

Global Indirect Tax News

Your reference for indirect tax and global trade matters

Welcome to the December 2017 edition of GITN, covering updates from the Asia Pacific and EMEA regions.

Features of this edition include proposals by the European Commission for new tools to combat VAT fraud and the adoption by the European Council of legislative proposals to amend the VAT rules for online sales of goods and services.

VAT is due to commence on 1 January 2018 in the Kingdom of Saudi Arabia and the United Arab Emirates. For up-to-date information on developments, please see the [Deloitte Middle East VAT in the GCC guide mobile app](#).

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Importation into Ukraine of new or used vehicles powered solely by one or two electric engines will be temporarily exempt from VAT and excise tax.

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Customs 'single window' implementation is underway.

The National Bank of Ukraine has simplified the procedure for making advance payments in foreign currency for imported goods.

United Kingdom

The tax authorities' policy change on the VAT treatment of pension fund management by insurers has been deferred. [Read More](#)

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Asia Pacific

India

GST update

Many challenges in GST, which was introduced in July 2017, are being resolved by the GST Council as India enters a new era of taxation of economic activity.

Revision in GST rates

- The GST Council has reconsidered and significantly reduced the applicable tax rates on various goods of mass consumption and industrial products.

Changes in taxation of restaurants

- The GST rate on services provided by all stand-alone restaurants (except restaurants located in hotels with room tariff exceeding INR 7,500), as well as food parcels or takeaways, is fixed at 5% without input tax credit (ITC). Outdoor catering services continue to attract GST at 18% with full ITC.

Relief to medium- and small-scale sector

- It will not be mandatory to obtain registration for service providers whose annual aggregate turnover is less than INR 2 million, even when the person is engaged in inter-state taxable supplies.
- Taxpayers with annual aggregate turnover not exceeding INR 15 million will be required to file quarterly GST returns, applicable from the third quarter of 2017, i.e., October 2017 to December 2017.

- Manufacturers opting for the composition scheme will be required to pay GST at 1% (revised from the previously prescribed 2%).
- The threshold limit of aggregate annual turnover to be eligible for the composition scheme under GST is to be increased from the currently prescribed INR 10 million to INR 15 million.
- Taxpayers eligible for the composition scheme (which is currently limited to supplies of goods) but supplying services up to INR 0.5 million per annum will be allowed the benefit of the composition scheme by exempting the same.

Relaxation in compliance requirements

- The monthly summary return in Form GSTR 3B is extended to March 2018 for all taxpayers.
- Due dates for filing returns in Forms GSTR – 1, GSTR – 4 and GSTR – 5, GSTR – 5A and GSTR – 6 and the declaration in form GST Tran-1 for transitioning credit have been extended.
- The due dates for filing Form GSTR – 2 (return of inward supplies) and GSTR – 3 (consolidated monthly return) for the months of July 2017 to March 2018 will be prescribed at a later stage.
- The late fee payable (October 2017 onwards) by a taxpayer whose tax liability for the said month was nil will be INR 20 per day instead of the prescribed INR 200 per day.

Relief and incentives for exports

- To prevent cash blockage of exporters due to upfront payment of GST on inputs, etc., immediate relief is being given by extending the Advance Authorization (AA)/Export Promotion Capital Goods (EPCG)/100% Export Oriented Unit (EOU) schemes to sourcing inputs, etc. from abroad as well as domestic suppliers. Holders of AA/EPCG and EOUs will not have to pay Integrated Tax (IGST), cess on imports. Domestic supplies to holders of AA/EPCG and EOUs will be treated as deemed exports under the GST Acts and a refund of tax paid on such supplies made to the supplier.
- Merchant exporters will now have to pay nominal GST of 0.1% for procuring goods from domestic suppliers for export.
- The Government is considering introducing a system of e-wallet for exporters, where such e-wallet would be credited with a notional amount as if it is an advance refund. This credit would be used to pay IGST, GST etc. The e-wallet solution is expected to be made operational with effect from 1 April 2018.

- The Government has now extended the facility of export under Letter of Undertaking (LUT) to all registered persons that intend to supply goods or services for export without payment of IGST. This facility is not extended to those who have been prosecuted for any offence under any law and the amount of tax evaded in such cases exceeds INR 25 million.

