

## Global Indirect Tax News

Your reference for indirect tax and global trade matters

Welcome to the July 2018 edition of GITN, covering updates from the Americas, Asia Pacific, and EMEA regions.

Features of this edition include the signing of an Economic Partnership Agreement between the EU and Japan, other trade news from the EU and Canada, a case from Australia concerning the revenue authority's approach to calculating interest on delayed GST refunds, and the entry into force of the real-time invoice data provision obligation in Hungary.

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# Country summaries

## Global

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The EU and Japan have signed an Economic Partnership Agreement.

The European Commission has adopted provisional safeguard measures on imports of certain steel products.

## Americas

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Surtaxes have been imposed on certain products originating in the US.

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### Australia

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The Australian customs authority has introduced deferred customs duty payment arrangements for importers accredited under Australia's Authorised Economic Operator program.

### China

Regulations have been published regarding the refund of excessive input VAT credit balances.

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Tariff List 1 has come into force.

### India

The GST Council has made recommendations for changes in the GST law as well as the rates of certain goods and services.

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## EMEA

### GCC

Kuwait is progressing with the implementation of VAT.

[Read more](#)

Following the implementation of VAT in the Kingdom of Saudi Arabia, Deloitte has launched Deloitte VAT Check, a post-implementation review.

The Federal Tax Authority in the United Arab Emirates has published VAT guidance and tools for taxpayers. Also, the list of designated zones for VAT purposes has been extended.

### France

The tax authorities published guidelines specifying the scope of the anti-fraud legislation requiring a certification for cash-register software/systems, applicable as from 1 January 2018.

[Read more](#)

### Hungary

The real-time invoice data provision obligation entered into force in Hungary as of 1 July 2018.

[Read more](#)

The Government has introduced the summer tax package.

### Italy

The tax authorities released guidelines about VAT group ruling petitions.

[Read more](#)

The tax authorities published some of the expected guidelines regarding the e-invoicing obligation.

Guidance and operative instructions were issued on the rules relating to the storage of energy products in third party warehouses.

Operating instructions were issued for the e-communication of consideration relating to sales of petrol and diesel motor fuel for self-service filling stations.

Operative guidelines were issued for the Customs Decisions System.

New forms were issued for alcohol production, industrial uses of alcohol, and bioethanol production.

**Latvia**

Draft regulations are under consideration to deal with the process of how taxes (including VAT) and duties are payable to the State Treasury.

[Read more](#)

**Luxembourg**

From 31 July 2018, two or more persons established in Luxembourg will be eligible to apply to the VAT administration to form a VAT group.

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Luxembourg is to apply the open market value for VAT purposes on transactions between closely linked persons.

Luxembourg is to treat services that have characteristics similar to those normally attributed to capital goods as capital goods for VAT purposes.

**The Netherlands**

A Court of Appeal referred questions to the Court of Justice of the European Union for a preliminary ruling regarding the VAT consequences of membership of a supervisory board.

[Read more](#)

**Poland**

The 0% VAT rate on the export of goods from Poland will be subject to a CJEU ruling.

[Read more](#)

The tax authorities have issued explanations on the split payment mechanism and on demand SAF-T files.

**Portugal**

There is an update on the calculation of vehicle tax (*Imposto Sobre Veículos*).

[Read more](#)

The tax authorities have released a decision concerning the VAT taxable value of imported goods.

**Russia**

The State Duma has approved a draft law that will increase the standard VAT rate from 18% to 20% from 1 January 2019 in the first reading.

[Read more](#)

The Ministry of Finance has clarified the application of VAT with respect to foreign entities' services of providing IP-addresses and content access.

The Ministry for Industry and Trade has announced the preliminary results of the tax-free implementation pilot project.

The Government has adopted the list of VAT-exempt airport services.

Obligatory certification has been established for radiators and heating convectors

Import licensing of aluminum wheels has been introduced.

Import customs duty rates have been increased for certain goods originating from the US.

**South Africa**

The International Trade Administration Commission of South Africa has issued a notice on antidumping duties due to expire in 2019.

[Read more](#)

**Spain**

The General State Budget 2018 has been published.

[Read more](#)

There have been changes to the Intrastat form.

**Tunisia**

Indirect tax measures were included in the Financial Act of Management.

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**United Kingdom**

There has been a CJEU judgment on the VAT treatment of penny auctions.

[Read more](#)

A number of indirect tax measures have been included in the draft Finance Bill.

The tax authorities have issued guidance on Making Tax Digital for VAT, which will come into effect from 1 April 2019.

## Eurasian Economic Union

Customs duty rates for certain goods have been decreased in accordance with Russia's obligations to the World Trade Organization.

[Read more](#)

Zero import customs duty has been introduced for certain goods.

The EEU and Iran have signed an Interim Agreement cancelling non-tariff restrictions for certain goods and establishing decreased customs duty rates.

There have been amendments to procedures and calculations for customs value.

The list of goods subject to permission for import/export into/from the EEU has been amended.

An expiry date has been established for certain forms of customs documents.

There are new rules for marking milk-containing products.

