinarily is due 20 April) is postponed to 20 July 2020 if the total amount due does not exceed EUR 250.

In addition, taxpayers can benefit from a further postponement of the deadline for the Q1 2020 and Q2 2020 stamp duty payments to 20 October 2020 if the total amount due for both quarters (Q1 2020 + Q2 2020) does not exceed EUR 250.

Italy

New guidance on proof of intra-EU transport released, additional VAT relief announced

Recent indirect tax developments in Italy include the release of a ruling (No. 117) providing clarifications on proof of intra-EU transport on 23 April 2020 and an announcement from the prime minister on 27 April 2020 regarding additional VAT relief measures to be introduced in response to the coronavirus (COVID-19), including that there will be no increase in the VAT rates for 2021.

Clarifications on proof of intra-EU transport, after introduction of article 45a of EU Regulation 282/2011

With Ruling No. 117, the tax authorities provide further official clarifications on the level of sufficient proof of intra-EU transport for purposes of obtaining VAT-exempt treatment, to be kept by an Italian supplier making intra-EU supplies of goods under "Ex Works" Incoterms, i.e., international trade terms for situations in which goods are delivered at the seller's premises and the buyer is responsible for further transportation of the goods.

With this official reply to a ruling request, released after the entry into force of Council Implementing Regulation (EU) 2018/1912 (which amended EU Regulation 282/2011 and introduced certain VAT "quick fixes" agreed upon at the EU level, including harmonized rules in article 45a for documenting intra-EU transport of goods, effective as from 1 January 2020), the Italian tax authorities confirm their position taken in the past with Ruling No. 100, dated 8 April 2019. The tax authorities reiterate in Ruling No. 117 that proof of intra-EU transport will be deemed sufficient as long as the following conditions are fulfilled:

- They are able to identify all the parties involved (Italian supplier, carrier, and EU purchaser) and the relevant data for the underlying intra-EU transaction is provided; and

- The documentation is retained by the Italian supplier, along with the relevant intra-EU sales invoices, bank documents, contracts, and Intrastat forms.

To satisfy the requests for additional clarification expressed by economic operators, there are rumors that the Italian tax authorities may soon release a circular letter providing some procedural guidelines with respect to practical scenarios.

Additional COVID-19 relief

The prime minister has announced the upcoming introduction of the following VAT relief measures (although no draft legislation has yet been published):

- A new VAT exemption for the supply of respiratory face masks; and

- That there will be no increase to the VAT rates for 2021 (an increase of the standard VAT rate from 22% to 25% and an increase of the reduced 10% VAT rate to 12% had been planned for 2021).

Italy

New law decree introduces additional tax measures in response to COVID-19

On 19 May 2020, the Italian government published a new law decree (No. 34/2020) in the official gazette, introducing additional tax measures to increase the support for businesses and the economy in response to the coronavirus (COVID-19). Although the decree entered into force immediately after its publication, it must be converted into law by the parliament within 60 days to avoid being retroactively null and void, and there could be changes to its provisions.

The main tax measures affecting Italian companies include the following:

Cancellation of regional tax on productive activities (IRAP) payments due in June (for calendar-year taxpayers)

Italian companies (other than those carrying on banking, insurance, and other financial activities) with revenue lower than EUR 250 million in the prior fiscal year ((FY), i.e., the year ending 31 December 2019 for calendar-year taxpayers) need not pay:

- The balance of the IRAP settlement due for FY 2019 (if any); and

- The first advance payment of IRAP due for FY 2020 (if any).

Although the wording of the provision is unclear, this measure appears to be intended to be an actual reduction of the IRAP liability for FYs 2019 and 2020, and not a mere postponement of the related payments. These payments otherwise would have been due by 30 June 2020 for calendar-year taxpayers.

The provision is within the limitations provided by the European Commission through the state aid temporary framework (Communication C-(2020), 1863 final) adopted by the European Commission on 19 March 2020 in response to COVID-19 and amended on 3 April 2020.

Additional postponement for tax and social contribution payments

The deadlines for all tax and social contribution payments that had been postponed under the provisions of previous COVID-19 law decrees (most recently Law Decree No. 23/2020, published in the official gazette on 8 April 2020) are further postponed to 16 September 2020. The amount due can be paid in up to four equal monthly installments if the first installment is paid by 16 September 2020.

The table below summarizes the main tax payment deadlines further postponed under the new law decree.

Taxpayers	Type of tax payments	New deadline
Italian companies operating in business sectors significantly affected by COVID-19 (e.g., tourism and accommodation activities, restaurants, pubs, bars, etc.)	• Withholding tax payments due from 2 March 2020 to 30 April 2020; and • VAT payments due in March 2020	16 September 2020
Italian companies that have their tax residence, legal seat, or center of operations in the municipalities of Bergamo, Brescia, Cremona, Lodi, or Piacenza	VAT payments due in March 2020	16 September 2020
Italian companies with revenue less than or equal to EUR 50 million in the prior FY whose turnover for the months of March and April 2020 decreased by more than 33% compared to the same months of the prior FY	Payments due in the months of April and May 2020 with regard to: • Withholding tax; • VAT; and • Social security contributions	16 September 2020
Italian companies with revenue exceeding EUR 50 million in the prior FY whose turnover for the months of March and April 2020 decreased by more than 50% compared to the same months of the prior FY	Payments due in the months of April and May 2020 with regard to: • Withholding tax; • VAT; and • Social security contributions	16 September 2020
Italian companies that started their business after 31 March 2019	Payments due in the months of April and May 2020 with regard to: • Withholding tax; • VAT; and • Social security contributions	16 September 2020
Italian companies that have their tax residence, legal seat, or center of operations in the municipalities of Bergamo, Brescia, Cremona, Lodi, or Piacenza and whose turnover for the months of March and April 2020 decreased by more than 33% compared to the same months of the prior FY	Payments due in the months of April and May 2020 with regard to: • Withholding tax; • VAT; and • Social security contributions	16 September 2020

Increase of annual tax credit offset limitation

Italian tax law provides that the offsetting of tax credits against tax liabilities originating from other types of taxes and/or social contributions generally is limited to a total amount of EUR 700,000 for each calendar year. The new law decree increases the cap to EUR 1 million for calendar year 2020 only.

Tax reform measures enacted in response to COVID-19

On 23 March 2020, Korea's National Assembly approved and enacted the Special Tax Treatment & Control Law, which includes various tax reform measures in response to the impact of COVID-19.

The major changes that affect corporations and individuals are discussed below.

Reduction of income taxes for small and medium-sized enterprises (SMEs) within qualified disaster areas

- For qualifying enterprises, the amount of corporate and individual income taxes arising in the tax year that includes 30 June 2020 is reduced by 60% for small-sized enterprises and 30% for mid-sized enterprises.

- Qualifying enterprises include SMEs located in qualified disaster areas as designated under the Basic Law for Disasters and Safety Management, but do not include real estate leasing and supply businesses, professional services businesses, or financial and insurance businesses, among others.

- The tax reduction is limited to KRW 200 million.

- Enterprises claiming the tax reduction will not be subject to a minimum tax and may not claim any other tax incentives (except for job creation tax incentives).

Temporary uplift of limitation for deductions of corporate entertainment expenses

The limits on deductions of entertainment expenses of corporations, which are based on the amount of the company's revenue, are increased for 2020 only. The new deduction limits are as follows:

Revenue amount	Increased deduction limit
10 billion or less	0.35% of revenue
Over 10 billion but no more than 50 billion	KRW 35 million plus (0.25% of revenues over KRW 10 billion)
Over 50 billion	KRW 135 million plus (0.06% of revenues over KRW 50 billion)

Expanded tax incentives for domestic companies relocating overseas facilities to Korea

- The existing tax incentives for companies that relocate back to Korea are expanded to apply to cases where an overseas facility is closed, or the facility's production rate decreases by 50% or more, and existing domestic facilities are expanded.

- Where existing domestic facilities are expanded, the income subject to the tax incentives is limited based on the overseas facility's level of shrinkage.

- Recapture applies only upon the closure of the newly expanded facilities.

Tax credits for real estate leasing business owners offering rental fee discount

- A real estate leasing business owner (lessor) that has registered its business with the district tax office and reduces the rent it charges during the first half of 2020 will receive an individual or corporate income tax credit for 50% of the rent reduction.

- The credit applies to reductions of rent charged to a small business owner under Article 2 of the Law on the Protection and Support of Small Business Owners (LPSSBO) for the lease of a commercial building under Article 2 of the LPSSBO that has been continuously used by the tenant for business purposes.

- The tax credit may not be claimed if certain conditions (such as an increase in rental fees or deposits) are met.

- The tax credit is claimed by the lessor when filing the individual or corporate income tax return.

- The lessor will not be subject to a minimum tax and may carry forward any excess credit for five years.

The Netherlands

Additional VAT measures in response to COVID-19

On 24 April 2020, the Dutch State Secretary of Finance published a decree containing further tax relief measures in response to COVID-19. The decree follows consultation with various interest groups and includes VAT-related measures. Upon publication, the measures became final and generally are retroactive to 12 March 2020.

Outsourcing healthcare workers

Due to COVID-19, healthcare providers and institutions outsource among each other healthcare workers. This outsourcing could result in VAT being charged but not deductible (in full or in part). The decree introduces a measure that allows outsourcing of healthcare workers to be exempt from VAT, subject to the following three conditions:

- The healthcare worker must be hired by a healthcare provider or institution that qualifies for the VAT exemption on medical services;

- The outsourcer must state on the invoices that the VAT exemption on medical services is being used and keep in its records the supporting documentation; and

- If the outsourcer requests reimbursement of its healthcare workers' costs, the outsourcer may charge only the gross payroll costs (with any markup capped at 5% of such costs), thus prohibiting the outsourcer from making a profit on the transaction.

For purposes of this measure, the identity of the outsourcer is irrelevant. Furthermore, the measure will not affect the outsourcer's recovery of input tax. This measure will be effective retroactively as from 16 March 2020 and apply until 16 June 2020.

Medical supplies and equipment supplied free of charge

VAT will not be required to be charged on medical supplies and equipment supplied free of charge to healthcare providers and institutions and will not affect the supplier's recovery of input VAT, subject to the following four conditions:

- The goods supplied must be on the World Customs Organization's classification reference list for COVID-19;

- The supplier must include the cost of the goods in its general overhead costs;

- The recovery of input VAT on these general overhead costs must be determined based on the VAT taxable turnover without regard to the goods provided free of charge; and

- The supplier must issue an invoice and state on the invoice that the VAT exemption on the free supply of medical supplies and equipment is being used and keep in its records the supporting documentation.

Reduced VAT rate for online fitness classes

The reduced 9% VAT rate that currently applies to the use of sports facilities also will apply to online fitness classes as from 16 March 2020 until the government's mandatory restrictions on free movement are lifted.

The Netherlands

VAT rate reduced to 0% from 21% on protective face masks

On 13 May 2020, the Dutch State Secretary of Finance announced that the value-added tax (VAT) rate on the domestic supply of protective face masks will be reduced to 0% (from 21%) beginning 25 May through 31 August 2020. The 0% VAT rate will apply to all protective face masks (both medical and nonmedical grade) and regardless to whom the masks are supplied. The measure comes as a result of the government's requirement that, as of 1 June 2020, it will be mandatory to wear face masks while using public transportation in order to prevent the spread of COVID-19. The result will be a cost reduction for the end users of face masks, which will not affect the input VAT recovery of suppliers (since it is a rate reduction rather than an exemption with no input VAT credit).

On 17 May 2020, the government confirmed that a temporary exemption of import VAT on face masks and other personal protective equipment is applicable retroactively from 30 January to 31 July 2020 (this temporary exemption was already in place for certain organizations including governmental, philanthropic, and healthcare institutions).

Nigeria

COVID-19: Economic, tax, and other fiscal stimulus measures

Nigeria's federal government established a Presidential Task Force on Coronavirus on 9 March 2020 to coordinate the country's efforts in dealing with the economic impact of COVID-19. A Fiscal Stimulus Package that comprises various measures in response to COVID-19 and the fall in the oil price was announced on 6 April 2020.

In addition, on 24 March 2020, Nigeria's house of representatives passed the Emergency Economic Stimulus Bill. The bill includes measures aimed at providing staff retention tax relief, an import duty waiver on selected medical goods, and the deferral of loan repayment obligations on residential mortgages.

Relevant federal and state agencies also have announced various measures of their own. In particular, the Federal Inland Revenue Service (FIRS) introduced the following on 23 March 2020:

- A one-month extension to file companies income tax (CIT) returns;

- A one-week extension to file VAT returns and pay withholding taxes;

- The ability to file tax returns online via the FIRS e-portal;

- A two-month delay to submit audited financial statements (i.e., they do not have to be filed with CIT returns); and

- The creation of a shared site for the submission of documents for tax audits and desk reviews (pending).

Deloitte Nigeria has published a newsletter that examines in more detail some of the critical economic, tax, and other fiscal measures aimed at alleviating the economic impact of COVID-19.

