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Global Indirect Tax News

Your reference for indirect tax and global trade matters

August 2014

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

Features of this edition include further updates from China on the application of VAT, the signing of the Japan-Australia Economic Partnership Agreement, amendments to the Tour Operators' Margin Scheme in the Netherlands, and upcoming changes to customs IT systems in Poland.

If you have any queries or comments about the GITN, I would be delighted to hear from you.

David Raistrick
Global Indirect Tax Leader

Country summaries

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Americas

Bolivia

Transfer pricing

Transfer pricing was not regulated in Bolivia until 21 July 2014, when the Bolivian government issued a new transfer pricing law. The law provides the tax authorities with a

tool to control transactions between related parties, to determine whether or not the transaction values are resulting in lower taxation.

In summary, the law provides that:

- *"In commercial and/or financial operations between related parties, the transaction amount shall be that which has been agreed between independent parties in comparable market transactions".*
- The tax authorities can verify that transactions are in accordance with the above valuation rule, and make adjustments and/or revaluations when non-compliance is identified.
- The following methods can be applied in the case of adjustment and/or revaluation:
    a) Method of comparable uncontrolled price;
    b) Resale price method;
    c) Cost plus method;
    d) Method of Profit Distribution;
    e) Method of Transaction Net Margin;
    f) The 'Price Method of Notorious Price in Transparent Markets'.

When none of these methods can be used, the law provides for the opportunity to use another method according to the nature and economic reality of the transaction. A description of procedures and ways to apply the indicated methods will be established in a regulatory standard (the regulatory standard has not yet been issued).

The new law also refers to customs regulations, and provides that, where there is reasonable doubt regarding a declared value in commercial transactions between related parties, the Customs Authority is able to apply and/or require a transfer pricing study from the importer verifying whether the relationship between buyer and seller has influenced the price that determined the transaction value.

The law takes effect from the day following the closing date of the current fiscal year for income tax purposes, according to the economic activity.

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Uruguay

Financial Inclusion Law decree

A law recently passed by the government aims to give access to financial services to the whole population, promoting the use of electronic payment, encouraging saving and being the instrument to apply a VAT reduction. A new decree by the executive has been passed regarding the law.

VAT is levied on the sale of goods and rendering of services within the country; imports are also subject to VAT. The current standard VAT rate is 22%, whereas certain goods and services benefit from a reduced rate of 10% and others are exempt.

From 1 August 2014, a VAT reduction applies for purchases made by final consumers with the following means of payment: debit card, credit card, electronic means of payment, direct bank debit and electronic payments through ATMs, mobile phones or the internet.

The VAT rate reduction will vary according to the means of payment involved:

- Debit card or electronic means of payment:
    - Permanent reduction: 2 VAT points;
    - Additional temporary reduction: 2 VAT points from 1 August 2014 to 31 July 2015 and 1 VAT point from 1 August 2015 to 31 July 2016. These temporary reductions will only apply if the total amount of the transaction (VAT included) is less than USD 500, approximately.
- Credit card (temporary reduction only):
    - 2 VAT points from 1 August 2014 to 31 July 2015;
    - 1 VAT point from 1 August 2015 to 31 July 2016;
    - Credit card reductions will only apply if the total amount of the transaction (VAT included) is less than USD 500, approximately.
- Direct bank debit and electronic payments (ATMs, mobile phones, internet): 2 VAT points; permanent reduction.

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Asia Pacific

China

SAT extends VAT exemption to international freight forwarding services provided through other forwarders

China's State Administration of Taxation (SAT) has issued new guidance on 14 July 2014 (Bulletin [2014] No. 42 (Bulletin 42)) that extends VAT-exempt treatment to international freight forwarding services provided through other forwarders. The new rule will apply as of 1 September 2014.

International freight forwarding services are frequently provided through a chain of forwarders. However, the VAT exemption for international freight forwarding services (effective from 1 August 2013 under Circular 106), applies only to the last forwarder in the chain; that is, the forwarder that is in direct business contact with the international transportation service supplier (e.g., the shipping company), but not forwarders that do not have direct contact with international suppliers and do not make direct payments to such suppliers. With the issuance of Bulletin 42, all other forwarders in the chain will become eligible for VAT-exempt treatment, provided that all of the forwarders' services income received from customers (or other forwarders) and international transport and agency fees paid to other forwarders, are settled through a financial institution (a 'settling requirement').