Other amendments

- It has been proposed that the inter-state movement of goods such as rigs, tools, spares and goods on wheels, not being in the course or furtherance of a supply of such goods, will not constitute a supply and hence is not taxable under GST.
- A facility of manual filing of application for advance ruling is being introduced for the time being.
- Provision relating to the reverse charge liability arising from supplies received from unregistered suppliers will be suspended until 31 March 2018.
- It has been decided that the registration and operationalization of the Tax Deduction at Source (TDS)/Tax Collection at Source (TCS) provisions will be postponed until 31 March 2018.
- Services provided by a goods transport agency to an unregistered person including unregistered casual taxable person will be exempt from GST.

Rollout of e-way bill system

- The e-way bill system will be rolled out nationwide on a trial basis by 16 January 2018 and will be available for use by trade and transporters on a voluntary basis.
- The e-way bill system for the inter-state movement of goods on a compulsory basis will be effective from 1 February 2018.
- With regard to the e-way bill system for the intra-state movement of goods, states have been given the option to implement the same on any given date on or before 1 June 2018.

Foreign Trade Policy update

The mid-term review of the Foreign Trade Policy 2015-20 (FTP) was released by the Government on 5 December 2017, and will remain in force until 31 March 2020. The FTP focuses on expanding the market, alignment with GST, data analytics-backed policy intervention, and trade facilitation with specific emphasis on micro-, small- and medium-enterprises (MSME) and labor-intensive sectors. The highlights of the amendments to policy are as follows.

Export Promotion and Duty Exemption Schemes

- The validity of Duty Credit Scrips has been increased from 18 months to 24 months.
- The ineligible categories under the Service Export from India Scheme (SEIS) have been reduced to expand the scope of the scheme.
- SEIS incentives have been increased by 2% for specified services such as business, legal, accounting, architectural, engineering, etc.
- Similarly, there is an across-the-board increase in the incentives under the Merchandise Export from India Scheme (MEIS) by 2% for exports by MSMEs/labor-intensive industries.
- A Self-Ratification Scheme is introduced for Authorized Economic Operators (AEOs) to allow self-certification of duty free raw material/inputs under the Advance Authorization scheme. This will reduce the time lost at the Norms Committee of the Directorate General of Foreign Trade (DGFT) for fixing ad-hoc Standard Input Output Norms (SION).

Export Promotion Capital Goods (EPCG) Scheme

- The Government is to notify the negative list of capital goods that are not permitted under the EPCG Scheme, to remove ambiguity on this aspect.
- The combining of two or more EPCG authorizations issued to the same person has been allowed. Combining would be permitted even where the Export Obligation (EO) period has expired.
- The shifting of capital goods from one unit of an Importer Exporter Code (IEC) holder to another unit will be allowed without payment of duty.

Export Oriented Units (EOU)

- The concept of a Domestic Tariff Area (DTA) sale from an EoU on concessional and full duty has been removed.
- The transfer of manufactured goods from one unit to another unit has been allowed on payment of the applicable GST and compensation cess, as per the procedure specified.
- Units may import and/or procure from a bonded warehouse in the DTA without payment of customs duties, IGST, and compensation cess.

Deemed exports

- Deemed export for the purpose of GST has been defined to mean supplies as notified under GST law.
- The exemption for specified Mega Power Projects is limited to basic customs duty only.
- Benefits for various categories of deemed exports have been amended, considering the provisions under GST law.

Trade facilitation and ease of doing business measures

- A facility for deferred payment of customs duty has been introduced. The facility is available to AEOs (tier-two and three).
- Routine printouts of several documents, including GAR 7 Forms/TR6 Challans, TP copy, exchange control copy of bill of entry, and exchange promotion copy of shipping bill, are no longer required.
- Exporters can self-certify the Certificate of Origin (COO) of their export goods under the European Union Generalized System of Preferences (EU-GSP).

Supreme Court rules on education and higher education cess

A recent case considered whether the education cess and higher education cess that were paid along with excise duty are also liable to be refunded with central excise duty where the excise duty was exempted from levy via exemption notifications.