Panama

Deadline to file tax returns and pay taxes extended due to COVID-19

Panama's government extended the deadline to pay taxes to the General Revenue Directorate by 120 calendar days as from 20 March 2020, without interest, surcharges, or fines being imposed (Executive Decree no. 251 dated 24 March 2020).

The extension applies to direct and indirect national taxes, fees, special contributions, and any other tax liabilities. However, it does not apply to withholding taxes such as income taxes withheld from employees and nonresidents, VAT withheld from nonresidents or withheld by the state, dividend taxes, and property taxes withheld by banks.

Income tax returns for fiscal year 2019 do not have to be filed until 30 May 2020.

Requests for exemption from the alternative minimum tax (CAIR) (by companies with net operating losses or with a greater than 25% effective tax rate) may be submitted electronically using the procedure established by the tax administration.

Due to the state of emergency, the General Revenue Directorate will not audit taxpayers' 2020 estimated taxes if they are no less than 70% of the taxes they reported in their 2019 income tax return.

Estimated taxes must be paid in installments during fiscal year 2020, the first no later than 30 September 2020 and the second no later than 31 December 2020.

Paraguay

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

On 31 March 2020, Paraguay's tax authorities issued General Resolution 49/2020 extending various tax filing and payment deadlines. This is part of a broader package of measures adopted by the government to mitigate the financial effects of COVID-19 for taxpayers. Key features include:

- The payment dates for VAT and corporate income tax (CIT) for nonresidents withholding obligations remain unchanged. For all other taxes, the deadlines for payments corresponding to February 2020 (due in March 2020) are extended to May 2020;

- CIT payments under the general regime corresponding to financial year (FY) 2019 due in April 2020 are due in June 2020;

- For the following tax fling and payment obligations due in April 2020, corresponding to the March 2020 tax period, the new due date is May 2020:

    - CIT simplified regime;

    - Maquila (unique tax);

    - VAT;

    - Excise tax (including on fuel and petrol);

    - Monthly report of products derived from tobacco; and

    - Informative return of price adjustments of commodities and its derivatives;

- **Tax on dividend distributions (IDU):** Companies that have declared dividends during the period January 2020 to June 2020, but not yet paid those dividends to shareholders may pay the IDU by September 2020. Where dividends are paid to shareholders, the IDU must be paid by the 13th day of the month following payment; and

- **CIT advance payments for 2020:** Due dates for the advance payments of CIT for FY 2020 are deferred from May, July, September, and November 2020 to July, September, November, and December 2020, respectively.

This article is available only in Spanish. Please use the language toggle button for further reading in Spanish.

Paraguay

VAT installment payment option announced

Decree No. 3583/2020, issued by the Paraguayan government on 6 May 2020, introduces a temporary payment regime until 31 August 2020 for VAT payable on domestic transactions and on imports of goods.

Taxpayers may request to settle their monthly VAT liabilities in up to four interest-free monthly installments, subject to a minimum initial payment equivalent to 20% of the VAT due.

This article is available only in Spanish. Please use the language toggle button for further reading in Spanish.

Poland

New legislation aims to support enterprises affected by COVID-19

On 1 April 2020, various Polish legislation aimed at supporting enterprises affected by COVID-19 went into effect (including the Act of 31 March 2020 amending the Act on Special Solutions to Prevent, Counteract and Fight COVID-19, Other Contagious Diseases and Related Crises, among others).

Below is a summary of some of the measures that the legislation provides to mitigate financial liquidity issues faced by businesses.

Measures regarding tax and social insurance liabilities

- Deadlines related to various tax liabilities are extended, as follows:
    - The deadline to file 2019 CIT-8 annual tax returns and settle the related taxes is extended to 31 May 2020 for all taxpayers;
    - The deadline to make advance payments of income tax on an employee's salary (PIT) for March and April 2020 is extended to 1 June 2020;
    - The deadline to file form ORD-U (to report information on agreements concluded with associated enterprises) and form IFT-2R (withholding tax declaration) is extended to 31 May 2020 (in the case of form ORD-U, the literal meaning of the legislation suggests a deadline at the end of April; however, the lawmakers seem to have intended 31 May 2020);
    - The deadline to report cross-border tax planning schemes under Poland's mandatory disclosure requirements (MDR) is extended until the state of emergency declaration related to COVID-19 is lifted, but not later than 30 June 2020;
    - The deadline to pay income tax on revenue derived from real estate during the period from March to May 2020 is extended to 20 July 2020;
    - The deadline for filing the first JPK_V7M/JPK_V7K reports (new VAT standard audit files) (for July 2020) is extended to 25 August 2020 for all taxpayers; additionally, entities that fail to correct errors in the submitted files within 14 days may be fined PLN 500 per error by the tax authorities;
    - The effective date of the VAT Matrix provisions is postponed until July 2020; provisions regarding the protective function of the Binding Rate Information (WIS) obtained prior to the effective date have been amended accordingly; and
    - The deadline to pay the tax on retail sales is extended to 1 January 2021.

- While the state of emergency is in effect and 30 days after it is lifted, late fees will not be charged on deferred or installment payments (which does not constitute public aid) or cancellation of tax liabilities (which constitutes de minimis aid). Late fees also will not be charged on the deferred or installment payment of social insurance premiums.

- Municipal councils may pass resolutions to defer the payment of real property tax installments due for the period April-June 2020 for groups of businesses whose financial liquidity has deteriorated as a result of the pandemic, but not later than 30 September 2020. The councils also may exempt these businesses from the real property tax for a part of 2020.

- The use of Polish Nomenclature of Economic Activities (NACE) codes (*Polska Klasyfikacja Wyrobów i Usług 2008*) for VAT purposes is extended, as well as their application with respect to mandatory split payments (VAT Act, appendix 15), so that they will remain in use until the end of 2020.

- Cash registers may issue electronic receipts upon a buyer's approval and the receipts may be sent in a manner agreed with the buyer. Taxpayers that use cash registers with electronic or paper copies may only issue paper receipts.

- Because the effective date of the JPK_V7M reporting regulations has been postponed, the effective date of the amended rules revoking an importer's right to use the simplified import procedure has been postponed also (but the loss of this right resulting from a failure to provide import settlement documents within four months remains in effect until July 2020).

- As from 1 April 2020 and until the date the state of emergency related to COVID-19 is lifted, tax and customs inspectors may be excused from their inspection duties, including inspections regarding the excise tax imposed on entities that produce, transport, and use excise goods (e.g., entities producing, processing, reprocessing, altering, bottling, receiving, storing, releasing, transporting, or destroying such goods), as well as inspections regarding the use and application of excise stamps to such goods.

Measures to support the fight against the epidemic

- Donations made to efforts to fight COVID-19 until 30 September 2020 are tax deductible (a 200% deduction will apply for donations made by the end of April and a 150% deduction will apply for donations made in May).

- A 0% VAT rate is introduced for donations (including donations of medical products, diagnostic tests, drugs, protective clothing, glass, lab devices, and disinfectants) made to the Material Backup Agency (*Agencja Rezerw Materiałowych*), the Center for Sanitary and Anti-epidemic Provisions (*Centralna Baza Rezerw Sanitarno-Przeciwepidemicznych*), and healthcare entities registered with the National Health Fund (NFZ) that provide hospital care related solely to COVID-19 (upon the conclusion of a written donation contract).

- One-time depreciation charges are allowed for fixed assets purchased to produce goods used to fight COVID-19.

- Taxpayers may deduct eligible R&D expenses related to the development of products used to fight COVID-19 and they may apply the 5% IP box tax rate to income derived from eligible intellectual property rights that are used for the same purpose. This also applies when calculating CIT advances.

- If certain conditions are met, up to PLN 5 million in 2020 tax losses may be carried back to 2019.

- Regulations requiring "bad debt" amounts (i.e., debt amounts that the taxpayer will not repay) to be added to taxable income are suspended.

- The period during which taxpayers must notify the tax authorities of payments made to a bank account not included in the VAT "white list" (the electronic register of VAT taxpayers maintained by the head of the National Revenue Administration) is extended from three days to 14 days after a payment is made.

Liquidity support

- Measures to address economic stoppage and reduced work hours:

    - Businesses of any size that have experienced a reduction in revenue may apply for subsidies from the Guaranteed Employee Benefit Funds, including social insurance premiums payable for employees (i.e., individuals working under employment contracts, freelance contracts, contracts of mandate, or other service contracts) affected by an economic stoppage or reduced work hours (an employee cannot be affected by economic stoppage and reduced work hours simultaneously).

    - A reduction in revenue resulting from COVID-19 is a reduction in the value or volume of sales of goods or services:

        - Of at least 15% for any period of two consecutive months (60 days) in 2020 prior to the subsidy claim compared to the corresponding period in 2019; or

        - Of at least 25% for one month (30 days) prior to the claim compared to the prior month.

    - During an economic stoppage, employees do not provide services but are entitled to 50% of their salary, but not less than the minimum wage. In such cases, employers are entitled to subsidies totalling up to 50% of the minimum wage (approximately PLN 1,300).

    - Under provisions regarding reduced work hours, employees' hours may be reduced by up to 20% but may not be less than 50% of full-time hours, subject to the minimum wage rules (including the work hours involved). Employees' subsidies may total 50% of their salary but cannot exceed 40% of their average wages in the preceding quarter (approximately PLN 2,000).

    - Employees whose salary in the month preceding the month of the claim exceeded PLN 15,000 (approximately) do not qualify for the subsidy.

- Terms and conditions for employees to work during an economic stoppage or a period of reduced work hours must be agreed with employees acting through labor unions or employee representation. Employers are not allowed to receive services from their employees without reaching such an agreement.

- Subsidies will be paid for three months as from the month the subsidy application is submitted with an option to extend to six months.

- There is no cap on the remuneration subsidy for employees affected by an economic stoppage or reduced work hours.

- The mayor of a county where a micro-enterprise or a small or medium-sized enterprise (SME), as defined by EU regulations, is registered may subsidize a portion of the payroll and social insurance expenses of these enterprises if they have experienced a reduction in revenue for 60 consecutive days in 2020 due to COVID-19, calculated on a year-on-year basis.

  - The subsidies may be granted for three months (with an option to extend) and are calculated as follows:

    - If revenue has decreased by at least 30%: The number of employees times 50% of remuneration but not more than the minimum wage;

    - If revenue has decreased by at least 50%: The number of employees times 70% of remuneration but not more than the minimum wage; and

    - If revenue has decreased by at least 80%: The number of employees times 90% of remuneration but not more than the minimum wage.

  - To qualify for the subsidy, employers must maintain the headcount included in the subsidy calculation during the subsidy period.

- County mayors may subsidise sole proprietors, agents, and individuals working under contracts of mandate or other service contracts, and they may offer micro-loans to entities qualifying as micro-enterprises.

- Medium and large enterprises may apply for guarantees and sureties to be issued by Bank Gospodarstwa Krajowego (a Polish national development bank) and for the bank to secure up to 80% of new or renewed loans aimed at supporting liquidity. The guaranteed amounts may range from PLN 3.5 million to PLN 200 million and the loans may have a maximum term of 27 months.

- The total value of the aid, including (i) subsidies and loans granted by county mayors; (ii) the real property tax exemption; and (iii) the cancellation of social insurance premiums cannot exceed EUR 800,000 per undertaking.

COVID-19: VAT measures to support taxpayers and health care industry approved

The Portuguese government has approved a VAT exemption and reduced VAT rates on certain goods used in the fight against COVID-19. The temporary measures are intended to reduce the tax burden on taxpayers and support the health care industry during the pandemic.

VAT exemption on goods needed to fight COVID-19

Following the issuance of European Commission Decision (EU) 2020/491 of 3 April 2020, the Portuguese government issued Law no. 13/2020 on 7 May 2020 to provide a temporary VAT exemption for local supplies and intracommunity acquisitions of goods where the following conditions are met:

- The goods are acquired by:
    - State, autonomous regions or local authorities, as well as any of their services, establishments and bodies, including public institutes;
    - Establishments and health care units that are part of the National Health Care System (NHCS), including those that are business-based public enterprises;
    - Other establishments and health care facilities in the private or social sector provided that they are included in the strategic plan of the NHCS to fight the COVID-19 outbreak under a contract for such purpose with the Ministry of Health; and/or
    - Charitable and philanthropic entities previously approved for these purposes.
- The goods are intended to be:
    - Distributed, free of charge by an entity mentioned above, to people at risk for or affected by COVID-19, as well as those involved in the fight against COVID-19; or
    - Used for the treatment of persons affected by COVID-19 or for helping to prevent it, provided the goods remain the property of an entity mentioned above.

Invoices issued on the sale of the goods should reference Law No. 13/2020 as the reason for the VAT exemption.

The VAT exemption entitles the taxpayer to recover the input VAT incurred on the goods, or on services acquired or imported to supply the goods.

The VAT exemption applies from 30 January 2020 through 31 July 2020.

Reduced VAT rates

The government also has approved temporary reduced VAT rates on supplies, imports and intracommunity acquisitions of the following goods:

- Face protection masks; and

- Hand sanitizers specified under Order no. 5335-A/2020 issued by the Ministers of Economy, Finance and Health.