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## Global

### WCO Guide to Customs Valuation and Transfer Pricing

On 5 June 2018, the World Customs Organization (WCO) released an update to the 2015 edition of its [Guide to Customs Valuation and Transfer Pricing](#). The new 2018 edition was included as part of the WCO's 'Revenue Package Phase III', which is a package of all available tools and instruments (including, *inter alia*, formal instruments and conventions, guidance notes, and training materials) that are relevant to revenue collection by customs authorities. As before, the updated Guide notes that it does not provide definitive approaches to dealing with customs valuation or transfer pricing issues, but rather provides only technical background as well as potential solutions that should be used in conjunction with domestic laws.

It remains, however, a leading reference on the coordination of tax and customs practices with respect to related party pricing analyses. Although no major revisions were made, notable updates to the Guide include:

- References to developments in the Organization for Economic Co-operation and Development (OECD) Base Erosion and Profit Sharing (BEPS) initiative that combats tax avoidance strategies that utilize low-tax jurisdictions. This includes references to OECD BEPS Action Items 8, 9, and 10 and updated guidance on the use of the transactional profit split method in Chapter 3.
- Specific references in Chapter 4 to the two case studies previously considered and issued by the WCO Technical Committee on Customs Valuation. Specifically, Case Study 14.1, which applies the transactional net margin method (TNMM) and Case Study 14.2, which applies the resale price method.
- Korea's contribution concerning its practice on the interaction of Customs Valuation and Transfer Pricing in Annex I, titled 'National Initiatives'.

## **EU and Japan sign Economic Partnership Agreement**

On 17 July 2018, the EU and Japan signed an Economic Partnership Agreement (EPA) at a joint summit in Tokyo. The EU-Japan EPA will create an open trade zone with a (gradual) removal of tariff barriers. The agreement is expected to be ratified by each party by the end of 2018 in order to allow for entry into force in early 2019. The joint statement released at the EU-Japan Summit refers to the EPA as a tool to improve prosperity domestically and globally and as a reaction against protectionism.

### ***Road to implementation***

The signing of the EPA marks an important step on the road to implementation. The signing was preceded by a Council of the European Union mandate to the European Commission. The EPA will only become effective after it passes through the internal legislative decision-making processes of both jurisdictions.

For the EU, the next steps are as follows:

1. The European Parliament must provide its consent with the content of the EPA through a single vote, and
2. The Council must adopt the decision on the conclusion of the EPA, after which the Agreement will be concluded.

With chapters on investment protection standards and dispute resolution negotiated separately, the EPA only covers EU-exclusive competencies, which will not require separate approval on an EU Member State level. In principle, this should allow a smooth and relatively quick entry into force of the EPA.

For Japan, the ratification process is set forth in Japan's national legislation, which requires submitting the EPA for ratification through the Diet, i.e., the Japanese Parliament.

Once the national requirements for ratification have been completed, the EU and Japan will notify each other. In principle, the EPA will then enter into force on the first day of the second month following that bilateral notification.

### ***Implications***

The EPA will create an open trade zone covering more than 600 million people and almost a third of the global gross domestic product, i.e., the biggest free trade agreement ever concluded by the EU.

Under the EPA, both parties will bilaterally reduce or remove import duties. In addition, the agreement will end a number of long-standing non-tariff barriers between the parties (e.g., safety regulations in the food and automotive industries).

The EPA will regulate the following objectives between the EU and Japan:

- Creating market access for goods, services, and investments in each party's respective territory;
- Breaking down non-tariff measures;
- Promoting sustainable development;
- Harmonizing rules on intellectual property rights; and
- Protecting geographical indications.

### **EU imposes provisional safeguard measures on import of steel products**

On 18 July 2018, the European Commission adopted provisional safeguard measures on imports of certain steel products pursuant to Implementing Regulation 2018/1013.

The EU safeguard investigation comes as a response to the threat of trade diversion of steel products to the EU as a consequence of additional tariffs applied by the US Government on steel on 23 March 2018 under Section 232 of the US Trade Expansion Act of 1962.

### ***Implications***

The products investigated encompass 28 steel product categories within Chapters 72 and 73 of the Combined Nomenclature. These product categories were found to be also subject to the US tariff measures under Section 232. However, the EU provisional safeguard measures will only apply to 23 steel product categories for which imports into the EU were found to be increasing significantly over the last five years.

Entered into force on 19 July 2018, the EU's provisional measures will take the form of tariff rate quotas (TRQs), in excess of which an additional duty of 25% will be owed. For each of the 23 product categories covered by the Implementing Regulation, quotas are calculated on the historical annual level of imports in the years 2015, 2016, and 2017. TRQs will then be allocated in the chronological order of the declarations of release for free circulation, allowing for equal access for all importers in the EU.

Provisional measures will, however, not apply to:

- Any product originating in a developing country, provided that imports from these countries represent less than 3% of the total import of the impacted products; or
- Any product originating in one of the European Economic Area countries (Norway, Iceland, and Liechtenstein) due to the close economic ties between the EU and these countries.

These exclusions are compatible with both the EU's bilateral and multilateral WTO obligations.

The provisional safeguards measures will remain in effect for a maximum of 200 calendar days as of the entry into force of the Implementing Regulation on 19 July 2018. Definitive safeguard measures are expected to be published before the end of January 2019.

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## Americas

### Canada

#### **Surtaxes imposed on certain products originating in the US**

From 1 July 2018, certain goods imported from the US are subject to new surtaxes. The surtaxes apply to certain goods originating in the US. In particular, the goods must be eligible for marking as goods of the US in accordance with the Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations. The surtaxes will be levied pursuant to United States Surtax Order (Steel and Aluminum) and United States Surtax Order (Other Goods).