Although Bulletin 42 brings a welcome change to the international freight forwarding business, it is unclear whether the common practice of offsetting receivables and payables by member entities in a multinational international freight forwarding service group would result in the settling requirement not being met.

SAT clarifies rules regarding counterfeit VAT special invoices

SAT issued guidance on 2 July 2014 (Bulletin [2014] No. 39 (Bulletin 39)) clarifying that if a VAT taxpayer meets all of the following requirements, they will not be regarded as issuing a VAT special invoice fraudulently, namely:

- The VAT taxpayer has sold the goods or provided the services to the recipient of the VAT special invoice;
- The VAT taxpayer has received payment from the recipient of the VAT special invoice or such proof document; and
- The content of the invoice is consistent with the goods or services provided, and the invoice is obtained legally and issued under the name of the VAT taxpayer.

Input VAT can be deducted based on VAT special invoices obtained by VAT taxpayers that meet all of the above requirements. Bulletin 39 clarifies the requirements that must be met for a special invoice not to be regarded as a counterfeit VAT special invoice. Companies should assess and review the applicability of Bulletin 39 to mitigate the risk of being regarded as issuing VAT special invoices fraudulently.

SAT launches new editions of VAT invoices

SAT issued Bulletin [2014] No. 43 (Bulletin 43) to launch new editions of the VAT special invoice, a special transportation VAT invoice and the VAT general invoice from 1 August 2014. The new editions have elevated the anti-counterfeiting technology level for these invoices, and the names of some columns in the invoices have been updated. The old edition of VAT invoices will remain valid for temporary use.

Bonded treatment for importation of steel materials under processing trade relief scheme cancelled

China's Ministry of Finance, General Administration of Customs, and State Administration of Taxation jointly announced in Caiguanshui [2014] No.37 on 2 July 2014 that the bonded treatment for imports of steel materials under processing trade relief for 78 tariff codes of imported steel products such as hot rolled plates, cold rolled plates, ribbon steel, steel wires and electrical steels, which could be entirely produced domestically and meet the quality requirements of downstream processing enterprises, are cancelled from 31 July 2014. This means that customs duty and import taxes will be levied on these products.

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India

Rule allowing 'general audit' by service tax authorities held as ultra vires the Act

The Delhi High Court has struck down the rule requiring production of records for an audit on demand and also quashed a circular issued by the tax department that provided the mechanism to conduct such a 'general audit'.

The High Court observed that there was a specific provision in the Finance Act that allowed for a 'special audit' and that the provision also prescribed the conditions meriting such a 'special audit'. It was held that any attempt to include provision for a 'general audit' by way of the rule was ultra vires the Finance Act. The High Court also quashed the circular issued by tax authorities to the extent it provided clarification of the rule.

The impugned rule was often invoked by the tax authorities to demand production of various records from the assesse for the ostensible purposes of audit. With the indirect tax emphasis on self-assessment, the conduct of an audit is a necessary measure to ensure compliance. It will be interesting to see the response of the tax authorities to this decision, as to whether they prefer to challenge the decision before the Supreme Court to obtain a final affirmation or to introduce an amendment to the law to facilitate the continuation of audits.

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Economic Partnership Agreement

Japan and Australia sign Economic Partnership Agreement

On 8 July 2014, Prime Minister Shinzo Abe and his Australian counterpart Tony Abbott signed the long-awaited Japan-Australia Economic Partnership Agreement (JAEPA) in Canberra, after seven years of discussion between the two countries. Australia is Japan's fourth largest trading partner, following China, the U.S., and South Korea, and is the largest trade partner that Japan has ever concluded a bilateral EPA with.

In 2013, Japanese exports to Australia were worth nearly JPY 1.7 trillion, while Australian exports to Japan were valued at almost JPY 5 trillion. Under JAEPA, tariffs on approximately 95% of bilateral trade between Japan and Australia will be eliminated over a period of 10 years. JAEPA is expected to boost the competitive advantage of Japanese companies and investors through a number of preferential market access arrangements and contribute to the stable supply of energy, mineral resources and food to Japan.