The reduced rates are 6% in mainland Portugal, 5% in Madeira, and 4% in Azores, and apply from 8 May 2020 through 31 December 2020.

Russia

Tax reliefs and extensions to compliance deadlines announced in response to COVID-19

During March and April 2020, the Russian government — at the federal, regional, and municipal levels – approved a variety of measures intended to mitigate the economic effects of the COVID-19 outbreak on businesses and individuals. Tax measures include specific reliefs for small and medium-sized enterprises (SMEs), the deferral of compliance obligations, reduced rates of tax and/or tax deferrals, suspension of field tax audits, and VAT exemptions on the import and distribution of certain medical supplies.

Tax benefits for SMEs

Specific tax benefits are available for SMEs operating in those industries most severely affected by the COVID-19 outbreak. To receive the benefits, a SME must:

- Be registered as active in the SME register as at 1 March 2020; and

- Operate in an industry or sector designated by the government as most affected by COVID-19 in accordance with the published government-approved list. The SME's type of activity is determined by their main economic activity code (OKVED) as recorded in the state registers of legal entities and individual entrepreneurs as at 1 March 2020.

The tax relief measures include:

- A six-month deferral of corporate income tax, single agricultural tax, and tax payable under the simplified tax regime applicable to SMEs for 2019;

- A six-month deferral of tax payments, and advance tax payments (excluding VAT, and taxes paid as a withholding agent) for March 2020 and quarter 1 (Q1) 2020;

- A four-month deferral of tax payments, and advance tax payments (excluding VAT, and taxes paid as a withholding agent), for April 2020, May 2020, June 2020; Q2 2020; or for the first six months of 2020 (as appropriate depending on the tax); and

- The deferral of advance payments of transportation, corporate property, and land taxes due in Q1 2020 and Q2 2020, until 30 October 2020 and 30 December 2020, respectively.

The deferred tax is payable in a maximum of 12 equal monthly installments within 12 months following the month in which the new due date falls.

Qualifying SMEs that are microenterprises additionally receive an extension to the payment deadlines for social contributions payable on payments made to individuals. Payments made in the periods March 2020 to May 2020 may be deferred for six months, and those in June 2020 and July 2020 by four months.

Social contribution rates for SMEs are reduced as from 1 April 2020, on the portion of an employee's earnings in excess of the monthly minimum wage, resulting in a rate of 15%. The calculations are based on the minimum wage established by the federal law as at the beginning of a reporting period (RUB 12,130 as from 1 January 2020). The rate reduction is available to all types of SME, and will continue for an indefinite period. The new rates are shown in the following table:

Type of contribution	Rate payable on monthly wage up to RUB 12,130	Rate payable on monthly wage in exces of RUB 12,130
Compulsory pension insurance	22% (subject to maximum contribution of RUB 1,292,000 for 2020)	10%
Temporary disability and maternity allowances	2.9% (subject to maximum contribution of RUB 912,000 for 2020)	0%
Mandatory health insurance	5.1%	5%

Changes to operations of tax authorities

Russia's Federal Tax Service has suspended the following audit activities until 31 May 2020:

- Initiation of new/repeated field tax audits, including transfer pricing audits;
- Ongoing audits; and
- Audits of compliance with currency regulations (other than in respect of previously discovered offenses with prosecution deadlines expiring by 1 June 2020).

All procedural deadlines related to tax audits also are suspended.

All other procedures will be performed remotely, including reviews of materials and participation in tax litigation. Furthermore, the tax authorities will not be issuing instructions to freeze operations on corporate bank accounts or electronic transfers until 31 May 2020.

The deadlines for the tax authorities to issue payment notices to taxpayers in respect of taxes, social contributions, penalties, and late payment charges, together with the deadlines to decide to charge such amounts are extended for six months.

Extension of tax and other compliance deadlines

A number of extensions to filing and payment deadlines are provided, including the following:

- Statutory deadlines for tax filings (other than for VAT), advance tax filings, and financial statements due in the period March 2020 to May 2020 are deferred for three months;

- The deadline for VAT filings and payment of social contributions for Q1 2020 is extended until 15 May 2020;

- Deadlines for responding to inquiries and document requests from the tax authorities that would otherwise fall between 1 March 2020 and 31 May 2020 are postponed for 20 business days (10 business days where the request is made following a desk audit of a VAT return);

- The deadlines for financial institutions to file reports for 2019, 2018, and 2017 (to the extent permitted) in accordance with the OECD's common reporting standard are deferred for three months; and

- The deadline for applications to join the tax monitoring regime available to qualifying taxpayers for 2021 is extended by three months from 1 July 2020 to 1 October 2020.

In addition, no sanctions will be imposed for tax offenses under article 126 of the Russian Tax Code (failure to provide information for tax control purposes) committed from 1 March 2020 to 31 May 2020 (inclusive).

Tax payment deferrals and installment payments

Taxpayers in those industries designated as most affected by the COVID-19 pandemic may apply for a tax payment deferral or installment plan for tax payments (other than for mineral extraction tax and excise tax) due in 2020, where certain conditions are fulfilled. The government may decide to extend this facility on a case-by-case basis to essential industry enterprises, as well as "company" towns (i.e., residential extensions formed around a single community employer), not operating in industries affected by COVID-19.

The taxpayer must apply for a tax payment deferral or installment plan by 1 December 2020, and the period of deferral/installments will depend both on the specific sector, and the deterioration in financial performance. The taxpayer must meet one of the following conditions:

- A decrease of more than 10% in total income calculated in accordance with the relevant accounting principles;

- A decrease in turnover of more than 10%;

- A decrease in turnover from zero-rated VAT operations of more than 10% (where sales of zero-rated goods account for at least 50% of sales income); or

- A loss is reported in the corporate income tax return for the previous quarter of 2020, but no loss was reported in the return for the corresponding quarter of 2019.

VAT exemption for import and distribution of certain medical supplies

Government Resolution No. 419 issued on 2 April 2020 provides an exemption from VAT for the import and distribution of certain medical equipment and medicines (including virus testing kits, personal protective equipment, air filtration devices, noncontact thermometers,

ventilators, and drugs for treating COVID-19). The exemption will be granted upon confirmation from the authorized regional executive body that the equipment and medicines will be donated for the use of non-profit healthcare organizations.

The exemption applies retroactively as from 16 March 2020, provided that the registration of import declaration for the placement of such goods under the customs procedure of release for domestic consumption is completed by 30 September 2020.

Russia

Update on customs procedural and other developments

This article provides an update on recent Russian customs procedural and other developments.

Imports into and exports from the EEU of technical means for the surreptitious obtaining of information

Order No. 57 issued by Russia's Federal Security Service (FSS) on 17 February 2020 sets out the FSS's administrative procedure for approving the import into and export from the Eurasian Economic Union (EEU) of technical equipment intended for surreptitious obtaining of information. The order applies as from 3 April 2020. The administrative procedure determines the timeline, and procedures to be followed by the FSS's Center for Licensing, Certification, and Protection of State Secrets when deciding whether to permit imports and exports. It also governs the center's interaction with applicants, who may be legal entities, or individual entrepreneurs. The center either may issue an import or export permit, or a notice of refusal to issue such document.

Clarification of procedures for customs duty exemption on imports of goods used to combat COVID-19

Decision No. 21 of the Eurasian Economic Commission (EEC) on 16 March 2020 announced a customs duty exemption for certain types of goods imported to help combat COVID-19. One of the conditions for exemption is the submission to the customs authorities of documentation confirming the intended use of the imported goods. Decree No. 545 issued by the Russian government on 18 April 2020, and effective as from 28 April 2020, authorizes the following state bodies to issue the necessary documentation:

- The Ministry of Healthcare of the Russian Federation, and state executive bodies, are authorized to issue the document confirming the intended use in respect of the finished products; and

- The Ministry of Industry and Trade of the Russian Federation, and state executive bodies, are authorized to issue the document confirming the intended use in respect of raw materials, supplies, and components used for production of qualifying goods.

Simplification of customs procedures

Order No. 1907 issued by Russia's Federal Customs Service on 18 December 2019, and effective as from 1 May 2020, introduces new customs procedures for goods exported or imported in accordance with a license issued by the Ministry of Industry and Trade. As from

1 May 2020, exporters/importers are not required to register such licenses with the customs authorities, since the licenses appear in the single automated customs information system. Importers/exporters no longer are required to provide information on the implementation of licenses, or implementation certificates.

Indicators and criteria for type two Authorized Economic Operators (AEOs) established

Resolution No. 574 issued on 24 April 2020, and effective as from 29 May 2020, establishes indicators and criteria for type two AEOs, where the financial performance of a candidate entity does not meet the criteria specified in Decision No. 65 of the Council of the EEC on 15 September 2017. The annexes to the resolution contain the indicators and criteria, and a list of eligible OKVED code headings and subheadings, recorded as the candidate entity's core economic activity.

A candidate entity must:

- Produce and/or export goods within the eligible OKVED headings, and have received an unqualified auditor's opinion on the previous year's annual report;

- Be included on the list of strategic enterprises as approved by Presidential Decree No. 1009 of 4 August 2004 "On approval of the list of strategic enterprises and strategic joint-stock companies;"

- Have an aggregate score of at least 40 points, being the total of financial stability indicators as per Decision No. 65 of the Council of the EEC issued on 15 September 2017; and

- Not have any arrears on settlements with its counterparties.

Each indicator is assigned a weight, and a candidate entity must score a certain number of points to be included in the register of AEOs, and be issued a type two certificate.

Amendments to procedure for payment of disposal fee in respect of certain modes of transport

Federal Law No. 117 of 7 April 2020 and effective as from 18 April 2020, provides that no disposal fee is payable in respect of certain vehicles (e.g., private cars, certain types of construction equipment, various loaders, etc.) that are imported into the Russian Federation, and placed under the customs procedure of temporary import (admission).

Spain

Additional economic and fiscal measures introduced to address impact of COVID-19

During April 2020, the Spanish government has continued the introduction of various measures to address the ongoing effects of the coronavirus (COVID-19), including tax measures. The initial fiscal measures adopted starting in mid-March 2020 have been expanded upon and, at the time of this article's publication (22 April 2020), the latest measures in force are those summarized below.

Highlights of the changes since mid-March include the following:

- An extension of the filing and payment deadlines for tax returns due between 15 April and 20 May 2020, up to 20 May 2020, for qualifying taxpayers with 2019 turnover less than EUR 600,000;

- An extension of the deadline to make the April advance payment of corporate income tax to 20 May 2020 for qualifying taxpayers with 2019 turnover less than EUR 600,000, and the option for these taxpayers to make their advance payments in 2020 based on their current-year tax liability rather than their prior-year tax liability;

- A temporary zero VAT rate for sanitary goods acquired by qualifying taxpayers for purposes of combatting the effects of COVID-19;

- A reduced VAT rate for supplies of certain digital publications; and

- An additional extension of certain procedural deadlines that previously had been extended to 30 April or 20 May 2020, to 30 May 2020, and of certain periods that previously had been suspended until 30 April 2020 until 30 May 2020.

Tax filing and payment deferrals

On 12 March 2020, the Spanish government announced that taxpayers with 2019 gross turnover below EUR 6,010,121.04 are entitled to deferral of the deadline for payment of qualifying tax liabilities that are self-assessed or assessed by the tax authorities and accrued in the period from 13 March 2020 to 30 May 2020 that are below EUR 30,000. The deferral of the payment deadline does not provide an extension of the deadline for filing the related tax return. To qualify for deferral, taxpayers must make an election on the relevant tax return. Deferral is granted to qualifying taxpayers for a period of six months, and no interest will accrue for the first three months.

To clarify uncertainties, the government confirmed on 12 March 2020 (and reconfirmed on 17 March 2020) that the deadlines to file tax returns and self-assessments remain unchanged unless specific approval for deferral is granted, and no general extensions have been granted.

On 14 April 2020, the government introduced a filing and payment extension of the deadline for qualifying tax returns and self-assessments for taxpayers with 2019 turnover less than EUR 600,000 that are not part of a fiscal unity for corporate income tax or VAT purposes. The filing and payment deadlines for returns that otherwise would have been due between 15 April 2020 and 20 May 2020 are extended to 20 May 2020 (15 May 2020 if the direct debit payment option is chosen).

Further specific measures have been introduced for particular taxes:

- **Corporate income tax:**

    - On 14 April 2020, a measure was introduced allowing taxpayers with 2019 turnover less than EUR 600,000 that are not part of a fiscal unity for corporate income tax or VAT purposes to make their April advance payment of corporate income tax by 20 May 2020, instead of the regular deadline of 20 April 2020.

- On 22 April 2020, the government introduced an additional option for taxpayers with 2019 turnover less than EUR 600,000 that are not part of a fiscal unity for corporate income tax or VAT purposes to calculate their advance payments of corporate income tax in 2020 (for April, October, and December). Qualifying taxpayers may calculate their advance payments under the "current year" tax liability method that is based on the taxable base for the current year, as opposed to the "prior year" liability method. Taxpayers that make an election to calculate their April advance payment on this basis will be required to compute their October and December advance payments under the current year method as well.