In order to encourage the business community to set up manufacturing units in less industrial areas such as the North-Eastern States, notifications were issued by the Government exempting goods manufactured and cleared from units located in such states from payment of excise duty. The methodology adopted and prescribed in these notifications was that the manufacturer was initially to pay the excise duty in cash only after utilizing the CENVAT credit available on the last day of the month and thereafter claim the refund of excise duty paid in cash. Education cess and higher education cess were also levied and collected from such manufacturers, which are in the nature of a surcharge on the excise duty together with the excise duty.

However, while refunding the excise duty paid by these manufacturers, the education cess and higher education cess that were paid along therewith were not refunded.

The view adopted by the tax authorities was that they are under no obligation to refund the education cess and higher education cess, as the notification exempted only the excise duty and, therefore, it was only the excise duty that was to be refunded.

The Supreme Court held that education cess is payable on excisable goods, and the provisions of the Central Excise Act, 1944 and the rules made thereunder, including those related to refunds and duties etc., shall as far as may be applied in relation to the levy and collection of education cess on excisable goods.

Further, education cess as a surcharge is levied at 2% on the duties of excise that are payable under the Act. It can, therefore, be clearly inferred that when there is no excise duty payable, as it is exempted, there would not be any education cess, as education cess at 2% is to be calculated on the aggregate of duties of excise. There cannot be any surcharge when the basic duty itself is nil. The said position is adopted in the circulars issued by the Government.

In view of the aforesaid reasons, the assesses were entitled to a refund of education cess and higher education cess, which were paid along with excise duty, once the excise duty itself was exempted from levy.

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Malaysia

Budget 2018

Budget 2018, released on 27 October 2017, included a number of GST-specific developments. There were no major amendments to the GST law announced, and it would appear that the expansion of GST to cover offshore digital services is currently on hold.

The main GST developments were in relation to the following areas. (For more information, see [GST Chat: November 2017](#).)

- Harmonization of GST (zero-rated) treatment of reading materials;
- Harmonization of GST-exempt treatment of management and maintenance services of stratified residential buildings;
- GST relief on construction services for school buildings and places of worship;
- GST relief on importation of big ticket items;
- GST relief on importation of goods under lease agreements from designated areas;
- GST relief on handling services rendered to operators of cruise ships;
- The merger of the Customs Appeal Tribunal (CAT) and the Goods and Services Tax Appeal Tribunal (GSTAT);
- An increase in the *de minimis* value for imports from MYR 500 to MYR 800;
- A review of the GST treatment for local authorities.

Revised guides

The following Royal Malaysian Customs Department (RMCD) guides have been amended. For further information and Deloitte Malaysia's comment, see [GST Chat: November 2017](#).

- Guide on Travel Industry as at 30 October 2017;
- Guide on Insurance and *Takaful* as at 2 November 2017.

Public rulings on penalties and healthcare services

On 1 November 2017, the RMCD issued:

- Public Ruling No. 01/2017 on the imposition of penalties for non-payment of tax due, clarifying in particular:
 - The calculation of the penalty on any late payment of tax; and
 - The effect of non-payment of the tax and penalty imposed.
- Public Ruling No. 2/2017 clarifying the GST treatment of the supply of services made by healthcare professionals.

For further information on these rulings and Deloitte Malaysia's comment, see [GST Chat: November 2017](#).

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EMEA

European Union

European Commission proposes new tools to combat VAT fraud

The Commission has proposed new tools to combat VAT fraud, which would enable EU Member States to exchange more information and to cooperate more closely in the fight against fraud. See [Fair Taxation: Commission proposes new tools to combat VAT fraud](#).

The tools include:

- Establishing an online system for information sharing within the 'Eurofisc' network of anti-fraud experts;
- Allowing joint audits to be conducted by officials from different tax authorities;
- Opening new lines of communication between tax authorities and law enforcement bodies;

- Sharing information about imported goods in transit across the EU; and
- Accessing car registration data to identify new and second-hand cars.

These proposals will now be submitted to the European Parliament for consultation, and the Council for adoption.

ECOFIN adopts new rules on VAT on electronic commerce

The European Council has adopted legislative proposals to amend the VAT rules for online sales of goods and services, see [VAT on electronic commerce: New rules adopted](#).