The surtaxes will be levied on the value for duty of both commercial and casual (i.e., 'non-commercial') goods. For certain imported steel goods, the surtax rate is 25 percent. For certain imported aluminum and other goods, the surtax rate is 10 percent. The surtaxes will be levied on goods released from a Customs Bonded Warehouse or Sufferance Warehouse on or after 1 July 2018 regardless of their date of importation.

Goods listed in Schedules 1 and 2 of the United States Surtax Order (Steel and Aluminum) and in the Schedule to the United States Surtax Order (Other Goods) are subject to the surtaxes even if they might otherwise be eligible for preferential tariff treatment under Chapter 99 (Special Classification Provision – Commercial) of the Schedule to Customs Tariff.

Similarly, goods listed in Schedules 1 and 2 of the United States Surtax Order (Steel and Aluminum) and in the Schedule to the United States Surtax Order (Other Goods) are generally subject to the surtaxes (with a few exceptions) even if they might otherwise be eligible for preferential tariff treatment under Chapter 98 (Special Classification Provisions – Non-commercial) of the Schedule to the Customs Tariff.

Examples of Chapter 98 exceptions where the surtax orders would not apply are goods classified under headings: 98.01 (conveyances engaged in international commercial transportation), 98.02 (temporary importation of conveyances for non-commercial transportation), 98.03 (conveyance and baggage imported by non-residents), etc. The list is not exhaustive.

The surtax orders also do not apply to goods that are in transit to Canada prior to 1 July 2018.

The onus is on importers to prove that goods imported into Canada should not be subject to the United States Surtax Order (Steel and Aluminum) and the United States Surtax Order (Other Goods). Importers may consider whether they can apply duty relief programs (such as the duty drawback program) in relation to duties, including surtaxes that may be levied on imported goods.

Further details regarding both Orders are set out in [Customs Notice 18-08](#) (Surtaxes Imposed on Certain Products Originating in the United States). See also the Department of Finance, Canada document [Countermeasures in Response to Unjustified Tariffs on Canadian Steel and Aluminum Products](#).

Persons engaged in international trade should consider the degree to which increased US tariffs and Canada's countermeasures will impact their businesses, as well as strategies and options for dealing with these changes.

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# Asia Pacific

## Australia

### **Delayed GST refunds and taxpayer entitlement to interest**

Deloitte Australia has successfully challenged the revenue authority's approach to calculating interest on delayed GST refunds, with the Federal Court ruling in favor of the taxpayer in [Travellex Limited v Commissioner of Taxation](#) [2018] FCA 1051.

In *Travellex*, the Court ruled that the taxpayer was entitled to receive interest on a delayed GST refund, calculated from the time the taxpayer lodged its GST return for the affected tax period. The Court rejected the approach of the Australian Taxation Office (ATO) of calculating interest on the delayed refund only from the much later date when the taxpayer gave notice of its outstanding GST refund entitlement for the tax period. It is important to note that the dispute related to a tax period that occurred before changes affecting GST reporting and assessment were introduced on 1 July 2012.

Subject to the outcome of any appeal, the *Travellex* decision may provide grounds for other taxpayers to seek payment of additional interest in respect of delayed GST refunds received from the ATO for tax periods before 1 July 2012. In light of this, GST taxpayers should be reviewing their records to identify any potential claim for underpaid interest and taking appropriate steps to protect it.

The implications of the decision for delayed refunds of other federal indirect taxes are also being considered.

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### **Customs duty deferral arrangements for qualifying importers**

On 24 July 2018, the Australian Border Force (ABF) extended the benefits offered under its Authorised Economic Operator (AEO) arrangements (i.e. the Australian Trusted Trader Program) to allow accredited businesses to defer payment of customs duty on imported goods.

The duty deferral benefit allows businesses to defer paying duty in respect of most imported goods until the 21<sup>st</sup> day after the end of the calendar month in which the goods were entered for home consumption.

Being able to make just one combined payment of customs duty in the month after the goods are entered for home consumption, rather than making many individual payments for multiple consignments of goods throughout each month, offers several potential advantages, including streamlined accounting and reduced import transaction costs. Depending on a business's circumstances and amount of duty it typically pays each month, the opportunity to defer paying duty could also offer a useful cash-flow boost.

### ***Eligibility for the duty deferral benefit***

The duty deferral benefit is available provided that:

- The agreement made between the business and the ABF for the purposes of the Trusted Trader Program permits deferred payment of import duties on the goods;
- The business has approval to defer paying GST on taxable importations of the goods;
- The goods have not been entered for warehousing before being entered for home consumption;
- The goods do not create Luxury Car Tax or Wine Equalisation Tax obligations for the business.

### ***Other recent changes affecting accredited businesses***

On 31 May 2018, the ABF signed a mutual recognition agreement (MRA) with Singapore's customs authority. The MRA provides secure access to streamlined trade examination and faster customs clearance for each country's authorised economic operators.

Australia currently also has an MRA with each of Canada, the People's Republic of China, Hong Kong, the Republic of Korea, and New Zealand.