- **VAT**: On 22 April 2020, certain VAT rate reductions were introduced:

  - Domestic and intracommunity acquisitions of qualifying sanitary goods to combat the effects of COVID-19 where the acquirer is a qualifying entity (e.g., clinics, hospitals) will be temporarily liable to VAT at a 0% rate from 23 April 2020 until 31 July 2020.

  - The applicable VAT rate for the supply of qualifying digital books, digital newspapers, and digital magazines will be reduced to 4% as from 23 April 2020, to match the VAT rate that applies to their "hard copy" counterparts.

- **Customs and trade**: On 31 March 2020, the following measures were announced:

  - Various customs proceedings are simplified and the use of information technology resources is enabled as an extraordinary measure to facilitate the import of goods in the industrial sector and procedures related to exports, with the purpose of alleviating supply chain issues arising from COVID-19.

  - Deferral is granted for the payment of qualifying customs duty liabilities for returns filed from 2 April 2020 through 30 May 2020, provided the payer is either an individual or an entity with turnover of less than EUR 6,010,121.04 in 2019. The deferral will be granted for six months from the date that payment is due, and no interest will accrue for the first three months.

Tax audit/controversy deferrals

The Spanish government announced the extension of certain procedural deadlines on 17 March 2020 and announced further deadline extensions on 31 March 2020. Certain procedural deadlines at all administrative levels (including regional and local authorities) involving periods that began to run prior to 18 March 2020 were extended to 30 April 2020. Deadlines of which an entity or individual is notified on or after 18 March 2020 were extended to 20 May 2020, unless the deadline under the general rules for the particular situation falls after this date, in which case the later date would apply.

In addition, foreclosures on real estate carried out by the tax authorities are suspended until 30 April 2020.

On 22 April 2020, the government announced that the deadline extensions (other than the deadline for foreclosures on real estate) previously granted to 30 April and 20 May 2020, respectively, are extended to 30 May 2020.

The deadlines extended include the following:

- Deadlines for payment of tax due following an assessment from the tax authorities, as well as deadlines for payments of liabilities that are overdue and in the "enforcement period" of collection;

- Deadlines under filing extensions granted prior to 18 March 2020;

- Deadlines on auctions and adjudication processes involving the use of the taxpayer's assets to cover a tax debt;

- Deadlines to address requests from the tax authorities, "embargo" (tax lien) notices, and tax-related information requests; and

- Deadlines to submit certain appeals to the tax authorities.

The period between 18 March 2020 and 30 May 2020 will not be taken into account for the purposes of calculating the following periods:

- The maximum period granted to the tax authorities to carry out procedures or audits related to the application of taxes and levies, penalty procedures, or review procedures; and

- The statute of limitations deadlines and expiration periods relating to tax matters (generally, four years in Spain).

Certain other administrative periods and deadlines also are suspended:

- The period between 14 March 2020 and 30 May 2020 will not be taken into account when computing the maximum period granted to the economic-administrative bodies for executing their resolutions. This also applies to regional and local bodies.

- For the purposes of calculating the deadlines for submitting administrative appeals, the period will begin to run starting 30 May 2020, regardless of whether the entity or individual had been notified of the administrative act or resolution being appealed and the deadline had not been reached before 13 March 2020, or whether the entity or individual had not yet been notified on 13 March.

- In general terms, the filing window to bring certain actions before certain administrative bodies will not open until the first working day following the end of the state of emergency.

In addition:

- Where self-assessment returns are filed between 20 April 2020 and 30 May 2020 without settling the relevant tax liability, these returns will not enter the "enforcement period" of collection if the taxpayer has requested qualifying financing from the official credit institution. Several conditions apply.

- Returns filed before 22 April 2020 that already have entered the enforcement period of collection will be considered to be within the standard collection period, provided certain conditions are met.

Stamp duty

On 17 March 2020, the government clarified that an exemption is granted from the graduated stamp duty rates on notarial deeds formalizing qualifying moratoria on the payment of mortgage loans to finance the acquisition of a primary residence. The conditions to qualify for the exemption include that the deeds must be for the benefit of taxpayers whose economic circumstances have been significantly affected by COVID-19 (as defined in the relevant regulations).

Tax authority working practices

The tax offices are closed. However, civil servants are working from home. In any case, as the deadlines to respond to notifications have been postponed, it is reasonable to expect delays.

Although VAT registration in Spain generally is carried out physically at the authorities' premises, an exception has been provided due to the current circumstances so that the procedure can be carried out electronically.

Cadastral proceedings

On 22 April 2020, the government clarified that:

- Deadlines to respond to requests from the cadastral authorities that had not yet expired at 18 March 2020 have been further extended to 30 May 2020.

- The deadline to respond to the commencement of proceedings by the cadastral office of which an entity or individual is notified on or after 18 March 2020 has been extended to 30 May 2020, unless the deadline under the general rules for the particular situation falls after this date, in which case the later date will apply.

- The period between 18 March 2020 and 30 May 2020 will not be taken into account for the purposes of calculating the maximum period for proceedings initiated by the cadastral office.

Measures affecting energy companies

Companies that supply electricity and gas, as well as those that distribute gas and liquified petroleum gas, will not have to file VAT returns or electricity tax or hydrocarbon tax returns in relation to invoices due from small and medium-sized companies whose payments temporarily have been suspended. These returns must be filed either when the customer has completely paid the relevant invoices or, if earlier, when more than six months have elapsed since the state of emergency was declared; in the latter case, there should be a gradual and proportional declaration of the deferred liabilities in the returns filed over the next six months.

South Africa

Additional tax relief measures announced in response to COVID-19

On 21 April 2020, South African President Cyril Ramaphosa announced additional tax relief measures as part of the government's "second phase" to its economic response to stabilize the economy as part of its fight against the coronavirus (COVID-19). In addition to the tax measures announced on 23 March 2020, the following relief measures were announced:

- A four-month holiday for companies' skills development levy contributions;

- "Fast-tracking" of outstanding value-added tax (VAT) refunds;

- A three-month deferral in the filing and first payment obligation for carbon tax (the South African Revenue Service (SARS) announced on 24 April 2020 that the deadline is extended from 31 July 2020 to 31 October 2020; however, it is important to note that the registration for carbon tax has not been suspended and taxpayers will not be able to file the relevant documents and make payments unless they are registered with SARS);

- An increase in the previously announced annual tax turnover threshold for tax deferrals to ZAR 100 million (from ZAR 50 million) and an increase in the portion of Pay As You Earn (PAYE) payments that can be deferred to 35% (from 20%). Accordingly, tax-compliant businesses with turnover below the ZAR 100 million threshold will be allowed to defer 35% of their PAYE liabilities over the next four months. Businesses with turnover of more than ZAR 100 million a year can apply directly to the SARS for deferrals of their tax payments on a case-by-case basis. It is expected that SARS will not impose penalties for late payments of taxes, provided it can be shown that the taxpayer has been materially affected as a result of the lockdown measures in response to COVID-19; and

- The ability for taxpayers that donate to the Solidarity Fund (a funding vehicle established by government for COVID-19-related contributions) to claim up to an additional 10% (i.e., up to a total of 20% of taxable income) as a deduction from their taxable income.

The National Treasury of South Africa is expected to provide more detail on the above tax relief measures.

South Africa

Finance minister provides more detail on additional COVID-19 tax relief measures

On 23 April 2020, the South African Minister of Finance provided more detail in a media statement on the additional coronavirus (COVID-19) tax relief measures announced by the president of South Africa on 21 April 2020. Some new measures also were announced that were not included in the president's speech on 21 April 2020.

The additional clarifications and new measures are outlined below:

- **Skills development levy holiday:** This will take effect on 1 May 2020; from this date, a four-month holiday from contributions (1% of total salaries) will be provided.

- **"Fast-tracking" of value-added tax (VAT) refunds:** To enable a faster input tax refund process, VAT vendors that are in a net refund position will be permitted to elect to file monthly (instead of bi-monthly) VAT returns. This will be implemented for a limited period of four months, starting from 1 April 2020. The South African Revenue Service (SARS) systems to accommodate this are expected to be in place in May 2020; this will enable "Category A" vendors, which otherwise would not have filed until June 2020 in respect of the April/May 2020 VAT period, to file VAT returns in May for the April period.

- **A 90-day deferral for the payment of excise taxes on alcohol and tobacco:** This measure was not among those announced by the president on 21 April 2020. It is intended to alleviate the financial hardship currently being faced by the alcohol and tobacco industries. Due to the current restrictions on the sale of alcohol and tobacco, producers in these industries are liable for large excise duty bills, while no sales of product are occurring. Accordingly, payments due in May 2020 and June 2020 will be able to be deferred by 90 days for excise-compliant businesses, to more closely align tax payments with retail sales.

- **Postponement of the implementation of the Budget 2020 measures with respect to the limitation of interest deductions and carry forward of assessed losses:** Two tax proposals announced by the Minister of Finance in his 2020 Budget Speech that were meant to be effective for years of assessment commencing on or after 1 January 2021 will now be postponed to at least 1 January 2022:

  - The restriction of net interest expense deductions to 30% of earnings; and

  - The limitation on the use of assessed losses carried forward to 80% of taxable income.

- **An expanded employment tax incentive (ETI), through increasing the ETI claim to ZAR 750:** The initial set of COVID-19 tax relief measures provided for an increased wage subsidy applicable for a limited period of up to ZAR 500 per month for employees who fall outside of the ETI program, either due to their age or due to their employer already having claimed the ETI for the full 24-month period in respect of their employment ("non-qualifying employees"), which will be increased to ZAR 750 per month. In addition, the maximum amount claimable under the ETI program in respect of qualifying employees will be increased from ZAR 1,000 to ZAR 1,500 for the first qualifying 12 months, and from ZAR 500 to ZAR 1,000 for the second qualifying 12 months.

- **Case-by-case application to SARS to defer tax payments without incurring penalties:** Larger businesses with annual gross income of more than ZAR 100 million that can show that they are incapable of making tax payments due to COVID-19, i.e., "materially and negatively impacted" businesses, may apply directly to SARS to defer tax payments without incurring penalties. These businesses may contact their relationship manager through the SARS Large Business Centre to initiate the application. Similarly, businesses with annual gross income of less than ZAR 100 million can apply directly to SARS for an additional deferral of payments without incurring penalties.

- **Adjustment of employees' tax for donations made through the employer:** Under the current employees' tax rules, employers can factor in donations of up to 5% of an employee's salary on a monthly basis for Pay As You Earn (PAYE) purposes, thereby allowing for a reduction of an employee's monthly PAYE withholding for donations made by the employer to certain approved public benefit organizations. An additional percentage of up to 33.3% will now be able to be factored in, depending on the employee's circumstances and for a limited period, for donations to the Solidarity Fund (the funding vehicle established by government for COVID-19-related contributions). No detail has been provided on the "employee circumstances" that will be a relevant determinant in permitting an increased percentage. It also is not clear whether the intention is to limit the additional relief to donations made to the Solidarity Fund only, or whether donations made to any COVID-19 disaster relief fund will qualify.

The draft Disaster Management Tax Relief Bill and the draft Disaster Management Tax Relief Administration Bill (the "COVID-19 draft tax bills") that were published on 1 April 2020 will be revised to take into account the above-mentioned relief measures, and it is expected that the revised COVID-19 draft tax bills will be published for further public comment on 30 April 2020.

Although it is unclear, it appears that the legislative process applicable to the COVID-19 draft tax bills will follow a more expedited process than that of certain other tax legislation.

South Africa

VAT considerations in light of demand for electronic services due to COVID-19

One of the effects of the coronavirus (COVID-19) has been an increase in the demand for electronic services, and it is important for suppliers of such services to be aware of and comply with the relevant value-added tax (VAT) rules in the jurisdictions to which they provide services. Suppliers providing electronic services to recipients in South Africa (SA) should ensure they are familiar with significant changes to the regulations relating to the VAT treatment of electronic services that are effective as from 1 April 2019. The national budget speech delivered on 26 February 2020 also highlighted key considerations in this industry.

COVID-19 has changed many aspects of the way in which the world functions and has fundamentally affected the way that persons interact with each other. A new way of day-to-day life has emerged and, as a result, the way in which economies function will undergo fundamental changes. Numerous electronic services providers have announced a significant increase in the demand for their services and, as a result, tax functions must monitor the applicable rules in the jurisdictions to which electronic services are provided, to ensure compliance with VAT legislation globally.

A refresher on the South African electronic services regulations effective as from 1 April 2019 is provided below, along with some comments on how the changes affect nonresident electronic services suppliers. As mentioned above, the 2020 national budget speech also touched on certain points relevant to electronic services suppliers, which are noted below.

Electronic services regulations effective from 1 April 2019

- A broad overarching definition of electronic services replaced the previous list of specific services. In essence, all services supplied by means of an electronic agent, an electronic communication, or the internet in exchange for consideration will qualify as electronic services. The intention is to subject electronic services to VAT that are provided using minimal human intervention, are dependent on information technology, and are automated. The explanatory memorandum to the new regulations states that if, for example, a legal opinion is prepared by a nonresident outside SA and sent to a person in SA via email, that supply will fall outside the ambit of the regulations.