The proposals include:

- Simplifying the current Mini One-Stop Shop (MOSS) regime for cross-border telecommunications, broadcasting and electronic services;
- A move to taxation at destination, with simplified declaration through a One-Stop Shop (OSS) for distance sales of goods; and
- A VAT liability for electronic interfaces (such as marketplaces) which facilitate supplies of (low value) goods imported from outside the EU and for sales made within the EU by non-EU based suppliers.

The new legislation is intended to enter into force in 2019 and 2021. However, whilst there is now clarity on the proposed rules, the actual implementation may be delayed if the required import declaration systems would not be ready in time. Also, the Commission is tasked to develop and present in the course of 2018 the specific requirements applicable to electronic interfaces.

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Germany

CJEU rules that German VAT invoicing rules too restrictive

In *RGEX-Geissel* and *Butin*, the Court of Justice of the European Union has endorsed Advocate General Wahl's Opinion that VAT invoices have to show the supplier's address, but not necessarily the place where it carries out its economic activity.

Germany denied input tax recovery to two car dealers whose suppliers only showed letterbox addresses on their invoices. In the CJEU's judgment, the Court followed the argument of the Advocate General that the purpose of showing the address was to link a supply to the supplier, so that the tax authorities are able to identify the supplier and monitor the payment of the VAT amount giving rise to the input tax deduction. This objective would not be served by prohibiting taxpayers from using letterbox addresses on invoices, and the EU Principal VAT Directive does not specify any particular kind of address to use.

Therefore, the taxpayers should have been entitled to deduct input tax.

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Hungary

VAT rate reductions

The VAT rates for the below goods and services will change as of 1 January 2018:

Name of goods or service	Combined nomenclature (CN) code	Current VAT rate	Reduced VAT rate
Live fish suitable for human consumption (chilled or frozen), excluding ornamental fish and sharks	0301, 0302 and 0304	27%	5%
Meat and edible meat offal of home swine (fresh, chilled or frozen)	0206 30, 0206 41, 0206 49	27%	5%
Braille printer and Braille display	8469 30, 8443, 8543	27%	5%
Supply of meals and non-alcoholic beverages prepared on site in restaurants	-	18%	5%
Internet access services	-	18%	5%

New tax introduced – tourism development contribution

A new tax has been introduced, the tourism development contribution, which will apply from 1 January 2018.

The contribution will be determined based on the consideration (net amount) paid for the supply of meals and food, and of non-alcoholic beverages prepared onsite in restaurants, which will be taxed at a VAT rate of 5% from 1 January 2018.

The contribution must be reported and paid in accordance with the deadline for VAT returns. Therefore, the first reporting should be carried out by 20 February 2018 (for monthly VAT reporting).

Further details, *inter alia*, the form to be submitted and the tax account number where the tax should be paid, are not yet available.

Real-time invoice data reporting

Based on publicly available draft legislation, from 1 July 2018, taxpayers issuing invoices using invoicing software will be required to provide real-time data to the tax authorities.

The real-time data provision applies to invoices issued by invoicing software if the VAT amount indicated on the invoice reaches or exceeds HUF 100,000 (approx. EUR 320). Data should be provided immediately upon issuing an invoice.

The data should be provided in XML format with a predefined structure. When the invoice data is provided, the tax authorities will generate and send an identification code to the taxpayer. The identification code should be stored within the invoicing software for each invoice. Under current plans, this code would not be required to be indicated on the invoices. The XML data should be uploaded via a dedicated web platform. At present, a test version of the web platform (KOBAK) is available, where taxpayers are able to test their XML files. Within this system, the files are tested from a technical point of view (i.e., whether they comply with the predefined structure).

For invoices issued by using an invoice block, if the VAT amount indicated on the invoice reaches or exceeds HUF 100,000 and does not reach HUF 500,000, data should be provided within five days of issuing the invoice. If the VAT amount indicated on the invoice reaches or exceeds HUF 500,000, data should be provided within one day of issuing an invoice.

The draft has not yet been adopted, and may therefore be amended.

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Latvia

Reduced VAT rate introduced

On 6 December 2017, the proposed amendments to the VAT Law introducing a reduced VAT rate of 5%, applicable to certain fresh berries, fruits and vegetables characteristic to Latvia, including those that have been washed, peeled and packaged, but not thermally treated, was announced. The new reduced VAT rate will apply with respect to supplies made from 1 January 2018 until 31 December 2020.