Goods that will receive preferential access or duty-free entry under JAEPA include, among others, the following:

Duty-free or preferential access to Australian market:

- Tariffs on finished vehicles, Japan's largest export to Australia, will be eliminated over three years, with the immediate tariff elimination on petrol vehicles of 1500cc to 3000cc, petrol vehicles of 1000cc to 1500cc, diesel vehicles exceeding 2500cc and trucks/commercial vehicles of more than 3.5t (collectively accounting for 75% of Japan's finished vehicle exports);
- Tariffs on automobile parts will be eliminated over three years with immediate duty-free access for certain products including engines and tires;
- Tariffs on cold-rolled or plated/coated steel sheets will be phased out over five years, and tariffs on hot-rolled steel sheets will be immediately eliminated;
- Immediate tariff elimination on general machinery and electric and electronic appliances, such as air conditioners, televisions and batteries (excluding automobile parts);
- Immediate tariff elimination on all agriculture and fishery products.

Duty-free or preferential access to Japanese market:

- Tariffs on the vast majority of resource, energy and manufacturing products will be eliminated over 10 years;

- Tariffs on beef will be reduced, with the 38.5% tariff on frozen beef to 19.5% over 18 years and the same tariff on chilled beef to 23.5% over 15 years. A safeguard clause will be in place that allows Japan to apply the old rate when beef imports from Australia exceed a certain threshold;
- Duty-free tariff quotas will be set for natural cheese for processing and processed cheese;
- Tariffs will be eliminated and levies will be reduced for high polarity raw sugar;
- Tariffs on bottled wine will be phased out over seven years;
- With respect to wheat, barley, beef, dairy products and sugar, the market access treatment should be reviewed in the fifth year of JAEPA or any year as may be agreed between the two countries, whichever is earlier. Such review should also be performed if any preferential treatment granted by Japan to another party results in a significant loss of competitive edge for Australia.

In addition, JAEPA sets out various measures including the following to lower trade barriers between the two nations:

- Customs procedures that ensure the appropriate enforcement of customs regulations and the smooth clearance of goods;
- Commitments on greater market access for services on a negative list basis, requiring each party to apply the national treatment and most-favored-nation (MFN) treatment to service suppliers of the other party;
- Measures to promote e-commerce transactions, including the non-imposition of customs duties on electronic transmissions, non-discrimination of digital products, and protection of personal data;
- Improved protection for investors of both countries, including the non-discrimination of investments and the commitment not to expropriate or nationalize investments without appropriate compensation, with restricted areas for investment set out on a negative list basis;
- Obligations to ensure the effective and non-discriminative protection of intellectual property rights and appropriately address the infringement of such rights.

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EMEA

Customs Union between Belarus, Kazakhstan and Russia

Categories of goods subject to special customs procedures for EXPO-2017

Eurasian Economic Commission (EEC) Board Resolution No. 50 dated 16 July 2014 makes additions to the list of goods subject to special customs procedures and the conditions of their placement under this procedure established by Customs Union Commission (CUC) Resolution No. 329 dated 20 May 2010.

The additions cover goods and foreign goods to be transferred across the CU customs border for use in organizing and holding the EXPO-2017 exhibition in Astana. Goods are subject to special customs procedures such as customs duty, tax, non-tariff and technical regulation exemptions in the CU member state in which EXPO-2017 takes place.

One of the conditions for special customs treatment is to have Astana EXPO-2017 JSC provide written confirmation to the Kazakhstan customs authorities of the purpose of the goods, referring to events in which the goods will be used; their name, quantity and value; the details of the entity transferring the goods and also details about the declarant.

Special customs procedures can be applied for up to six months from the end of the EXPO-2017 exhibition.

The resolution entered into force on 18 August 2014.

Customs value of imported goods

According to the 2008 Treaty to determine the Customs Value of Goods crossing the Customs Border of the Customs Union (the Treaty), the Treaty to apply Article VII of the 1994 General Tariff and Trade Treaty, and also materials from the Customs Valuation Technical Committee of the World Customs Organisation, EEC Council Resolution No. 112 dated 15 July 2014 has approved regulations for adding intermediary (agent) and broker fees to amounts paid or due on imported goods.

To determine the customs value of imported goods using their transaction value (method 1) fees paid to intermediaries (agents) and brokers in relation to the purchase of imported goods (the fees) are added to amounts paid or due on them.

Fees are included in the customs value of goods up to the amount paid or due for payment by the purchaser, but not included in the price actually paid or due for payment on imported goods.

To resolve the issue of the requirement to add the above fee to amounts paid or due on imported goods, it is necessary to look at the relationships of the contractual parties with respect to the provision of intermediary services to purchase or sell goods, and consider collectively all factors characterising intermediary (agent) activities to purchase and sell imported goods, irrespective of how the entity in question is referred to in an intermediary agreement or foreign economic agreement (contract).