- Certain supplies within a group of companies are excluded from the regulations, provided that the services are supplied in specific circumstances and exclusively for the purposes of consumption by the resident company, i.e., the resident company is the end user. In our experience, the "group of companies" exclusion has limited application in practice, and should be carefully considered before being applied.

- The activities of an "intermediary" are included in the ambit of an enterprise. Intermediaries will be required to account for VAT on behalf of electronic services suppliers.

- The previous VAT registration threshold of ZAR 50,000 for electronic services increased to ZAR 1 million in a 12-month period, to align with the domestic compulsory VAT registration threshold.

Impact of changes on foreign electronic services suppliers

- Nonresident electronic services suppliers that were excluded from the ambit of the previous version of the regulations on the basis that their services fell outside the specific listed electronic services could now have a VAT registration liability. This is due to the new overarching definition of electronic services.

- The value of applicable services would need to be calculated from 1 April 2019 to determine whether the threshold is reached. The effective date of a VAT registration and resultant liability for VAT could commence as early as 1 May 2019.

- There is still no distinction between business-to-business (B2B) and business-to-customer (B2C) supplies.

- One of the pertinent events that creates a risk that nonresident suppliers will fall into the South African VAT net is the receipt of certain management fees or royalty fees. Where a management fee is broken down based on the core services provided, a nonresident supplier should consider whether there are elements of electronic services that it may be providing to a subsidiary in SA, such as the use of software, cloud computing charged to the subsidiary, etc. Any management or royalty fees with elements of electronic services could result in a potential VAT registration liability in SA.

- Foreign suppliers also should consider whether secondments of their staff into SA could potentially create an increased VAT registration liability. In practice, we have found that secondments to SA often happen where electronic services are supplied and, therefore, this is an important consideration.

- If a nonresident has obtained a ruling from the South African Revenue Service (SARS) in the past with regard to electronic services, the ruling will need to be assessed and may need to be reapplied for based on the new regulations.

Highlights from the 2020 National Budget Speech

During his national budget speech, delivered on 26 February 2020, the South African Minister of Finance announced the following proposals with regards to electronically supplied services:

- It is proposed that intermediaries be permitted to account for VAT on a payments basis; and

- It is proposed that the definition of "telecommunications services," which are excluded from the definition of electronic services, be clarified due to unintended consequences of the current definition.

These highlights outline some of the government's priorities for the next financial year.

United Kingdom

VAT zero-rating measures

E-publications: VAT zero rate introduced from 1 May 2020

The government has announced that plans to remove VAT on e-publications have been fast-tracked and came into effect on 1 May 2020. As a result of the COVID-19 lockdown, publishers have been reporting an average increase of about a third in e-book consumption, and the Chancellor of the Exchequer has opted to bring the zero-rating forward. The tax authorities have published Revenue and Customs Brief 3(2020) and other guidance which provides more detail and confirms that they do not accept the Upper Tribunal's decision in News Corp, and do not accept that e-publications are already covered by existing legislation.

Statutory Instrument 2020/459, which brings the changes into force, therefore does so by introducing a new Item 7 into Group 3 of Schedule 8, VATA 1994. Products which are wholly or predominantly devoted to advertising, audio or video content will not be covered. A Tax Information and Impact Note has also been published. Because of the sudden expansion of the market it does not contain estimates of the size of the relief, which at the time of the Budget in March was expected to be around £175m annually.

Personal Protective Equipment: temporary VAT zero rate introduced

The government has announced that supplies of personal protective equipment (PPE) made between 1 May and 31 July 2020 will be zero-rated. Relief from customs duty and import VAT has already been introduced with effect from January 2020, but this did not extend to domestic supplies of PPE.

The new measure, which is being introduced by Statutory Instrument 2020/458, zero-rates supplies of equipment recommended by Public Health England for those dealing with COVID-19, including disposable gloves, aprons and gowns, surgical masks and filtering

respirators, and visors or goggles. Some further explanation is provided in Revenue and Customs Brief 4(2020) and in a Tax Information and Impact Note. Guidance in Notice 701/57 and VATHLT2021 has been updated accordingly.

Zimbabwe

Expedited processing of VAT refunds announced

On 30 March 2020, the Commissioner General of the Zimbabwe Revenue Authority (ZIMRA) issued a public notice (Public Notice number 20 of 2020) to provide relief measures to alleviate liquidity pressures of taxpayers brought on by the COVID-19 pandemic.

In terms of the notice, the processing of value added tax (VAT) refunds will be expedited to ensure taxpayers receive their refunds within 30 days provided that:

- The taxpayer submits a complete and correct VAT return (VAT 7) by the due date;
- The supporting VAT input tax schedules are attached to the return, separately showing the tax invoices paid in Zimbabwean currency (ZWL) and those paid in a foreign currency;
- The taxpayer's information is up to date with the tax authorities, including:
    - Banking details (for both local currency and foreign currency accounts); and
    - Contact and other relevant details of the public officer and other personnel tasked with handling queries that may arise.
- For refund set-off arrangements, the taxpayer must have made prior arrangements in writing.

In addition, taxpayers claiming refunds must ensure that all other tax obligations are up to date.

Taxpayers that have traded, transacted or received payments in a foreign currency should ensure that they complete PART 5 of the VAT return with respect to declarations of transactions and remittances of taxes in foreign currency.

Taxpayers are reminded that all refunds remain subject to audit as and when ZIMRA deems appropriate.

The full notice may be accessed on ZIMRA's website.

Other news

European commission

European Commission proposes to delay entry into force of VAT e-commerce package

As part of a broader postponement of EU taxation measures proposed on 8 May 2020 in response to the COVID-19 related difficulties currently faced by EU businesses and member states, the European Commission has proposed to delay the entry into force of the VAT e-commerce package by six months.

The new rules, under which all business-to-consumer (B2C) sales of goods to EU consumers would be taxed in the destination member state, would apply as from 1 July 2021 instead of 1 January 2021. This would allow member states and businesses more time to prepare for the necessary changes.

The e-commerce VAT package

On 5 December 2017, the European Council adopted legislative proposals to change substantially the VAT rules for online sales of goods in Europe. These rules were supplemented by amendments to the European VAT Directive, and a new Implementing Regulation 282/2011 in 2019, and were intended to be effective as from 1 January 2021.

Under the new rules, all B2C supplies of goods to customers in the EU would in principle be taxed at their destination. Their origin, whether EU or non-EU, no longer would be relevant. This would mean significant changes to the taxation of e commerce.

For goods entering the EU from outside EU territory, the current import exemption for low value goods (intrinsic value below EUR 22) would cease to exist.

For supplies within the EU, the distance sales regime (with the obligation to register for VAT when generating annual sales above EUR 35,000 or EUR 100,000, depending on the country) would be replaced by an obligation for the supplier to apply VAT in the member state in which the customer is located when EU-wide cross-border B2C sales exceed EUR 10,000 per year.

VAT reporting in respect of these supplies of goods would be simplified by the use of different "One Stop Shop" reporting (OSS) systems, allowing vendors to declare and pay VAT through a tax portal in a single member state. In addition to a Union OSS for cross-border supplies within the EU, an Import OSS is envisaged to declare and pay VAT on the supply of low value goods imported from outside the EU, as an alternative to paying import VAT upon customs clearance of those goods.

A specific role also is foreseen for online marketplaces or platforms that would, in certain situations, be liable for VAT on B2C sales that they facilitate.

Proposed extension

The scope of the changes contained in the VAT e-commerce package would have a profound effect on the business model of e-commerce vendors selling goods to EU consumers. Significant investment both of time and resources likely would be required to enhance or adapt systems and processes by a broad range of businesses (marketplaces, vendors, logistics providers, postal operators, etc.), as well as members states' tax and customs authorities.

As a result of the COVID-19 outbreak, member states are facing numerous challenges at national level, that may present difficulties in guaranteeing a timely implementation of the changes required by the VAT e-commerce package to domestic IT systems. Businesses also are encountering difficulties in ensuring readiness by 1 January 2021, particularly postal and courier operators.

Given that provisions regarding the functioning of the VAT e-commerce package are based on the principle that all member states should be in a position to apply them correctly, the Commission has suggested delaying the entry into force of the provisions until 1 July 2021. Member states then would have until 30 June 2021 to adopt and publish national measures implementing the VAT e-commerce package.

Comments

The proposed postponement is not surprising, given the significant changes required to implement the VAT e-commerce package, particularly for imports, and the scale of the challenges presented to by both member states and businesses by COVID-19.

Formal adoption of the proposal requires action by the European Parliament and the EU Council. While the Commission is suggesting a six-month extension, it is possible that certain member states may request a longer delay. Such requests seem unlikely to be accepted, given the significant budgetary effect of the new regime for member states.

In the meantime, it is important that both affected businesses and member states continue their preparations for the transition to the new rules. To date, only eight member states have issued (draft) legislation to implement the VAT e-commerce package. Helpful guidance is anticipated in the explanatory notes prepared by the European Commission, in collaboration with the member states and business community, expected to be published before the summer of 2020.

European Commission

Commission closes four infringement procedures over VAT quick fixes

On 14 May 2020, the European Commission announced that the infringement procedures against Denmark, Romania, Spain, and the UK, in respect of their failure to implement the four VAT "quick fixes" in connection with intra-Community supplies contained in EU Directive 2018/1910 as from 1 January 2020 had been closed, since the three member states and the UK had amended their legislation.

The Commission on 24 January 2020 originally had issued" letters of formal notice" to 12 EU member states. Subsequently, on 2 April 2020, the Commission announced the closure of the infringement procedures against Belgium, France, and Luxembourg.

The quick fixes (concerning call-off stock arrangements, chain transactions, and application of the VAT exemption for intra-EU supplies of goods) were included in a package of measures adopted by the EU Council in 2018 to improve the cross-border VAT regime pending the introduction of the “definitive” VAT system, which is not expected until 2022.

European Union

CJEU rules on independent EU subsidiary as VAT fixed establishment of non-EU parent

In a 7 May 2020 decision (C-547/18), the Court of Justice of the European Union (CJEU) confirmed that a subsidiary does not automatically qualify as a fixed establishment of a foreign (non-EU) parent for VAT purposes. A service provider must determine the recipient

of its service based on commercial and economic reality, and is not obliged to investigate the relationship between a parent and its subsidiary to determine whether the subsidiary may qualify as a fixed establishment.

Background

Dong Yang Electronics (Poland) supplied manufacturing services to LG Display Co. Ltd. (Korea) for the assembly of printed circuit boards. The raw materials were provided to Dong Yang by a Polish subsidiary of the Korean company.

Under the general business-to-business (B2B) rule for services, no VAT was charged on those services. The Polish tax authorities took the position that the Polish subsidiary of LG Display Co. Ltd. qualified as a fixed establishment of the Korean company in Poland, and that Dong Yang Electronics should have charged Polish VAT on the services provided.

The Polish court referred the case to the CJEU and asked the CJEU to consider (i) whether the mere presence of a local subsidiary is sufficient for a supplier to conclude that a non-EU customer has a local fixed establishment receiving the service, and (ii) if not, whether a supplier is required to examine the contractual relationship between a parent company established outside the EU and its EU subsidiary to determine whether or not a fixed establishment exists?

Decision of the CJEU

In delivering its judgment, the CJEU starts with the general principle that in order to locate B2B services for VAT purposes, the most appropriate, and, therefore, the primary point of reference for determining the place of supply of services is the location at which the taxable person has established their business. Only where that place of business does not lead to a rational result, or creates a conflict with another member state, may another establishment come into consideration.

The CJEU confirms that a subsidiary may qualify as a fixed establishment of its non-EU parent where the subsidiary is characterized by a sufficient degree of permanence, together with a suitable structure in terms of both human and technical resources to enable the foreign entity to receive and use the services supplied to it for its own needs. This must be determined based on the commercial and economic reality.

From a service provider perspective, however, the tests as set out in article 22 of Regulation 282/2011 apply. The service provider initially must consider the nature and use of the service; followed by the contract, order forms, and VAT numbers used. Where the answer remains unclear, the service provider is, by default, the business establishment.

The service provider is, therefore, not required to investigate the contractual relationship between the customer and its subsidiaries to determine where the customer is established from a VAT perspective.

The CJEU does not completely rule out the existence of a fixed establishment for LG Display Co Ltd. in Poland, but confirms that such an establishment cannot be inferred merely from the existence of a Polish subsidiary. Furthermore, Dong Yang cannot, as a service provider, be expected to enquire into the contractual relationship between different LG group entities to determine whether one is an establishment of the other.

Implications of the decision

The case is particularly important for member states where local tax authorities argue that subsidiaries constitute a fixed establishment of a foreign non-EU related company, in order to change the service location from a VAT perspective, and assess local VAT (instead of imposing VAT under the reverse charge mechanism). The case brings relief for service providers facing such challenges where they correctly apply the specified tests to determine the VAT treatment of their services. However, the case fails to answer the more fundamental question of when a foreign parent company may be considered as locally established through a local, legally independent, subsidiary.