Due to the introduction of the reduced VAT rate of 5%, on 14 December 2017, amendments to the VAT return forms were officially announced. The new VAT returns to be submitted from the January 2018 reporting period include amended and additional boxes.

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The Netherlands

2018 Tax Plan adopted by House of Representatives

Following the implementation of several VAT-related amendments and resolutions, the Parliament agreed the 2018 Tax Plan on 23 November 2017. The bill will now have to be approved by the Senate, which will most likely take place on 19 December.

Abolition of flat rate scheme for farmers

The bill on the abolition of the VAT flat rate scheme for farmers has been adopted. This scheme exempts farmers and other agriculturalists from VAT, while they are not allowed to deduct VAT charged on costs they have incurred.

Following abolition of the scheme, farmers will have to pay VAT on their supplies and will subsequently be entitled to deduct input VAT. The reduced VAT rate on the supply of certain goods and services will be abolished also.

There will be a transitional arrangement, according to which farmers will have to revise the VAT on investments made prior to 1 January 2018 during 2018. As a result, the portion of the VAT that was not deducted before 1 January 2018 will be refunded immediately. For investments purchased before 1 January 2018, but not yet entered into service, a full refund of the input VAT will arise in 2018.

Small business scheme

Further, a resolution has been adopted regarding the special scheme for small businesses in response to the abolition of the agriculture scheme. The small business scheme may be of interest for farmers as a substitute for the agriculture scheme. Currently it is being examined as to whether the small business scheme can be modernized and simplified. The Government is requested to design the proposed revision of the small business scheme in such a way that it will become more attractive for farmers who have used the agriculture scheme to date, and to submit a proposal to the House of Representatives for this purpose by the 2019 Tax Plan at the latest.

Refinement of definition of 'medicine' for VAT purpose

The bill on the refinement of the definition of 'medicine' for VAT purposes has been adopted. By refining the VAT legislation, as of 1 January 2018, the reduced VAT rate of 6% will only apply to products for which a (parallel) trade license has been issued as stipulated in the Dutch Medicines Act or which are specifically excluded from such a license.

Joint and several liability for pledgees, mortgage holders and executors

A joint and several liability for pledgees, mortgage holders and executors to secure VAT collection has been introduced. The amendment that refers to this liability has also been adopted. Pledgees, mortgage holders and executors will only be liable for VAT if they knew or could have known that the tax debtor would fail to pay the VAT due.

Change in scope of reduced VAT rate for seagoing vessels

The proposal to further streamline the wording of Dutch VAT rules to that of the EU Principal VAT Directive with regard to the reduced VAT rate for seagoing vessels, thus further reducing application of the VAT zero rate, has been postponed until 1 January 2019. Previously it was proposed to apply the zero rate to seagoing vessels used at least 90 percent for navigation on the high seas. This is now reduced to 70 percent.

No abuse of law for foundation that operates sports complex

Under Court of Justice of the European Union case law, Community law cannot be relied on for abusive or fraudulent ends. According to the CJEU, there is abuse of law when, first, the transactions concerned result in the accrual of a tax advantage the granting of which would be contrary to the purpose of the provisions in the national or European VAT law. Secondly, it must also be apparent from a number of objective factors that the essential aim of the transactions concerned is to obtain a tax advantage.

On 1 December 2017 the Supreme Court ruled in a case of a foundation that operates a sports complex as its main activity. The Supreme Court ruled that the foundation provides the opportunity to practice sport, which is taxed at the reduced VAT rate of 6%, and therefore has the right to deduct input tax. There is no abuse of law.

Facts and circumstances

Until 2010, a tennis club rented a sports complex from a municipality. The municipality owned the sports complex and provided maintenance and management during the rental period. At the end of 2009, a foundation was set up. The foundation started operating the sports complex from 2010. To this end, the foundation has taken over the lease agreement with the municipality from the tennis club. The foundation has also taken over some assets from the club for about EUR 25,000, for which a loan agreement has been signed. The exploitation of the foundation mainly consists of making the sports complex available to the tennis club, for an annual fee of EUR 40,000 (excluding 6% VAT). The foundation deducts the input VAT on the maintenance costs of the sports complex.