Furthermore, EEC Council Resolution No. 113 dated 15 July 2014 approved guidelines for using documents that conform to generally established accounting principles to determine customs value.

Under the Treaty, generally established accounting principles correspond to a system of accounting rules applicable in accordance with the established procedure in the relevant country and during the relevant period.

The guidelines also state that in CU member states, accounting rules are set by national legislation.

The resolutions were officially published on 16 July 2014 and enter into force at the end of 30 calendar days from the date they were published.

Instruction on procedures for registration or refusal to register customs declarations

EEC Council Resolution No. 98 dated 2 July 2014 approved a new version of the instructions for registering or rejecting the registration of declaration on goods (the Instructions) .

The new Instructions do not require a list of documents provided to the customs authorities to be filed.

The customs authorities reject declarations (applications or lists) by entering the surname and initials of the customs authorities on the reverse side in two copies of the declaration (application or list), signing and stamping it.

The resolution was published officially on 3 July 2014 and enters into force from 1 July 2015.

Instructions for completing declarations

EEC Council Resolutions No. 105 dated 7 July 2014 and No. 127 dated 18 July 2014 amend the instructions for completing the declaration on goods (the DG) .

Among others, amendments were made to the procedure for completing the DG for imported goods in column 8 *Recipient of Goods*, column 14 *Declarant* and column 44 – *Additional Information/Documents Provided*.

Amendments were also made to the procedure for completing export DG.

In addition, the amendments state that in Kazakhstan when exporting goods, officials should stamp on the second copy of a DG, indicating the destination and supply date of the goods, except for goods to be sent by pipeline or electricity lines.

Resolution No. 105 entered into force on 7 August 2014. Resolution No. 127 enters into force on 1 July 2015.

Changes to CU Common Customs Tariffs

Changes have been made to the common CU FEA CN and CU Common Customs Tariffs in relation to certain goods due to Russia's WTO obligations.

For further information, see **Reducing import customs duty rates in relation to certain types of goods**.

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Denmark

Place of supply changes – an update

The Danish VAT authorities have launched a **website** with additional practical information on the upcoming Mini One Stop Shop (MOSS).

1 October 2014 is stated by the authorities to be the date when registration to the MOSS online solution opens, which will be implemented within the TastSelv Erhverv system already in use for filing ordinary VAT returns.

Guidance has been issued and is available in Danish on the website with regard to the upload of information to the system and formats. The information there is subject to change.

Full deduction for input VAT on hotel accommodation from 1 January 2015

From 1 January 2015 Denmark is expected to adopt new legislation allowing full deduction of input VAT on hotel accommodation expenses. The deduction will be increased from 75% to 100%, where the expense is strictly related to the business' taxable activities.

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Italy

CJEU rejects 'double VAT' charge and questions 'proportionality' of flat rate penalty

The Court of Justice of the European Union has gone straight to judgment in the case of *Equoland Soc. coop. arl,* which arose out of an attempt by the tax authorities to collect VAT (and a 30% penalty) on an import of goods that were registered as entering a tax warehouse, even though they were never physically placed into it, despite the fact that Equoland had already accounted for VAT under the reverse charge system.

Although the CJEU upheld the Italian requirement that goods be physically placed in a tax warehouse in order to benefit from exemption from VAT on import (so the 'virtual' warehousing that prompted the case was insufficient), it rejected the Italian tax authorities' contention that this meant that the taxpayer had to pay VAT again (and a 30% penalty), having already accounted for the VAT under the reverse charge mechanism.

The CJEU also commented that "... in relation to the part of the penalty consisting of an increase of the tax at a fixed percentage … the Court of Justice has already held that such a procedure for establishing the amount of the penalty — which does not include any possibility of gradation — may go further than is necessary to ensure the correct levying and collection of the VAT and the prevention of evasion ...". In any event, it is for the referring court alone to make the final assessment as to whether the penalty at issue in the main proceedings is proportionate.

Zero-rated services meeting direct needs of vessels

In resolution No. 79 dated 1 August 2014, the tax authorities have provided some clarification relating the application of the zero-rated regime to services meeting the direct needs of a vessel.