USMCA

USMCA to enter into force on 1 July 2020 as US progresses its implementation steps

On 24 April 2020, the US Trade Representative (USTR) notified the US Congress, as well as the Mexican and Canadian governments, that the US completed its internal procedures required for the United States-Mexico-Canada Agreement (USMCA or agreement) to take effect. Mexico and Canada had already provided their notifications on 2 and 3 April 2020, respectively. With all three countries' notifications now issued, the USMCA is expected to enter into force on 1 July 2020.

In addition to providing its notification, the US government has published additional guidance on the practical interpretation and implementation of the agreement.

USTR releases procedures for the automotive alternative staging regime

Under the USMCA, the automotive industry must meet updated rule of origin (ROO) requirements for goods to be eligible for preferential tariff treatment. The USMCA includes phase-in periods for certain ROO requirements; e.g., a Regional Value Content (RVC) threshold will increase annually from the date of entry into force. The phase-in timing differs by vehicle type. This regime is referred to as the standard staging regime (SR). The USMCA also allows automotive manufacturers to request an Alternative SR (ASR).

To this end, on 21 April 2020, the USTR released procedures for the submission of petitions by US companies looking to claim preferential origin under an ASR. ASRs can last a total of five years for passenger vehicles and light trucks. To qualify for an ASR, vehicle producers must submit a draft petition by 1 July 2020 that sets forth certain details, including vehicle models, the duration of the proposed ASR as from 1 July 2020, and a certification that the producer will meet the ASR requirements. Subsequently, the vehicle producer must submit a petition with its final ASR no later than 31 August 2020.

The quantity of passenger vehicles or light trucks subject to an ASR cannot exceed 10% of total number of such vehicles produced by a single automotive manufacturer. If a manufacturer wishes to apply an ASR for more than 10% of its production, it must request permission by completing an extended petition.

Heavy truck producers may also apply for an ASR so long as the heavy trucks meet the same requirements as passenger vehicles or light trucks, such as the 10% limitation.

If the USTR identifies deficiencies in the petition, it will notify the applicant no later than 30 days after receipt. The petitioner then will have until 31 August 2020 to submit its revised plan.

ASRs will:

- Exempt producers from the core parts requirement;

- Extend the transition period up to five years instead of the three-year SR phase-in period; and

- Introduce additional leniency for the requirements related to RVC, steel and aluminum (S&A) purchasing, and Labor Value Content (LVC).

Finally, ASRs approved by the US will only be valid for imports into the US. Should the producer be interested in an ASR for imports into Canada or Mexico, a separate process must be completed for the given territory.

CBP issues USMCA implementation guidance

On 16 April 2020, US Customs and Border Protection (CBP) released initial guidance on the implementation of preferential claims under the USMCA. Among other things, it addresses the following topics:

Country of origin marking rules for goods imported from Canada or Mexico

Under the USMCA, except for agricultural goods, the NAFTA marking rules (19 CFR Part 102) will no longer be required: a good will *not* need to first qualify to be marked as a good of Canada or Mexico before meeting the rule of origin under General Note 11 to receive preferential tariff treatment.

Also, the USMCA special program indicator will be "S."

Post-importation claims of preferential origin permitted, but excludes MPF refunds

If preference was not claimed at the time of importation, the USMCA allows importers to make a post-importation claim to request a refund of excess duties within one year of importation under the refund statute (19 USC section 1520(d)). However, the Merchandise Processing Fee will not be refunded on a post-importation claim.

Automotive-specific rules of origin

For a vehicle to be eligible for preferential treatment, the importer, exporter, or producer must certify to CBP that it complies with the LVC, RVC, and S&A requirements. Of note, LVC information must also be submitted to the US Department of Labor (DOL).

CBP also provided a list (subject to revisions) of Harmonized Tariff Schedule codes at the 6-digit level for which S&A purchasing requirements will apply.

Establishment of Interagency Labor Committee

On 28 April 2020, the White House issued an Executive Order establishing an Interagency Labor Committee for Monitoring and Enforcement pursuant to section 711 of the USMCA Implementation Act. The committee will be co-chaired by the USTR and DOL, and will include representatives from the Department of State, Department of the Treasury, Department of Agriculture, Department of Commerce, Department of Homeland Security, and US Agency for International Development. Other agencies may be invited to join the committee, as deemed appropriate by the co-chairs.

The committee will be responsible for the following activities:

- Overseeing labor obligations;

- Monitoring Mexican labor reform; and

- Providing suggestions for Mexican and Canadian enforcement actions.

Australia

GST withholding: Transitional treatment ending for residential sale contracts

Since 1 July 2018, purchasers of taxable new residential premises in Australia, or land that could be used to build new residential property (potential residential land), generally have been required to retain part of the purchase price for their transaction and pay it to the Australian Taxation Office (ATO) at settlement (goods and services tax (GST) withholding).

The GST withholding amount is, in effect, an estimate of the supplier's actual GST liability, and will generally be:

- 7% of the contract price for margin scheme supplies; or

- 1/11th of the contract price for fully taxed supplies.

The GST withholding rules also apply to supplies of taxable new residential property or potential residential land by way of longterm lease (i.e., a lease of at least 50 years).

Transitional rules

Under transitional rules for the GST withholding measure, GST withholding is not required for supplies that:

- Were made under a sale contract that was executed before 1 July 2018; and

- Where any consideration for the supply (ignoring genuine security deposits) is provided before 1 July 2020.

Where the transitional rules apply, the vendor receives all of the purchase price (i.e., without deduction for any GST withholding) and remits its GST liability on the supply to the ATO when lodging its business activity statement (BAS) for the tax period when settlement of the transaction occurs.

Implications for residential property developments likely to be completed in mid-2020

With transitional treatment for contracts made before 1 July 2018 coming to an end, developers and purchasers will need to closely monitor the likely settlement date for such contracts in the lead up to and after 1 July 2020, in order to correctly apply the GST withholding and transitional rules, and manage the risk of potentially substantial penalties.

The key GST impacts and practical considerations are summarized below:

Contracts made before 1 July 2018 where any consideration (other than any security deposit) is provided before 1 July 2020	**Contracts made before 1 July 2018 and consideration (other than any security deposit) is only provided on or after 1 July 2020, and contracts made on or after 1 July 2018**
• No GST withholding by purchaser • Vendor is not required to notify purchaser about absence of GST withholding obligation; however, it may be prudent for vendor to do so • Vendor remits GST liability to ATO	• Before settlement, vendor should determine whether the contract will give rise to a GST withholding obligation for the purchaser (some property transactions are excluded from the withholding obligation, e.g., new residential premises created through substantial renovations, potential residential land supplied to a GST registered purchaser acquiring it for a creditable purpose, etc) • Before settlement, vendor must notify the purchaser whether or not GST withholding is required. If GST withholding is required, the notification must include prescribed information including the withholding amount, when it must be paid to the ATO by, the name of the entity liable to the GST and its ABN (in some circumstances an entity other than the vendor may be responsible for reporting and remitting GST on the transaction). The notification can be in the contract of sale or done separately in writing • Failure to notify a purchaser exposes vendor to a penalty of at least AUD 21,000 (potentially five times this amount for corporate vendors), and arguably could risk voiding the contract under which the sale or lease occurs • Purchasers with GST withholding obligations must lodge two online forms with the ATO • The entity liable to the GST on supplies subject to GST withholding must report those supplies at label G1 on the BAS, and the actual amount of the GST liability on those sales at label 1A. That entity will receive a credit into its activity statement account for GST amounts withheld and remitted by purchasers when its BAS is lodged

If the contract price has been varied by the parties before settlement, the GST withholding calculation should take the variation into account. Adjustments of the kind normally made on the day of settlement (e.g., for municipal rates, water rates, land tax, etc.) usually are disregarded for the purpose of the GST withholding amount calculation.

In some circumstances, the GST withholding amount will require a different calculation method (e.g., supplies between associates, supplies for non-monetary consideration, etc.).

Relief for property development agreements entered into before 1 July 2018

In conjunction with the introduction of the GST withholding measure, the government also introduced a relief measure for qualifying property development agreements that were themselves entered into before 1 July 2018. This measure continues with indefinite ongoing effect.

The measure is directed at preserving the position of parties to pre-1 July 2018 development agreements in circumstances where:

- There is an agreed distribution (waterfall) payment arrangement for consideration received from property purchasers;

- The timing of the execution and/or settlement of any of the sales contracts results in GST withholding by purchasers; and

- The parties would not be in the same position as they would have been in if there was no GST withholding obligation.

Waterfall payment arrangements prescribe how purchase consideration will be distributed among the parties to a development agreement, including distributions to the party that must remit GST to the ATO in respect of taxable supplies made. For pre-1 July 2018 development agreements, this would potentially result in a windfall gain for that party in relation to supplies where the purchaser has withheld the GST and paid it directly to the ATO.

The measure applies to preserve the pre-1 July 2018 contractual position agreed by the parties to a qualifying development agreement by making a statutory change to the contractual terms, such that the amount of GST withholding payments made to the Commissioner by purchasers are deemed to have been distributed to the entity liable for the GST on the affected supplies.

China

Tax and trade measures approved to stimulate economic recovery

On 7 April 2020, China's State Council introduced tax and trade measures to stimulate economic recovery from the effects of COVID-19

New cross-border e-commerce zones

The State Council approved the establishment of an additional 46 cross-border e-commerce zones (currently there are 59 zones). E-commerce businesses established in these zones are exempt from value-added tax (VAT) and consumption tax on exported retail goods and subject to less stringent requirements as compared to exporters established outside of these zones. Furthermore, these e-commerce businesses may use a simplified method to calculate enterprise income tax (EIT) that could reduce tax compliance costs.

Processing trade relief

New trade and tax measures were introduced regarding the "processing trade relief" regime, which allows a domestic manufacturer to import materials in a bonded status to process into finished goods for export without the need to pay duty and import taxes. If the manufacturer does not export such goods but, rather, sells the goods in the domestic market, the duty and import taxes previously waived would be reinstated.

Under the new measures, manufacturers that sell into the domestic market between 15 April and 31 December 2020 and have had duty and import taxes reinstated will not be subject to interest on such duties and taxes. In addition, for manufacturers established in a comprehensive bonded zone (i.e., a special customs supervision area), an election is available to determine the amount of any reinstated duty by reference to the value and applicable rate of either the finished goods or the imported materials. Prior to this measure, only manufacturers established in certain pilot comprehensive bonded zones were able to make the election; under the new measures, this election is available in all comprehensive bonded zones.

Extension of certain tax incentives

In order to provide economic assistance to small and micro-sized businesses, farmers, and sole proprietors, certain expired preferential tax policies have been extended through 31 December 2023, including:

- The VAT exemption on interest income received by financial institutions on loans of up to RMB 1 million to small and micro-sized businesses, farmers, and sole proprietors (if already paid then such VAT can be refunded or used to offset future VAT payments); and

- The exclusion from taxable income for EIT purposes of 10% of the insurance premiums received for insuring agricultural activities (e.g., planting, breeding).

Colombia

DIAN issues new regulations on electronic invoicing

On 5 May 2020, Colombia's National Tax Authority (DIAN) issued new regulations on electronic invoicing (e-invoicing) in the form of Executive Order 42. The regulations specify the types of business obliged to issue e-invoices, the required content and format of e-invoices, and the implementation deadlines. The regulations also set out the conditions for the issuance, transmission, and validation of e-invoices, and the requirements to be met by technological providers offering e-invoicing systems.

The new regulations are required as a result of the Constitutional Court's decision in October 2019 that Law 1943 of 2018 (Financing Law) that originally introduced mandatory e-invoicing was unconstitutional. The law was revoked by the court due to procedural defects. Subsequently, on 5 February 2020, the DIAN issued a ruling confirming that executive orders relating to e-invoicing issued in 2019 in accordance with that legislation are no longer enforceable. Hence, new regulations are required to implement e-invoicing in 2020.

Key aspects of the regulations include the following:

Businesses obliged to issue e-invoices

The following are obliged to issue e-invoices:

- Agents responsible for the payment of VAT or national consumption tax;

- Companies and individuals who practice one of the "liberal professions" (e.g., lawyer, accountant, notary, engineer, architect, doctor, dentist, etc.), or sell agricultural goods (both taxpayers and nontaxpayers, other than those expressly not obliged to issue sales invoices);

- Other businesses, importers, service providers, and retailers;

- Typographers and lithographers whose services are excluded from VAT; and

- Businesses and individuals subject to the "SIMPLE" taxation regime applicable to small taxpayers.

Requirements of e-invoices

The executive order lists 18 requirements for e-invoices, including that they must:

- Be expressly denoted as a sales invoice;

- Contain the full individual name or business name, and taxpayer identification number (NIT) of the seller, or the service provider; and

- Include the consecutive invoice number authorized by DIAN, including the authorization number, the range of invoice numbers authorized, and the period for which the authorization is valid.