Judgment

According to the Supreme Court there is no sham transaction, since the legal acts correspond exactly with what the parties actually aimed for. Nor is there any abuse of rights. No tax benefit is achieved contrary to the purpose of the law, as the sports complex is leased under normal market conditions. The parties are then free to structure their activities in such a way that the amount of the VAT due is limited.

In addition, the Court of Appeal ruled that there is no VAT exempt rental of the sports complex. There is an opportunity to practice sports, as a sports facility is provided with which the tennis club is given the opportunity to practice a sport. The fact that the members of the tennis club actually take care of the maintenance of the complex does not detract from this judgment, because the foundation is formally responsible for this.

VAT on bad debts must be reclaimed in due time

The VAT treatment of bad debts changed as of 1 January 2017. Under the new rules the entitlement to a refund of VAT still arises when the debt will not be paid partially or in full at the time the non-collectability of the receivable can be determined. An essential change, however, is that the entitlement to a VAT refund is deemed to arise one year after the date on which the receivable has become payable. Based on proposed transitional law, this one year period is supposed to have started on 1 January 2017 for payments that became due in 2016.

Accordingly, receivables that have not yet been paid and for which the final payment date was before 1 January 2017 will be regarded as non-collectible on 1 January 2018. The VAT on these bad debts must be claimed in the first VAT return of 2018.

The VAT on bad debts with a final payment date after 1 January 2017 can be claimed from 1 January 2018 onwards in the VAT return for the period in which it is clear that the customer will no longer pay. Also, the VAT can be claimed at the latest one year after the final payment date.

In the event that a customer pays the invoice at a later state (in full or partially), VAT must be stated in the next VAT return.

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Russia

Foreign providers of e-services to pay VAT themselves on B2B supplies of e-services

Federal Law No. 335-FZ of 27 November 2017 changes the procedure for accounting for and paying VAT on e-services that are deemed supplied in Russia and are rendered by foreign suppliers to legal entities and individual entrepreneurs (B2B supplies) registered with the tax authorities. The new provisions require foreign entities that make supplies of e-services to businesses tax registered in Russia to account for and pay Russian VAT on such B2B supplies themselves, unless the legislation imposes this obligation on a tax agent.

The new rules with respect to B2B supplies of e-services will enter into force as of 1 January 2019. Foreign entities that make B2B supplies of e-services, and are not currently registered with the tax authorities, will have to apply for such tax registration by 15 February 2019.

The foreign suppliers that are already tax registered in Russia and currently pay VAT on B2C supplies of e-services will also be obliged to account for and pay VAT on B2B supplies of e-services, starting from 1 January 2019. Taking into account that the rules for determining the tax point will not change, it is understood that the foreign suppliers will be obliged to account for and pay VAT on B2B supplies of e-services provided that such services are rendered after 1 January 2019 and paid for (fully or in part) after 1 January 2019.

Further, in accordance with changes, national payment system operators, specified in Federal Law No. 161-FZ 'On the National Payment System' of 27 June 2017, will not be treated as tax agents (intermediaries) with respect to activities involving cash transfers for e-services. National payment system operators include, in particular, money transfer operators, banks' payment agents, payment agents, federal postal operators rendering cash transfer services, payment system operators, and payment infrastructure service operators. This provision will become effective as of 1 January 2018.

Zero VAT rate for re-export of goods introduced

Federal Law No. 350-FZ of 27 November 2017 introduced amendments to the Tax Code of the Russian Federation that will enable taxpayers to apply a zero VAT rate on the re-export of goods.

The current version of Article 164 of the Tax Code does not envisage any possibility to apply zero VAT rate if goods are sold abroad under the re-export customs procedure. The changes will address this issue, in particular, for taxpayers that export finished goods made of raw materials imported under the customs procedure of inward processing.

Amendments also introduce the list of documents required to justify the application of zero VAT rate for goods exported by international mail.

The changes will apply from 1 January 2018.