In particular, the resolution clarifies that to apply the zero-rated regime:

- The vessel should actually operate on the high seas (the mere ability to navigate on the high seas is irrelevant);
- The 'high seas' reference is to be applied according to the Montego Bay Convention (thus the maritime zone over 12 miles from the coast);
- Services must be invoiced to the shipowner;
- Services meeting the direct needs of the vessel include, besides those related to the structure of the vessel and its components, those services that make possible the exercise of the activity for which the vessel is intended. For example, an anti-piracy service is considered to be a service meeting the direct needs of the vessel.

Expo2015 guidelines

Through Circular No. 26 dated 7 August 2014, the tax authorities have provided general guidelines regarding the Expo2015 event, making reference in particular to the tax rules applicable for CIT, VAT and other indirect tax purposes to the Official and Non Official

participants, to the Organization and to the Owner, in relation to the institutional and commercial activities carried out.

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Payment of customs duties via transfer

In Note No 65036 of 12 June 2014 the customs and monopoly agency provided operative guidelines regarding bank or postal transfers for paying customs duties.

Follow-up guidelines for experimental pre-clearing

As a follow-up to the procedures for experimentally activating in Italy the so-called pre-clearing (i.e., allowing the operator to anticipate the customs clearing of goods when they are still on sea), on 16 June 2014, the customs and monopoly agency issued Note No. 63077/RU, including an updated version of the operative guidelines provided in October 2013.

Excise duties

In Note No. 72685 of 30 June 2014, the customs and monopoly agency stated that, due to some technical issues recently affecting the customs telematics system, annual returns relating to electricity and natural gas to be submitted by 31 March 2014 will be treated as being submitted on time if they were recognized by the said system on 1 April 2014.

With regards to the excise benefits granted in respect of fuels and lubricant oils used for shipping in EU waters, the agency issued Circular Letter No. 10/D of 14 July 2014, providing clarification regarding boats with non-EU flags, the property of non-EU subjects, used under charter agreements and qualifying as ‘commercial vessels’ or ‘commercial yachts’.

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Netherlands

Tour Operators’ Margin Scheme adapted

A recent decree of the State Secretary for Finance has amended the term ‘traveller’ in the Tour Operators’ Margin Scheme (TOMS). This means the TOMS has now been extended to include travel operators selling travel services to travel agents.

A transitional scheme has been put in place. The State Secretary’s transitional scheme means that the TOMS does not need to be applied. Hence, the regular VAT regulations may be applied to sales by travel agents to other travel agents, provided the following conditions are satisfied:

- The travel transactions are supplied under a contract that has been entered into on 31 March 2015, at the latest; and
- The travel transactions take place on 31 October 2015 at the latest.

This transitional scheme concerns an approval. Travel agents are thus not under an obligation to apply the scheme, which is optional.

The decree also amends the conditions for the application of the zero rate to the EU part of passenger transport that takes place by plane or boat (as a component of the travel service within the meaning of the TOMS) if the place of departure or destination is located outside the EU. The 2012 decree required boat travel services to involve direct travel

between the Netherlands and a third party country and vice versa. The new decree extends this requirement to air travel services as well, while the approval may also be used when it concerns direct travel between an EU country (not only the Netherlands) and a third party country. This means that from now on travel agents may apply the zero rate on the EU part of air travel if the place of departure or destination is located outside the EU, and:

- The passenger transport takes place based on a single ticket that the travel agent has bought from another entrepreneur; and
- The passenger transport involves direct travel between an EU Member State and a third party country and vice versa. The 'direct' nature of the travel will not be lost if a stopover is made via another (air)port where new travellers may embark, provided the passengers who boarded earlier on will not leave the plane or the boat. Transport does not involve 'direct' travel if travellers are allowed to leave the plane or the boat.

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Poland

Polish branch cannot claim VAT refund when performing back-office activity for its parent company

On 15 July 2014, the Supreme Administrative Court (SAC) issued a judgment which refused a Polish branch (registered VAT payer in Poland) of a Slovak company the right to deduct input VAT, and as a consequence to claim a VAT refund. The written justification of the judgment has not yet been issued.

The Polish branch performed IT services exclusively to the Slovak mother company (back-office services). Both the tax authorities and the SAC refused the Polish branch input VAT recovery, arguing that the purchase of goods and services related to its functioning were not related to activities subject to Polish VAT (according to the SAC the Polish branch's purchases were related only to the taxable activity of the Slovak parent company). Moreover, according to SAC such approach does not breach the principle of neutrality of VAT.

If the written justification of the court provides any further relevant information, this will be included in a future edition of GITN.