The order provides for a number of equivalent documents that may be used in place of e-invoices, and sets out specific minimum requirements for each one. The equivalent documents are:

- Point of sale (POS) invoices;

- Cinema tickets, and tickets for entry to any form of public entertainment;

- Tickets for passenger transport, including air travel;

- Bank statements (where the taxpayer obliged to issue the invoice/equivalent document is a trust);

- Tickets for any gambling game;

- Toll tickets;

- Proof of settlement of operations issued by the stock exchange;

- Documents of operations of the agricultural stock market and other commodities;

- Bills issued by public utilities; and

- Electronic equivalent documents (these may comprise any of the equivalent documents mentioned, and further details are to be provided by DIAN).

Deadlines for implementing e-invoicing

The deadlines to register and obtain prior validation, and subsequently issue e-invoices vary depending on into which of three groups the business or individual falls. The required start dates for e-invoicing are as follows:

- Persons obliged to issue e-invoices as a consequence of their main economic activity code: Between 15 June 2020 and 11 November 2020;

- Persons obliged to issue e-invoices irrespective of their main activity code (including public entities, education institutions, insurance entities, individuals obliged to issue e-invoices with income higher than 3,500 tax value units (UVT), etc.): Between 15 June 2020 and 11 November 2020; and

- Persons newly obliged to issue e-invoices: Within two months after acquiring the obligation.

Finland

Overview of recent indirect tax updates

The Finnish government released the following updates relating to indirect taxes during April 2020:

New form of VAT return

A new Finnish VAT return form is expected to be released during summer 2020, and taxpayers will be required to use the new form as from 2022. According to the Finnish Tax Administration (FTA), the current VAT return form is being updated because the information included on the form is not sufficient.

Excise duty and car tax changes

On 23 April 2020, the Finnish government proposed new excise duty and car tax procedures that would take effect as from 1 January 2021. According to the proposal, excise duties would be self-assessed, and related changes would be made to the excise duty reporting, payment, appeal and penalty procedures. In addition, the FTA's new information system would be able to be used for excise duties and car tax.

New guidance on distance selling

On 17 April 2020, the FTA issued updated guidance for distance sellers of products that are subject to excise duty in Finland. The guidance, for example, clarifies the definition of distance sale and provides additional details on the tax liabilities and reporting and payment processes for distance sellers. With respect to alcohol, the guidance does not state whether distance selling of alcohol into Finland is legal, but covers only the excise duty aspects related to the topic. The guidance for distance sellers is published on the FTA's website.

New guidance on proof of intra-EU transport released, additional VAT relief announced

Recent indirect tax developments in Italy include the release of a ruling (No. 117) providing clarifications on proof of intra-EU transport on 23 April 2020 and an announcement from the prime minister on 27 April 2020 regarding additional VAT relief measures to be introduced in response to the coronavirus (COVID-19), including that there will be no increase in the VAT rates for 2021.

Clarifications on proof of intra-EU transport, after introduction of article 45a of EU Regulation 282/2011

With Ruling No. 117, the tax authorities provide further official clarifications on the level of sufficient proof of intra-EU transport for purposes of obtaining VAT-exempt treatment, to be kept by an Italian supplier making intra-EU supplies of goods under "Ex Works" Incoterms, i.e., international trade terms for situations in which goods are delivered at the seller's premises and the buyer is responsible for further transportation of the goods.

With this official reply to a ruling request, released after the entry into force of Council Implementing Regulation (EU) 2018/1912 (which amended EU Regulation 282/2011 and introduced certain VAT "quick fixes" agreed upon at the EU level, including harmonized rules in article 45a for documenting intra-EU transport of goods, effective as from 1 January 2020), the Italian tax authorities confirm their position taken in the past with Ruling No. 100, dated 8 April 2019. The tax authorities reiterate in Ruling No. 117 that proof of intra-EU transport will be deemed sufficient as long as the following conditions are fulfilled:

- They are able to identify all the parties involved (Italian supplier, carrier, and EU purchaser) and the relevant data for the underlying intra-EU transaction is provided; and

- The documentation is retained by the Italian supplier, along with the relevant intra-EU sales invoices, bank documents, contracts, and Intrastat forms.

To satisfy the requests for additional clarification expressed by economic operators, there are rumors that the Italian tax authorities may soon release a circular letter providing some procedural guidelines with respect to practical scenarios.

Additional COVID-19 relief

The prime minister has announced the upcoming introduction of the following VAT relief measures (although no draft legislation has yet been published):

- A new VAT exemption for the supply of respiratory face masks; and

- That there will be no increase to the VAT rates for 2021 (an increase of the standard VAT rate from 22% to 25% and an increase of the reduced 10% VAT rate to 12% had been planned for 2021).

CJEU rules that Italian financial transactions tax is compatible with EU law

On 30 April 2020, the Court of Justice of the European Union (CJEU) held in the case of Société Générale (C-565/18), that the Italian financial transactions tax is compatible with EU law. The court partially followed Advocate General (AG) Hogan's opinion delivered on 28 November 2019.

Background

The Italian FTT is payable on the transfer of ownership of shares issued by an Italian entity, and the transfer of derivative financial instruments that have as underlying assets financial instruments governed by Italian law. FTT is charged at 0.2% on the value of share transfers and is payable by the transferee. In the case of derivatives, the tax is payable by each of the parties to the transaction at a fixed rate, depending on the nature and nominal value of the instrument involved. The tax is due irrespective of where the transaction is concluded, or the place of residence of the contracting parties. The tax is levied by intermediaries involved in the transactions.

The taxpayer argued that the tax is not in line with EU law for two reasons: (i) it may discourage foreign investors from investing in derivative financial instruments that involve assets governed by Italian law; and (ii) the tax results in administrative and reporting obligations in Italy, in addition to those applicable in the state(s) of residence of the contracting parties.

The referring court asked the CJEU to consider whether the FTT would be contrary to the freedom to provide services (article 56), or the free movement of capital principle (article 63) of the Treaty on the Functioning of the European Union (TFEU).

Decision of the CJEU

The CJEU disagreed with the taxpayer, finding the Italian financial transactions tax to be equally applicable to residents and nonresidents, and to affect only transactions involving the issuance of securities by Italian companies. The amount of the tax liability does not depend on the place where the transaction is concluded, or the state of residence of the parties involved, but depends only on the amount of the transaction and the type of instrument. Consequently, the CJEU decided that domestic and cross-border transactions are treated in the same way, and that residents and nonresidents are not treated differently. Having regard to the objective of the tax (i.e., guaranteeing that entities conducting financial transactions involving such instruments contribute to government expenditure), residents and nonresidents are in a comparable situation.

Where a different treatment would apply to derivatives of which the underlying shares are governed by Italian law, or the law of another EU member state, there would be a disadvantageous treatment of cross-border situations. However, this also would not be considered an infringement of EU law, as according to the CJEU, this would qualify as a "disparity." Such a disparity can be resolved only via harmonization; EU member states are not obliged unilaterally to adapt their legislation to the legal systems of other EU member states.

Since the Italian referring court did not provide further information on the potential different administrative and filing obligations for residents and nonresidents, the CJEU could not rule on this point. However, it does not follow from the preliminary request that the obligations for nonresidents differ from the obligations for residents, or that the obligations for nonresidents exceed those necessary for collection of the Italian financial transaction tax.

Peru

Procedure introduced to use overpayment of corporate tax to offset other tax debts

The Peruvian tax authorities (SUNAT) published a specific procedure and an online form on their website in April 2020 that taxpayers may use to request that a corporate income tax balance in favor of the taxpayer (i.e., an overpayment) be used to offset another type of tax liability.

A balance in favor of the taxpayer is an overpayment that results after applying all available credits against the income tax that is determined in the annual income tax return. Such an overpayment is recognized as a credit that generally can be used to offset advance payments of corporate income tax following the submission of the annual income tax return, as well as the annual income tax due for the next fiscal year. Taxpayers also may request a refund of the overpayment.

The procedure established by the SUNAT is in response to a binding Tax Court decision ((RTF) No. 08679-3-2019) published in the Peruvian official gazette on 26 September 2019. The court concluded that, although a taxpayer cannot automatically offset an overpayment from the annual corporate income tax return against other types of tax liabilities, neither the tax laws nor the relevant regulations prohibit offsetting a corporate income tax overpayment against other types of tax debt (e.g., VAT) upon request. Based on the Tax Court's decision, it was necessary for the SUNAT to introduce a procedure to allow taxpayers (upon request) to offset such an overpayment against other types of tax liabilities.

To offset an overpayment of corporate income tax against another type of tax liability, taxpayers should take the following steps:

- Select the "Application option" (box 137, option 2) in the annual corporate income tax return and request a tax offset using the "Suggested Form to request compensation from the Balance in Favor of the 3rd Category Income Tax – RTF No. 08679-3-2019." The online form is available through the page at the following link: http://orientacion.sunat.gob.pe/index.php/empresas-menu/otros-procedimientos-y-tramites-empresas/1084-compensacion (in Spanish).

- Submit the form to the following email address: portalsunat@sunat.gob.pe and provide their taxpayer identification number and personal information on the legal representative or authorized person submitting the form.

The overpayment must be applied in accordance with the current legal rules in force. This means that the taxpayer must comply with the requirements and conditions established in SUNAT's Resolution No. 075-2007-SUNAT and the Peruvian tax code relating to the offset procedure.

Pursuant to the SUNAT's resolution, an overpayment may not be used to offset a tax liability if the taxpayer has an ongoing controversy procedure or a refund request (relating to the overpayment or the debt that would be offset) pending resolution.

In accordance with article 40 of the Peruvian tax code, a tax debt may be offset by overpayments of tax, penalties, interest, and other overpaid amounts, as long as the statute of limitations for the year of the overpayment has not expired.

Russia

Overview of recent VAT developments

This article highlights some recent rulings by the courts in VAT cases, and announcements by the Russian Ministry of Finance related to VAT.

Court rulings

Court rules that bonuses received by a car dealer for participating in incentive programs may be subject to VAT

On 5 March 2020, the Arbitration Court of the Komi Republic agreed with the tax authorities that bonuses received by a car dealer from a distributor for participating in various incentive programs are subject to VAT.

Background

The taxpayer is a registered car dealer who receives bonuses from a distributor for sales made at a discounted price in accordance with:

- Business-to-consumer (B2C), and business-to-business (B2B) sales promotions;
- Scrappage and trade-in schemes;
- Loyalty programs; and
- Loan finance schemes.

The dealer considered the bonuses received as nonoperating income, and included the amounts in the tax base for corporate income tax purposes, but did not report the amounts in the VAT returns. The tax authorities' position was that the bonuses received by the dealer represent compensation for lost revenue related to the sales of cars to customers at a lower price, and, therefore, should be included in the VAT base.

Decision of the court

The court dismissed the taxpayer's argument and ruled in favor of the tax authorities. The key arguments accepted by the court include:

- Due to sales of cars at the discounted price, the dealer made a loss on most cars, and that led to a VAT refund from the budget;

- The terms of the contracts with customers included only the original price, without any reference to the discounted price; and

- The dealer did not provide documents confirming participation in the incentive programs (e.g., to support scrappage and trade-in schemes).

It is interesting that the distributor also was involved in the case as a third party. The distributor argued in support of the dealer's position, that there are no legal grounds to categorize the bonuses as payment for cars on behalf of customers. The distributor also noted that the tax authorities' position creates uncertainty in the taxation of incentive payments, that commonly are treated as payments for attracting new customers, and maintaining good relations with old ones. The court did not accept these arguments.

Court rules on the VAT implications of the transfer of property to charter capital

On 25 February 2020, the Arbitration Court of Murmansk region ruled that a parent company may not recover the VAT on property contributed indirectly from one of its shareholders to a subsidiary.

Background

Within a large Russian group, a number of transactions of the transfer of property to the charter capital took place aimed at transferring property to the taxpayer (a subsidiary) from its indirect shareholder. The transactions were structured as follows:

- The indirect shareholder transferred the property to the charter capital of the parent company; and

- The parent company immediately transferred the property to the taxpayer's charter capital.

For VAT purposes, the transactions were recorded as follows:

- The indirect shareholder reinstated the VAT on the residual value of the transferred property (i.e., returned the amounts to the state budget);

- The parent company recovered the VAT, and then reinstated the VAT on the transfer of the property to the taxpayer; and

- The taxpayer subsequently recovered the VAT.

The tax authorities challenged the VAT recovered by the taxpayer on the transferred property. The tax authorities argued that the parent company had no right to recover and reinstate the VAT since the property initially was received by the company for the subsequent transfer to the taxpayer's (the subsidiary's) charter capital, and not for VATable activities of the parent company.

Decision of the court

The court supported the position of the tax authority. The court rejected the taxpayer's argument that the source for VAT recovery was at the level of the indirect shareholder, stating that "the right of the taxpayer to claim amounts of VAT for recovery is not related to the transactions of an entity other than the parent company.

Ministry of Finance announcements

VAT treatment of compensation payments under distribution agreement

The Ministry of Finance issued Letter No. 03-07-11/7717 on 6 February 2020 confirming that payments received by a Russian taxpayer as compensation for losses arising as a result of operational costs incurred under a distribution agreement with a foreign supplier are not subject to VAT. Russian entities should not, therefore, issue VAT invoices on receipt of such payments.