Option not to apply zero VAT rate to certain transactions

Federal Law No. 350-FZ of 27 November 2017 introduced amendments to the Tax Code of the Russian Federation that give a right to waive an obligation to apply a zero VAT rate (and establishes a corresponding obligation to pay VAT at the rate of 10 or 18 percent) to the following types of transactions:

- The supply of goods exported under the export customs procedure;
- The supply of services related to transportation of the above goods envisaged by Items 2.1-2.5, 2.7 and 2.8, Point 1, Article 164 of the Tax Code, in particular, the international transportation of goods, including related freight forwarding services.

A taxpayer may waive the application of a zero VAT rate by filing an application to its local tax authorities subject to certain conditions established by the Law.

The changes will apply from 1 January 2018.

Introduction of tax-free system

Federal Law No. 341-FZ of 27 November 2017 introduced amendments to the Tax Code of the Russian Federation. Under the amendments, citizens of foreign non-Eurasian Economic Union (EAEU) states will be entitled to a refund of VAT paid on purchases made in Russian retail stores, provided the purchased goods are then moved outside the EAEU customs territory.

A VAT refund can be claimed within a year of the date of purchase, provided the purchased goods crossed the Russian border within three months of such purchase. To be eligible for a refund, an individual must make a purchase of at least RUB 10,000 (inclusive of tax) from one retailer within one calendar day, confirmed by one or several cash receipts.

The list of retailers offering tax-free will be determined by the Government.

The new regime is primarily aimed at boosting the retail sales and fostering tourism.

Federal Law No. 341-FZ will come into effect on 1 January 2018. However, for the tax-free system to commence, a number of legislative acts must be developed.

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South Africa

Increase in customs duty

The general rate of customs duty for the following commodities has been increased:

Commodity	Tariff subheading	Current duty	New duty
Prefabricated steel buildings	9406.90.10 9406.90.90	Free	20%
Aluminium extrusions	7604.21.15 7604.29.15 7604.29.65	5%	15%
Wheat and wheaten flour	1001.91 1001.99 1101.00.10 1101.00.90	75.24c/kg 112.85c/kg	91c/kg 136.50c/kg

Creation of rebate provision for greenhouses of iron or non-alloy steel

As part of the tariff investigation wherein customs duties on prefabricated steel buildings were increased, the International Trade Administration Commission of South Africa (ITAC) has implemented a rebate provision for greenhouses of iron or non-alloy steel as there is no local manufacturer and no local industry to protect.

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Ukraine

Changes in VAT exemption rules for goods imported by individuals

On 7 December 2017, the Parliament adopted changes to the Tax Code of Ukraine (under draft Law No. 6776-D) which limit the number of parcels that may be sent to individuals by post and express mail with no import VAT on the imported goods. The Law is not yet published, but is expected to be effective from 1 January 2018.

In particular, from 1 January 2018, import VAT exemption will apply only to the first three parcels valued at less than EUR 150 received by an individual during one calendar month.

Moreover, the Parliament also restricted the applicability of import VAT exemption for individuals who import goods by road, rail or sea as carry-on luggage/registered baggage (except excisable goods and personal belongings).

Under the changes, an individual will not pay import VAT if s/he imports goods with a total value not exceeding EUR 500 and weighing up to 50 kg, provided such individual was absent from Ukraine for more than 24 hours and enters Ukraine not more than once within 72 hours.

If the individual crosses the Ukrainian border more than once within 72 hours and is absent from Ukraine for less than 24 hours, such individual may import goods with a value not exceeding EUR 50 and weighing up to 50 kg, without paying import VAT.

These changes are aimed at preventing the unrestricted no-tax importation of goods by individuals for subsequent commercial distribution.

Installment payment of VAT on certain imported equipment

Parliament extended the list of imported goods eligible for installment payment of VAT (under draft Law No. 6776-D adopted by the Ukrainian Parliament on 7 December 2017). The Law is not yet published, but is expected to be effective from 1 January 2018.

In particular, VAT on certain commodity items included in groups 84, 85 and 90 of the Ukrainian Harmonized System and imported for free circulation may be paid in equal installments within the period requested by the taxpayer. This option is temporary and will apply until 1 January 2020.

To be eligible for the installment payment of VAT, *inter alia*, the imported equipment must be used by the VAT payer for the purposes of own production in Ukraine.