As a consequence of the above, there is a considerable risk that the judgment will impact the way in which the Polish tax authorities will act in similar cases. It may be that VAT refund claims filed by Polish branches of foreign entities which perform purely back-office activities for their parent companies will be refused.

Significant changes to customs IT systems

The Polish authorities are working on a complex program aimed at replacing existing customs IT systems with new systems, designed to be modern and more integrated. This is part of the national program of modernization of the government administration and is aimed at making this more user-friendly. The change is of significant scope and will require not only changes on the authorities' side but also for entities using Polish customs IT systems. The changes will be introduced in stages and will affect all customs operations (import, export and transit operations). The first material amendments are scheduled to be

implemented this autumn, when the current NCTS system will be replaced with a new NCTS 2 system.

From the perspective of entities submitting individually electronically customs declarations in Poland, this will require implementing new IT software. The authorities are now publishing respective IT specifications for XML communicates for particular customs systems.

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Portugal

Clarification of requirements for VAT recovery on irrecoverable or bad debts

Ruling No. 30161/2014, dated 8 July 2014, clarifies the regime for recovering VAT on irrecoverable or bad debts, namely regarding the new rules in place since 1 January 2013.

Constraints on importation of timber and timber products

The Portuguese Custom Authorities published ruling No. 15280/2014, dated 29 July 2014, which clarifies the new constraints applicable to the importation of timber and timber products into Portugal, following EU Regulation No. 995/2010, dated 20 October 2010 and Decree-Law No. 76/2013, dated 5 June 2014.

In accordance with this legislation, an importer of timber and timber products, listed in the Annex to the European regulation and ruling, must be a registered operator in Portugal. The registry shall be maintained by the organization responsible for the Conservation of Nature and Forestry (INCF), and in the absence of the registry or where there is doubt regarding the identification of the timber, the tax authorities must suspend the import of goods and request an opinion from the INCF.

The ruling also includes additional information on the import constraints and customs' controls.

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Romania

No deemed supply when lessor cannot recover assets following a default

The Court of Justice of the European Union has rejected an attempt by the Romanian tax authorities to collect VAT on leased goods, where the lessee defaulted on the lease payments and the lessor was unable to recover the goods. The case concerned a Romanian leasing company, SC BCR Leasing IFN SA, which leased cars. Following defaults by some lessees (late or non-payment of the rentals due), BCR terminated some leases and attempted to recover its cars. In some cases, despite enforcement action, it was unable to do so.

Following a tax audit, the tax authorities imposed additional output VAT on a 'deemed supply' of the vehicles as well as late payment penalties.

The CJEU went straight to judgment in the case and decided that EU law does not permit the non-recovery of the assets to be treated as a deemed supply of them.

Excise duty refunds for diesel used as motor fuel by EU companies in Romania

In July 2014, Romania implemented a partial refund procedure for excise duties paid on diesel fuel, amounting to EUR 40 per 1,000 liters.

The refund applies to fuel used in the transport of both goods and persons, subject to certain conditions such as tonnage and types of vehicle.

Economic operators licensed in all EU member states can benefit from this refund for diesel purchased in Romania.

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Russia

Draft law on introduction of sales tax

The Russian Federation Government may grant to the regional authorities the right to introduce sales tax. This provision is included in the basic trends of the Russian State Budget Policy for 2015 and the Russian Ministry of Finance has already introduced a draft law on the sales tax to the Russian Government. According to this draft law, the Russian regions will be able to determine the rate of the sales tax, but it could not exceed 3%. It is noteworthy that the sales tax had previously been introduced in Russia and was abolished.

In-house VAT audits

From 1 January 2015, the Russian tax authorities will be able to inspect a taxpayer's premises while conducting in-house tax audits. For instance, the authorities may do so if there are any inconsistencies in the data reflected in a VAT return. Currently only an order for conducting a field tax audit can serve as the basis for inspection of the taxpayer's premises. Moreover, if any inconsistencies arise, tax authorities will be also able to request VAT invoices, supporting primary documentation and other documents.

Issue of VAT invoices for certain categories of taxpayers

From 1 October 2014, taxpayers are released from the obligation to issue VAT invoices if they supply goods (work, services or property rights) to a contracting party that is not deemed a VAT taxpayer or to taxpayers exempt from the obligation to calculate and pay VAT. This provision is applied where a written consent thereto was expressed by the parties to the contract.