Reminders on VAT treatment and recovery

Between January and March 2020, the Ministry of Finance issued reminders on the VAT treatment of advance payments under a trade credit agreement and investment advisory services provided by securities managers, and VAT recovery on exports:

- **VAT treatment of advance payments under trade credit agreement:** Letter No. 03-07-11/2937 issued on 21 January 2020 reminds that in accordance with Russian civil law, a trade credit refers to civil obligations related to the deferral of, or installment payments for goods (work, services), in addition to the provision of advance funding. Obligations arising under a trade credit are not defined in a separate agreement but are included in the scope of a primary agreement as "other obligations." As a consequence, a trade credit is not an independent loan transaction, but should be considered as a provision incorporated in a primary contract. The VAT exemption for loan transactions provided by the Russian tax code does not, therefore, apply to trade credit.

- **VAT treatment of investment advisory services provided by securities managers:** Letter No. 03-07-07/15706 issued on 3 March 2020 reminds that the Russian tax code provides a VAT exemption for the services provided by securities managers within the scope of their licensed activities. Investment advisory services are not licensed activities, and a VAT exemption is not, therefore, permitted for such services.

- **VAT recovery rules for exports:** Letter No. 03-07-13/1/11084 issued on 18 February 2020 reminds that as from 1 July 2019 taxpayers may recover input VAT related to the provision of services and the performance of work the place of supply of which is not within Russia (excluding VAT-exempt operations). The right to recover input tax is found in article 148 of the Russian tax code, and the protocol "On the procedure for levying indirect taxes on the performance of work and the provision of services in the Eurasian Economic Union," in appendix No. 18 to the Agreement on the Eurasian Economic Union.

Update on customs procedural and other developments

Imports into and exports from the EEU of technical means for the surreptitious obtaining of information

Order No. 57 issued by Russia's Federal Security Service (FSS) on 17 February 2020 sets out the FSS's administrative procedure for approving the import into and export from the Eurasian Economic Union (EEU) of technical equipment intended for surreptitious obtaining

of information. The order applies as from 3 April 2020. The administrative procedure determines the timeline, and procedures to be followed by the FSS's Center for Licensing, Certification, and Protection of State Secrets when deciding whether to permit imports and exports. It also governs the center's interaction with applicants, who may be legal entities, or individual entrepreneurs. The center either may issue an import or export permit, or a notice of refusal to issue such document.

Clarification of procedures for customs duty exemption on imports of goods used to combat COVID-19

Decision No. 21 of the Eurasian Economic Commission (EEC) on 16 March 2020 announced a customs duty exemption for certain types of goods imported to help combat COVID-19. One of the conditions for exemption is the submission to the customs authorities of documentation confirming the intended use of the imported goods. Decree No. 545 issued by the Russian government on 18 April 2020, and effective as from 28 April 2020, authorizes the following state bodies to issue the necessary documentation:

- The Ministry of Healthcare of the Russian Federation, and state executive bodies, are authorized to issue the document confirming the intended use in respect of the finished products; and

- The Ministry of Industry and Trade of the Russian Federation, and state executive bodies, are authorized to issue the document confirming the intended use in respect of raw materials, supplies, and components used for production of qualifying goods.

Simplification of customs procedures

Order No. 1907 issued by Russia's Federal Customs Service on 18 December 2019, and effective as from 1 May 2020, introduces new customs procedures for goods exported or imported in accordance with a license issued by the Ministry of Industry and Trade. As from 1 May 2020, exporters/importers are not required to register such licenses with the customs authorities, since the licenses appear in the single automated customs information system. Importers/exporters no longer are required to provide information on the implementation of licenses, or implementation certificates.

Indicators and criteria for type two Authorized Economic Operators (AEOs) established

Resolution No. 574 issued on 24 April 2020, and effective as from 29 May 2020, establishes indicators and criteria for type two AEOs, where the financial performance of a candidate entity does not meet the criteria specified in Decision No. 65 of the Council of the EEC on 15 September 2017. The annexes to the resolution contain the indicators and criteria, and a list of eligible OKVED code headings and subheadings, recorded as the candidate entity's core economic activity.

A candidate entity must:

- Produce and/or export goods within the eligible OKVED headings, and have received an unqualified auditor's opinion on the previous year's annual report;

- Be included on the list of strategic enterprises as approved by Presidential Decree No. 1009 of 4 August 2004 "On approval of the list of strategic enterprises and strategic joint-stock companies;"

- Have an aggregate score of at least 40 points, being the total of financial stability indicators as per Decision No. 65 of the Council of the EEC issued on 15 September 2017; and

- Not have any arrears on settlements with its counterparties.

Each indicator is assigned a weight, and a candidate entity must score a certain number of points to be included in the register of AEOs, and be issued a type two certificate.

Amendments to procedure for payment of disposal fee in respect of certain modes of transport

Federal Law No. 117 of 7 April 2020 and effective as from 18 April 2020, provides that no disposal fee is payable in respect of certain vehicles (e.g., private cars, certain types of construction equipment, various loaders, etc.) that are imported into the Russian Federation, and placed under the customs procedure of temporary import (admission).

Saudi Arabia

VAT rate to increase to 15% as of 1 July 2020

On 11 May 2020, Saudi Arabia's Minister of Finance announced that the value-added tax (VAT) rate will increase to 15% from the current rate of 5% as of 1 July 2020.

The increase comes as part of the measures taken by the government in response to the economic impact of COVID-19, decline in government revenue resulting from lower oil prices, overall reduction in economic activity, and increase in healthcare expenditure.

Impact on businesses

Audits and compliance. As VAT becomes a more important source of government revenue, businesses should expect an increased level of scrutiny from the General Authority of Zakat and Tax (GAZT). The rate increase will heighten the importance for businesses to ensure they are fully compliant from a VAT perspective. The recent VAT relief measure that allows taxpayers to voluntarily disclose historic omissions and errors without incurring penalties should be considered and any relief sought prior to the disclosure deadline of 30 June 2020.

Cost increase. Businesses whose sales are partially or fully exempt from VAT (e.g., financial services, real estate) will have an increase in costs as a direct effect of the rate increase as these businesses may not be able to reclaim in full or in part the VAT incurred. All businesses will be affected in some way, but consumers will bear much of the burden of the VAT rate increase. The government's possible response to mitigate the effect on consumers could include relief measures, such as a lower rate of VAT on essential items such as food and utilities.

Existing supply contracts. The increased VAT rate will affect existing contracts and related documentation that provide for a continuous or periodic supply of goods or services.

Taxpayers should review and update these contracts and any required documentation before 1 July 2020 in order to reflect clearly the correct rate of VAT (in particular for contracts that apply to goods or services supplied both before and after the VAT rate increase).

Cash flow and operations. Cash flow for businesses will be impacted due to the timing difference between the payment and recovery of VAT; as such, cash flow and supply chain planning should be undertaken. Furthermore, internal systems and processes should be reviewed and updated to reflect the increased VAT rate.

Comments

Additional guidance from GAZT on the transitional rules should be released in the coming weeks. In the meantime, businesses should ensure they are fully compliant with all VAT laws, review and update as necessary existing supply contracts, and plan for any impact on cash flow, supply chains, and operations.

Thailand

Customs Department further extends voluntary disclosure program

On 1 May 2020, Thailand's Customs Department extended its "one-stop service" voluntary disclosure program (VDP) from 1 May 2020 to 30 September 2021. The program, launched in 2018, had been extended once in 2019 and was due to expire on 30 April 2020.

What to know

The Customs Department launched the VDP for importers who act in a good faith and acknowledge that they have paid less than the required import duty. The program allows those importers to report the error to the department and to pay the duty shortfall and other relevant taxes.

Following positive feedback from importers about its convenience and benefits, the Customs Department has decided to further extend the program from 1 May 2020 to 30 September 2021. The main advantages for importers are the fact they can disclose and pay the additional import duty and other relevant taxes to a single entity, the Central Customs Bureau, and that the self-disclosure will be taken into account when determining whether the importer should be eligible for an import duty penalty exemption and a reduction of duty surcharges.

Some importers may be disqualified from joining the program if they meet one or more of the following criteria:

1. They have evaded import duties or there is evidence that they attempted to do so;

2. They have imported prohibited or restricted goods; or

3. They are the subject of a post-audit inspection by the Customs Department or they are being charged for customs violations by other government agencies, e.g., the Department of Special Investigation, Economic Crime Suppression Division.

What to do

The duty penalty exemption and administrative convenience offered through the VDP provide a good opportunity for eligible importers to disclose and pay any shortfall duty and other relevant taxes to the Customs Department. Eligible importers should consider preparing and filing an application to join the program.

United Arab Emirates

VAT return filing and payment deadline extended

On 21 April 2020, the United Arab Emirates (UAE) Federal Tax Authority (FTA) announced that the deadline for submission of VAT returns and payment of tax for tax periods ending 31 March 2020 (either monthly or quarterly) have been extended to 28 May 2020 (from the original due date of 28 April 2020). The FTA extended the deadline to ease the compliance burden on businesses due to COVID-19, similar to measures implemented in Saudi Arabia.

Taxpayers that file VAT returns on a monthly basis must separately submit the March and April VAT returns by 28 May 2020 (rather than a single combined VAT return covering a two-month tax period), which is in line with measures recently announced by the FTA in relation to excise tax returns.

Although no indication has been given that additional extensions will be granted, taxpayers should monitor further developments closely. Businesses should prepare VAT returns for the period ended 31 March 2020 as close as possible to the original timeline in order to address any issues and avoid delays.

United Kingdom

VAT zero-rating measures

E-publications: VAT zero rate introduced from 1 May 2020

The government has announced that plans to remove VAT on e-publications have been fast-tracked and came into effect on 1 May 2020. As a result of the COVID-19 lockdown, publishers have been reporting an average increase of about a third in e-book consumption, and the Chancellor of the Exchequer has opted to bring the zero-rating forward. The tax authorities have published Revenue and Customs Brief 3(2020) and other guidance which provides more detail and confirms that they do not accept the Upper Tribunal's decision in News Corp, and do not accept that e-publications are already covered by existing legislation.

Statutory Instrument 2020/459, which brings the changes into force, therefore does so by introducing a new Item 7 into Group 3 of Schedule 8, VATA 1994. Products which are wholly or predominantly devoted to advertising, audio or video content will not be covered. A Tax Information and Impact Note has also been published. Because of the sudden expansion of the market it does not contain estimates of the size of the relief, which at the time of the Budget in March was expected to be around £175m annually.

Personal Protective Equipment: temporary VAT zero rate introduced

The government has announced that supplies of personal protective equipment (PPE) made between 1 May and 31 July 2020 will be zero-rated. Relief from customs duty and import VAT has already been introduced with effect from January 2020, but this did not extend to domestic supplies of PPE.

The new measure, which is being introduced by Statutory Instrument 2020/458, zero-rates supplies of equipment recommended by Public Health England for those dealing with COVID-19, including disposable gloves, aprons and gowns, surgical masks and filtering respirators, and visors or goggles. Some further explanation is provided in Revenue and Customs Brief 4(2020) and in a Tax Information and Impact Note. Guidance in Notice 701/57 and VATHLT2021 has been updated accordingly.

United States

State Tax Matters (1 May 2020)

The 1 May 2020 edition of US State Tax Matters includes coverage of the following:

- Income/franchise tax developments from the Multistate Tax Commission and in Massachusetts, New Hampshire, Oregon, and Pennsylvania; and

- Indirect tax developments in Puerto Rico and Washington.

The newsletter also features a recent Multistate Tax Alert: *New York 2020-2021 State Budget Bill Enacted.*

United States

State Tax Matters (8 May 2020)

The 8 May 2020 edition of US State Tax Matters includes coverage of the following:

- Income/franchise tax developments in Maryland, Ohio, Oregon, and Texas;

- Credits/incentives developments in the District of Columbia; and

- Indirect tax developments in Alabama, California, South Carolina, and Virginia.

The newsletter also features recent Multistate Tax Alerts:

- *Oregon issues Notice of Proposed Rulemaking for Corporate Activity Tax (CAT) administrative rules*

- *Virginia clarifies payment extension and interest waiver do not apply to partnership nonresident withholding tax*

United States

State Tax Matters (15 May 2020)

The 15 May 2020 edition of US State Tax Matters includes coverage of the following:

- Income/franchise tax developments in Alabama, Georgia, Idaho, Maryland, Minnesota, New Jersey, and New York;

- Credits/incentives developments in Maryland; and

- Indirect tax developments in Colorado, Illinois, Louisiana, Maryland, New Jersey, and Washington.

The newsletter also features a recent Multistate Tax Alert: *COVID-19: Updated State and Local Tax Due Date Relief Developments*

United States

State Tax Matters (22 May 2020)

The 22 May 2020 edition of US State Tax Matters includes coverage of the following:

- Income/franchise tax developments in Michigan, New York, and Oregon; and

- Indirect tax developments in Texas and Utah.

The newsletter also features a recent Multistate Tax Alert: *Oregon issues a draft Corporate Activity Tax (CAT) administrative rule regarding financial institutions*

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

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

Atentamente,
Deloitte Legal