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## **China**

### **Regulations for refund of excessive input VAT credit balance in 2018 published**

On 27 June 2018, China's Ministry of Finance (MOF) and State Administration of Tax (SAT) issued Caishui [2018] No. 70 (Circular 70) to clarify the issues related to the one-time refund of excessive input VAT credit balance for enterprises in certain industries. According to Circular 70, the list of eligible companies and the refund amounts must be registered with MOF and SAT before 31 August and the input VAT will be refunded before 30 September.

## **Highlights**

The refund policy applies to the following two categories of industries:

- Advanced manufacturing industry such as equipment manufacturing, and modern services industry such as R&D;
- Power grid enterprises.

Taxpayers applying for the refund must have a tax compliance rating of A or B.

The refund amount will be the excessive input VAT credit balance at the end of 2017 or the refundable input VAT amount, whichever is smaller.

The refundable input VAT amount = excessive input VAT credit balance prior to the application \* refundable rate.

The refundable rate = credited input VAT in 2015, 2016 and 2017 derived from VAT special invoices, import VAT certificates, withholding VAT certificates / the total credited input VAT of years 2015, 2016 and 2017.

## **Comment**

Circular 70 is positive news for advanced manufacturing industries, high-tech industries, and the power grid industry, as the refund can release the amount in the input VAT credit balance. Considering the total available refund amounts and other limitations, not every enterprise will be able to benefit from the policy. In this regard, enterprises are suggested to take the following actions:

- Evaluate the eligibility (including industry category, tax compliance rating, etc.) and review the input VAT credit balance as soon as possible;
- Where eligible for the refund, follow closely the regulations following Circular 70 published by local authorities, and communicate actively with the local tax bureaux to understand the local practice.

## **Entry into force of Tariff List 1**

Starting at 12:01 AM 6 July 2018 Eastern Day Time, the US imposed additional tariffs of 25% on USD 34 billion worth of Chinese goods (US Tariff List 1) imported into the US.

As a corresponding action, China increased tariffs on 545 products of US origin (China Tariff List 1) by 25%, which became effective at the same time as the US tariffs (12:01 AM 6 July 2018 China Standard Time), based on Tariff Committee of State Council Announcement No. 5 dated 15 June.

China Tariff List 1 includes 545 products such as agriculture, aquatic, and automotive products. The current bonded and tax relief policy will remain unchanged, and the increased tariff cannot be reduced or exempted.

The effective date of the remaining 114 products mentioned in Announcement No. 5 (China Tariff List 2) has not yet been announced. For companies which import products listed in China Tariff List 2, including chemical products, medical devices, and energy products, there remains time to manage the potential impact.

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## **India**

### **GST updates**

In its 28<sup>th</sup> meeting held on 21 July 2018, the GST Council made various recommendations for changes in the GST law as well as the rates of certain goods and services. Legislative changes will be effective after being approved by the Parliament as well as the state legislature. With respect to the rate changes, notifications have been issued to give effect to the recommendations.

The next meeting of the Council will be on 4 August 2018.

Some of the key recommendations of the Council are as follows.

#### ***Registration and related aspects:***

- Taxpayers who received provisional GST IDs but could not complete the process of migration of their erstwhile indirect tax registration can now approach a jurisdictional nodal officer before 31 August 2018 to complete migration. Such taxpayers will be entitled to a waiver of the late fee for delay in submission of GST returns. They will have to make payment of late fees while submitting the returns, which will subsequently be refunded in the cash ledger as 'tax'.
- The monetary threshold for the composition scheme is to be enhanced from INR 10 million (INR 1 crore) to INR 15 million (INR 1.5 crore).
- Composition dealers are to be permitted to supply services (other than restaurant services) up to 10% of turnover in the preceding financial year or INR 500,000, whichever is higher.
- The threshold limit for obtaining GST registration in Assam, Arunachal Pradesh, Himachal Pradesh, Meghalaya, Sikkim, and Uttarakhand is to be enhanced from the existing INR 1 million (INR 10 lakh) to INR 2 million (INR 20 lakh).
- Taxpayers having more than one place of business in a state can opt for obtaining a separate GST registration for each such place.

- GST registration will be suspended from the date of making an application for cancellation, hence there will be no requirement to submit returns or comply with other compliance obligations.
- E-commerce operators are required to obtain GST registration only if they are liable to collect tax at source.

### ***Compliance***

The Council approved new formats and business processes for GST returns. Some of the key features of the new GST compliance system are:

- Small taxpayers (comprising 93% of aggregate taxpayers) with annual turnover below INR 50 million (INR 5 crore) and making only B2B supplies or only B2B and B2C supplies can opt to furnish simplified GST returns on a quarterly basis; GST payment will continue to be on monthly basis.
- Other taxpayers are to furnish only one monthly GST return per state; taxpayers having obtained input service distributor registration are to file an additional return.
- The return will have a simple interface with two main tables – for outward supplies and for input tax credits.
- Taxpayers will be able to take input tax credit on the basis of invoices uploaded by suppliers in their GST return on a continuous basis; recipients will also be able to upload inward supply invoices.
- Taxpayers will be able to amend invoice and other details by filing an amendment return.
- There will be a facility to file nil returns by sending a SMS.