A decision on the eligibility for the installment payment of VAT will be taken following the taxpayer's written application. The option of the installment payment of VAT may not be used for more than 24 calendar months. No interest, fines or penalties for the deferral of liabilities will be applied during the specified period.

However, no installment payment of VAT is possible in case of importation of equipment produced or imported from a country that is recognized as an occupier and/or an aggressor state with respect to Ukraine, or is imported from the occupied territories of Ukraine, as defined by Ukrainian laws.

A detailed procedure for allowing the installment payment of VAT will be prepared by the Ukrainian Government.

VAT and excise tax exemption for imported electric cars

Importation into Ukraine of new or used vehicles powered solely by one or two electric engines will be temporarily, from 1 January 2018 to 31 December 2022, exempt from VAT and excise tax (under draft Law No. 6776-D adopted by the Parliament on 7 December 2017). The Law is not yet published, but is expected to be effective from 1 January 2018.

In addition, during the specified five year period, VAT exemption will apply to:

- Electric car distribution in Ukraine;
- Electric car lease (leasing, hire, chartered conveyance);
- Passenger transportation by passenger electric cars (taxi services).

Tax incentives in support of cinematographic activities

From 3 December 2017 (the Law of Ukraine No. 2177-VIII dated 7 November 2017) goods included in the national cinematographic heritage and goods intended for use in cinematographic activities are temporarily (until 1 January 2023) exempt from customs duties when imported into Ukraine. The customs privileges will be available for the cinematographic entities receiving state support.

Goods exempt from customs duties include those under product codes 3706, 3920731000, 3923401000, 8525, 8529, 9002, 9007, 9010, 9405 in the Ukrainian Harmonized System, in particular, movie cameras, movie projectors, audio recording and reproduction equipment, television cameras, digital cameras, film stock, reels, equipment for photo and motion picture laboratories, and lighting equipment.

In addition, the supply of national motion pictures in Ukraine and the performance of work and services related to the production of national motion pictures are exempt from VAT until 1 January 2023.

Customs 'single window' implementation underway

At present, businesses may at their own discretion decide on whether or not they should use the 'single window' system for customs clearance of goods.

From 1 February 2018, use of the 'single window' information system will be obligatory for businesses, customs, and the state supervisory agencies for exchanging information on the results of state inspections of goods imported into or exported from Ukraine (Resolution of the Ukrainian Government No. 878 dated 22 November 2017).

Furthermore, there are a number of changes relating to the operation of the 'single window' electronic information exchange system, specifically:

- The 'single window' system will be applied to the movement of goods under all customs regimes;
- Fewer scanned commercial documents are to be transmitted via the 'single window' system due to the ability to use information from previously submitted periodic and entry summary customs declarations;
- The state supervisory agencies will be required to decide on the relevant type of inspection of the goods "as soon as possible, within four hours at the latest";
- If a business uses the 'single window' by mistake, state supervisory agencies may finalize the inspection with the response that the "goods are not subject to control";
- The inspection of the goods may take place within 12 working hours (previously, 24 working hours) following the time proposed by the business;
- A clear-cut procedure must be followed by state officials and business representatives if any process participant fails to attend the inspection of goods;
- Stamps of state officials, certifying the completion of relevant inspections, on hard copies of shipping documents are no longer required following an electronic control.

Once fully implemented, the 'single window' information system is expected to place both system users and other businesses on an equal footing, render the state control procedures convenient and efficient, and allow businesses to abandon paper permits and cooperate with supervisory agencies electronically.

Advance payment for imported goods without letters of credit

The National Bank of Ukraine (NBU) has simplified the procedure for making advance payments in foreign currency for imported goods.

Under Decree No. 118 dated 21 November 2017, the NBU cancelled the requirement for advance payment for foreign goods of a total value exceeding USD 5 million (in UAH equivalent) solely by letters of credit.

Effective from 23 November 2017, advance payments may be made irrespective of the value of goods and without letters of credit.

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Policy change on VAT treatment of pension fund management by insurers deferred

Following discussions with industry representatives, the tax authorities have amended their recent [Revenue and Customs Brief 3\(2017\)](#). Their policy of treating pension fund management services provided by regulated insurance companies as exempt will now be withdrawn with effect from 1 April 2019 (rather than 1 January 2018).

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