Currently, under the general rule, a taxpayer must issue a VAT invoice when conducting VAT-able operations even if goods (work, services or property rights) are supplied to a contracting party that is not deemed a VAT taxpayer or to taxpayers exempt from the obligation to calculate and pay VAT.

Prohibition of import of certain goods onto the territory of the Russian Federation

The Russian Federation Government Resolution No. 778 of 7 August 2014 'On measures to implement Russian Federation Presidential Decree No. 560 of 6 August 2014 'On applying certain special economic measures to secure the safety of the Russian Federation'' prohibits the import of certain agricultural products, raw materials and food stuffs (in particular, meat of bovine animals, fresh or chilled classified under the classification code 0201; live fish classified under the classification code 0301; potatoes, fresh or chilled classified under the classification code 0701; etc.), if the origin of such goods is the U.S., European Union countries, Canada, Australia or Norway.

This resolution came into effect on 7 August 2014 and is valid for one year.

Introduction of import customs duty rates in relation to goods originating from the Republic of Moldova

The Russian Federation Government Resolution No. 736 of 31 July 2014 introduces import customs duty rates in relation to goods originating from the Republic of Moldova.

This Resolution came into effect on 31 August 2014.

Expanding the list of technological equipment that can be imported to the Russian Federation without paying VAT

The Russian Federation Government Resolution No. 694 of 22 July 2014 expands the list of technological equipment (including parts) that have no Russian-made analogues and that can be imported to the Russian Federation without paying VAT. The line equipment for laminated wood particle board pressing with synchronous loading-unloading system “SYNCHRON-QUICK-SS”, line equipment for wood particle boards lamination classified under the classification code 8465 94 000 0 according to the Unified Nomenclature of Goods of Foreign Economic Activity of the Customs Union, and electric furnace device HICON(R) for anneal and quenching of hot-rolled and cold-rolled strip, line for thermo mechanical processing of plates and sheets, line for thermo mechanical processing of sheets classified under 8514 10 800 0 have been included in the respective list.

This resolution came into effect on 1 August 2014.

Reducing import customs duty rates in relation to certain types of goods

The Eurasian Economic Commission Board Resolution No. 52 of 16 July 2014 reduces import customs duty rates of the Unified Customs Tariff of the Customs Union in relation to certain types of goods in accordance with the obligations of the Russian Federation within the WTO. In particular, the import customs duty rates have been reduced with respect to blue whiting under the classification code 0303 68 100 0 from the current rate of 9% of the customs vale to the rate of 3%, but not less than 0.015 euro per 1 kg; with respect to combined refrigerator-freezers classified under the classification code 8418 10 200 1 the import customs duty rate is reduced from the current rate of 18.3% of the customs value but not less than 0.16 euro per liter to the rate of 16.7%, but not less than 0.13 euro per liter.

This resolution came into effect on 1 September 2014.

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Turkey

Turkey imposes additional duty on footwear imports

Under recent governmental decree No. 2014/6692 (published on 2 August 2014), Turkey has imposed additional duty on footwear classified under 6401-6406. Additional duty rates are between 30 and 50%. For footwear accessories (classified under 6406), the additional duty rate is 10%. According to the decree, minimum duty will not be less than USD 5 per pair in any case. As duties are part of the VAT base, this decree will also increase the collected VAT (which is 8% on footwear).

Additional duty is not applied on imports from the EU, provided goods are of EU origin and sent to Turkey with an A.TR movement certificate. Goods that are sent to Turkey with an A.TR certificate but which are not of EU origin, will not benefit from the EU duty exemption (i.e., additional duty will be imposed).

The additional duty came into effect on 10 August 2014.

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United Kingdom

Court of Appeal decision in the Airtours 'person supplied' case

The Court of Appeal has decided the case of *Airtours Holidays Transport Limited* against the taxpayer, in a split (2:1) decision. The case concerned the recovery of input VAT on an independent business review carried out in 2002 by PwC in the context of a re-financing of the MyTravel group's debt.

The First-tier Tribunal agreed that the company, which paid for the work, had received something and that it was entitled to recover the VAT charged by PwC.

On appeal, the Upper Tribunal disagreed. It agreed with the tax authorities' (HMRC) contention, that the lending institutions commissioned and received PwC's report and that the only benefit that Airtours received was an indirect one (the continuation of the lending facilities).

The majority in the Court of Appeal has now endorsed the Upper Tribunal decision, holding that "... the contract provides quite clearly for the services of PwC to be supplied to the Banks ...".

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