### ***Applicability of tax***

The following transactions will not be treated as a supply and, hence, will not be liable to GST:

- A supply of goods from a non-taxable territory to another non-taxable territory, without the goods entering into India;
- A supply of warehoused goods before their customs clearance for home consumption;
- A supply of goods in the case of high sea sales.

GST under the reverse charge mechanism on procurement from unregistered suppliers will be applicable only with respect to specified goods procured by notified classes of registered taxpayers.

## ***Input tax credit***

Input tax credit will be available in respect of the following items:

- Most of the activities or transactions specified in Schedule III as a supply of goods or supply of services;
- Motor vehicles for transportation of passengers, with seating capacity exceeding 13 (including driver), vessels and aircraft;
- Motor vehicles for transportation of money for or by a banking company or financial institution;
- General insurance, repair and maintenance in respect of motor vehicles, vessels and aircraft on which credit is available;
- Goods or services that are mandatorily required to be provided by an employer to its employees, under any law for the time being in force.

There will be no interest liability on reversal of input tax credit due to failure to make payment to a supplier within 180 days from the date of invoice.

Fabrics manufacturers will be entitled to claim a refund of accumulated input tax credit on account of inverted tax structure. The refund will be available prospectively on purchases made after issuance of the notification for such refund.

The order of cross-utilization of input tax credit is being rationalized so as to provide that a taxpayer will be first required to exhaust the Integrated GST Credit before utilizing the central GST or state GST credit for making payment of tax.

### ***Other:***

- Consolidated credit/debit notes in respect of multiple invoices will be able to be issued in a financial year.
- Supplies of services will be able to qualify as exports, even if payment is received in Indian Rupees, where permitted by the Reserve Bank of India.
- The Commissioner will be empowered to extend the time limit for return of inputs and capital goods sent on job work, up to a period of one year and two years, respectively.
- The place of supply in the case of job work of any treatment or process undertaken on goods temporarily imported into India and then exported without applying them to any other use in India, is to be outside India.

- The amount of pre-deposit payable for appeal before the Appellate Authority is to be capped at INR 250 million (INR 25 crore), and before the Appellate Tribunal, to be capped at INR 500 million (INR 50 crore).
- The recovery of tax due from a taxpayer can be made from its distinct persons, even if present in a different state.

### ***Changes in and clarifications of rate of tax***

The Council has recommended changes in the rate of tax of certain goods:

<b>Details</b>	<b>Current rate</b>	<b>Proposed rate</b>
Paints and varnishes (including enamels and lacquers), specified putty and resin cement	28%	18%
Refrigerators, freezers and other refrigerating or freezing equipment including water cooler, milk cooler, refrigerating equipment for leather industry, ice cream freezer etc.	28%	18%
Washing machines, vacuum cleaners, domestic electrical appliances such as food grinders and mixers, food or vegetable juice extractor, storage water heaters, immersion heaters, shavers, hair clippers, hair dryers, hand dryers, electric smoothing irons etc.	28%	18%
Television sets up to the size of 68 cm	28%	18%
Lithium-ion batteries	28%	18%
Special purpose motor vehicles, for instance crane lorries, fire fighting vehicle, concrete mixer lorries, spraying lorries	28%	18%
Works trucks [self-propelled, not fitted with lifting or handling equipment] of the type used in factories, warehouses, dock areas or airports for short transport of goods, trailers and semi-trailers	28%	18%
Miscellaneous articles such as scent sprays, toilet sprays, powder-puffs and pads for application of cosmetics or toilet preparations	28%	18%
Fuel cell vehicle <i>Compensation cess also proposed to be exempt</i>	28%	12%

<b>Details</b>	<b>Current rate</b>	<b>Proposed rate</b>
Stone/Marble/Wood Deities	12%	Exempt
Sanitary Napkins	12%	Exempt
Bamboo flooring	18%	12%
Brass Kerosene Pressure Stove	18%	12%
Hand Operated Rubber Roller	18%	12%
Zip and Slide Fasteners	18%	12%
Footwear having a retail sale price up to INR 1,000 per pair	18%	5%
Ethanol for sale to Oil Marketing Companies for blending with fuel	18%	5%
Solid bio fuel pellets	18%	5%
Chenille fabrics and other fabrics under heading 5801	12%	5%
Phosphoric acid of fertilizer grade	12%	5%
Knitted cap/topi having retail sale value not exceeding INR 1,000	12%	5%
Specified handicraft items	18% or 12%	12% or 5%

The Council further issued clarifications regarding the applicable rate on the following goods:

- Milk enriched with vitamins or minerals salt (fortified milk) classifiable under heading 0401 as milk and hence, exempt from GST.
- Beet and cane sugar, including refined beet and cane sugar, (heading 1701) attracts GST at 5%.
- Water supplied for public purposes (other than in sealed containers) does not attract GST.
- Marine engine (sub-heading 8408 10 93) attracts GST at 5%.
- Unpolished kota and similar stones (except marble and granite) attracts GST at 5%, whereas ready-to-use polished kota and similar stones attracts GST at 18%.

Changes in the rate and mechanism of applicability of GST for some key services are listed below:

<b>Details</b>	<b>Current rate</b>	<b>Proposed rate</b>
e-books for which print version exists	18%	5%
Warehousing of minor forest produce	18%	Exempt
Installation and commissioning undertaken by electricity distribution companies for extending electricity distribution network up to the tube well of the farmer/agriculturalist for agricultural use	18%	Exempt
Services provided by FSSAI to food business operators (Food Safety and Standards Authority of India)	18%	Exempt
Services by an old age home run by state/ central government or a body registered under Section 12AA of the Income Tax Act to its residents aged 60 years or more against consideration up to INR 25,000 per month per member, inclusive of charges for boarding, lodging and maintenance	18%	Exempt
Reinsurance services provided to specified insurance schemes funded by Government	18%	Exempt
Import of services by foreign diplomatic missions/UN and other international organizations, based on reciprocity	18%	Exempt
Services provided by an establishment of a person in India to any establishment of that person outside India (i.e. related party) in banking and IT sectors	18%	Exempt

The Council made some further changes and issued clarifications regarding the following services:

- The rate of tax for accommodation services by hotels etc. will be determined on the basis of transaction value, instead of declared tariff.
- The composite supply of food and drinks in restaurant, mess, canteen, eating joints and such supplies to institutions (educational, office, factory, hospital) on a contractual basis will be liable to GST at 5%; the Council clarified that the scope of outdoor catering is restricted to supplies in the case of outdoor/indoor functions that are event based and occasional in nature.
- Exemption granted on the outward transportation of all goods by air and sea is to be extended to 30 September 2019.
- A composite supply of multimodal transport will be liable to GST at 12% under forward charge with availability of input tax credit.

- The reduced rate of GST applies on composite supplies of works contracts received by the Government or a local authority in the course of their sovereign functions.
- An explanation is to be inserted in the relevant notification to define the term 'renting of immovable property'.
- The liability of GST on services provided by individual direct sales agents to banks/NBFCs is to be paid under the reverse charge by the banks/NBFCs (Non-Banking Financial Company); services by non-individuals (corporate, partnership firms) to banks/NBFCs would continue under forward charge.

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## EMEA

### Gulf Cooperation Council

#### *Kuwait*

According to local newspaper sources, the Government intends to prioritize the approval of the VAT regime during the next session of the National Assembly starting in October 2018. The Financial Affairs Committee of the Parliament is expected to discuss the underlying legislative acts in September before they are debated by the National Assembly.

The upcoming VAT implementation process in Kuwait encompasses the ratification of the Unified VAT Agreement of the Gulf Cooperation Council and the enactment of the local VAT law by the National Assembly. It is understood that preparations for the aforesaid are currently underway.

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#### *Kingdom of Saudi Arabia*

##### *Post-implementation review*

Following the implementation of VAT in the Kingdom of Saudi Arabia (KSA) on 1 January 2018, KSA's General Authority of Zakat and Tax (GAZT) have taken an increased level of interest in undertaking VAT inspections of companies (for example the recent focus on foodstuff and car rental vendors). Many KSA businesses have found that simple systems or processing errors have led to penalties being applied and assessments being raised for mistakes that could have been avoided.

In response to this, Deloitte Middle East has launched its post-implementation review, [Deloitte VATCheck](#), to support KSA businesses in understanding their post-implementation VAT position. Deloitte Middle East has designed an approach and methodology to review post-implementation compliance to allow errors and issues to be identified and any related risks of non-compliance mitigated in a proactive manner.

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### ***United Arab Emirates***

#### *VAT guidance and tools for taxpayers*

Following the introduction of VAT in the UAE on 1 January 2018, the UAE Federal Tax Authority (FTA) has published a range of guidance and tools to support taxpayers in understanding their VAT obligations. It has released four Public Clarifications which cover complex VAT matters:

1. [VAT treatment of compensation-type payments](#)
2. [Profit margin scheme – eligible goods](#)
3. [Labour accommodation: residential versus serviced property](#)
4. [Use of exchange rates for VAT purposes](#)

The FTA has also updated its [Taxable Person Guide for VAT](#). Issue 2 of the Guide now serves as the main FTA VAT reference document.

The FTA has also updated its online e-Services portal with additional features to support taxpayers. Taxpayers can now link their account to an accredited tax agency to allow the agency to perform tasks on their behalf, including registration, submitting tax returns, and completing tax transactions. It also includes features to simplify procedures for customs clearance companies operating under its approval, with streamlined registration procedures to make it easier for them to submit tax returns.

#### *Extension of designated zone list*

The Government has issued a Cabinet Decision extending the [list of designated zones](#) for VAT purposes. The following free zones will be considered designated zones effective from 18 June 2018:

- Al Ain International Airport Free Zone;
- Al Butain International Airport Free Zone; and
- International Humanitarian City.

Designated zones are areas within the UAE which are treated as being outside the state for certain transactions for the purposes of VAT. The VAT rules which apply to designated zone transactions are complex. It is critical that businesses within a designated zone, or which transact with businesses within designated zones, are fully aware of these rules and review their activities to identify potential impacts of the designated zone expansion on existing transactions.

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## **France**

### **Mandatory certification of cash-register software/systems**

The tax authorities recently published their guidelines specifying the scope of the anti-fraud legislation requiring a certification for cash-register software/systems, applicable as from 1 January 2018 (BOI –TVA-DECLA-30-10-30-20180704).

This mandatory certification initially targeted all accounting, management, and cash-register software in order to fulfill conditions of immutability, security, storage, and of archiving data. The legislation now applies to cash-register systems or software only.

A definition has been provided by the tax authorities: it is an IT system with a cash function consisting of storing and recording out of the books payments received for a sale of goods or a supply of services, that is to say that the recorded payments do not lead automatically, immediately and mandatorily to an accounting posting.

Thus, payment terminals are excluded. As regards multi-function software, only the cash-register features they include are subject to this requirement.

Finally, the tax authorities, by administrative concession, consider that when all payments for the sales of goods or supplies of services are received by a credit establishment to which they can request information (according to their communication right), the certification is not necessary. This is also the case when all payments are received through a bank established in the EU covered by the automatic exchange of information mentioned in Directive 2011/16/UE.

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## Hungary

### **Available information and final documentation on real-time invoice data provision obligation**

The real-time invoice data provision obligation entered into force in Hungary as of 1 July 2018. Starting from then, taxpayers who are issuing invoices (in B2B relation exclusively) using invoicing software are obliged 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 (however, taxpayers may also choose to report all invoices issued by invoicing software). The invoice data must be provided immediately.

The tax authorities issued a statement that they will not penalize taxpayers who have already registered on the tax authorities' dedicated webpage (<https://onlineszamla.nav.gov.hu/regisztracio/start>) and will be able to upload the data of invoices issued from 1 July 2018, until 31 July 2018 the latest, but cannot go live before this date.

To support preparation for the obligation, the tax authorities publish information and documentation regarding the real-time invoice data provision obligation, on an ongoing basis. The latest updates are available from the following link, including in English:

<https://www.nav.gov.hu/nav/onlineszamla>.

Prior to 1 July 2018, VAT taxpayers were required to report inbound/outbound domestic transactions where the VAT indicated on the invoice reached or exceeded HUF 1,000,000 in the domestic sales and purchases listing. As a result of the real-time invoice data provision, the domestic sales listing is cancelled and the threshold for reporting purchases in the domestic purchases listing is decreased to HUF 100,000 as of 1 July 2018.

### **Government introduces summer tax package**

#### ***VAT rate of milk***

The VAT rate of milk would be unified at 5% as of 1 January 2019. Consequently, the VAT rate for ESL and UHT milk would be 5% besides fresh milk.

#### ***VAT deduction right for new taxable persons***

Sole traders newly engaged in business activities and VAT registered foreign businesses are entitled to exercise their VAT deduction rights with respect to purchases linked to their taxable activities in a verifiable way based on the invoice issued to their names even if the purchase took place before registering with the tax authorities. The draft legislation would clearly settle that in such cases the VAT deduction right may be exercised in the tax assessment period of the date of registration.

## **Italy**

### **Authorities release guidelines about VAT group ruling petitions**

The tax authorities released guidelines regarding ruling petitions to file on VAT group matters.

As Italy enacted the 'all in all out rule' and a specific presumption rule (where a financial link exists, economic and organizational links are deemed to be met), the new VAT rules state that to exclude one or more companies of a group from the VAT group, a ruling petition must be filed to the tax authorities to prove the lack of economic and organizational links. Once the ruling is filed, a written reply must be made by the authorities within 120 days.

In Resolution n° 54/E dated 10 July 2018, the authorities focused on this ruling petition to provide significant clarifications regarding certain procedural aspects, in particular:

- The ruling can be filed prior to the option for the VAT group;
- The submission of this ruling by the representative of the VAT group will not trigger the obligation for the representative to opt for the VAT group;
- The ruling can be alternatively filed by the company interested to prove the lack of economic and organizational links (and thus to stay outside of the VAT group) or by the representative of the VAT group;
- The ruling must be signed by the company interested to prove the lack of economic and organizational links (and thus to stay outside of the VAT group) and also by the representative of the VAT group; both the signatures are required;
- With respect to all ruling petitions already filed on VAT group matters (i.e. rulings submitted before the release of Resolution n° 54/E, which occurred on 10 July 2018), the authorities confirmed that these will be valid, even in the absence of the signature of the representative of the VAT group.

A single ruling petition can be filed on behalf of all the companies interested to prove the lack of economic and organizational links; in this case, the ruling must be signed by all these companies as well as by the representative of the VAT group.

## Tax authorities release e-invoicing guidance

On 2 July 2018, the tax authorities published some of the expected guidelines regarding the e-invoicing obligation.

In line with the Council Implementing Decision (EU) 2018/593 published on 16 April 2018, the authorities confirmed that the e-invoicing law provisions do not apply to foreign established subjects having an Italian VAT registration number, as only Italian established companies are within the scope of the new obligation. It follows that starting from 1 January 2019:

- E-invoices must be issued by Italian established companies;
- E-invoices can be received by foreign established companies VAT registered in Italy; in this case, the Italian suppliers (who raise the e-invoices) must provide a paper invoice (if requested by customers); the paper invoice is also deemed as valid for VAT recovery purposes.

The authorities provided a number of other clarifications about specific issues regarding the exact scope of the new law provisions (concerning fuel, subcontracts with public bodies, consortia) and the technicalities of e-invoicing.

In this last respect, as regards the time of transmission of e-invoices through the Interchange System (SDI), the guidelines confirm that, based on the ordinary VAT law provisions applicable to traditional paper invoices, the time of issuance of e-invoices will occur when the taxable event takes place (i.e. the underlying transaction will be deemed carried out for VAT purposes).

However, since the finalization of all the technical steps to be satisfied for processing e-invoices may take time (e.g. checks to be performed by SDI, etc.), the authorities clarified that, if transmitted through SDI on a timely basis and not rejected by the system, the e-invoices will be considered as issued at the time of creation and transmission through the SDI (technically speaking, the date of issuance of the e-invoices will be the date reported in the field 'Date' included in the box '*Dati Generali*' of the e-invoice).

Due to the complexity of the new e-invoicing procedure and the need for operators to update their ERP in order to be able to satisfy the new obligation, the authorities confirmed that, during the period of first implementation, penalties will not apply for 'slightly' late transmissions of e-invoices to the SDI system (being considered as mere formal violations), upon condition that such delay will not impact the correct settlement and payment of the VAT due.

Moreover, the authorities clarified that in case of rejection of the e-invoice by SDI, it is advisable to re-issue the e-invoice (within five days from the rejection notice) by using the same number and date of the e-invoice originally rejected; otherwise, the following alternative solutions are available:

- Re-issuance of the (rejected) e-invoice with a new number and date, upon condition that there is a link with the e-invoice originally rejected;
- Re-issuance of the (rejected) e-invoice with a specific numbering series (e.g. n. 1/R or n. 1/S, etc.) available only for amending e-invoices (i.e. e-invoices raised because of mistakes or rejections of former e-invoices) and posting of the new invoice in a specific sectional ledger dedicated to the re-issued invoices.

### **Guidance and operative instructions issued on rules relating to storage of energy products in third party warehouses**

The decree concerning the new rules relating to the storage of energy products in third party warehouses entered into force on 1 July 2018, and the relevant provisions will take effect from 29 August 2018. Accordingly, the customs authorities issued Note no. 71725 of 27 June 2018 and Note no. 73179 of 2 July 2018. The former Note includes an overview (and comments) of the main articles of the abovementioned decree, the latter provides the operative instructions for the submission of the specific application to be filed with the customs authorities.

### **Operating instructions for e-communication of consideration relating to sales of petrol and diesel motor fuel for self-service filling stations**

The customs authorities issued Note no. 73285 on 5 July 2018, making reference to the note of 28 May 2018 issued by the customs and tax authorities, providing operating instructions relating to the obligation, in force from 1 July 2018, to undertake e-communication of the consideration for sales of petrol and diesel motor fuel in self-service filling stations.

### **Operative guidelines issued for Customs Decisions System**

On 5 July 2018, the customs authorities issued Note no. 73669/RU, aimed to provide operative guidelines regarding the quantities of goods to be indicated within the Customs Decisions System (CDS), in the applications and authorizations for inward and outward processing.

### **New forms for alcohol production, industrial uses of alcohol, and bioethanol production**

With circular letter no. 5/D of 12 July 2018, the customs authorities published, in agreement with AGEA (Agency for supplying in agriculture), the updated facsimile of the following forms:

- Form B: alcohol production;
- Form C: industrial use destination;

- Form D:
  - Bioethanol production
  - Bioethanol production by a transformation plant site in another Member State.

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## **Latvia**

### **Latvian tax administration changes**

Currently, draft Cabinet of Ministers regulations dealing with the process of how taxes (including VAT) and duties would be payable to the State Treasury are under consideration. If officially announced, the regulations would come into force on 1 January 2021.

The draft regulations propose changes in administrative procedures for paying taxes, duties, and other payments which are directly linked to them. At the moment, there are around 50 different tax accounts of the State Treasury to which taxes and duties are payable. If the draft regulations are adopted, most tax liabilities, starting from 1 January 2021, would be payable to a single tax account.

According to the regulation, the payments will be classified in two groups:

- 1) General tax and duty liabilities;
- 2) Liabilities for which a specific payment identification number is assigned by the tax authorities and which must be included in the payment details.

The tax and duty liabilities that will require a specific payment identification number (e.g. tax liabilities arising due to insolvency procedures, the sale of taxpayer's property in auctions in accordance with a bailiff's decision, etc.) are set as a finite list by the regulations. With respect to VAT liabilities, the specific payment identification number would be required in respect of VAT liabilities arising due to the performed supply of digital services in the EU (the VAT Mini One Stop Shop – VAT MOSS). Tax liabilities related to the use of motor vehicles would retain a separate tax account (i.e. they would not be payable to the single tax account). This is mostly due to the fact that these taxes are administrated by the Traffic Safety Directorate of the Republic of Latvia and the tax authorities.

The order by which payments made to the single tax account will be attributed to specific tax liabilities is to be determined by three main criteria in the following order: 1) maturity of the liability; 2) liability type; and 3) reason for the calculated liability. Detailed guidelines on how payments will be attributed to the specific tax liability and the order of attribution will be set by the regulation.

These regulations, if adopted, will allow taxpayers to minimize administrative costs arising due to the performance of multiple different tax and duty payments to different State Treasury tax accounts.

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## **Luxembourg**

On 26 July 2018, the Parliament voted on the law implementing VAT grouping into Luxembourg law, and two other measures. These measures entered in force on 31 July 2018.

### **VAT grouping implementation**

As of the effective date of entry of the law, 31 July 2018, two or more persons established in Luxembourg will be eligible to apply to the VAT administration to form a VAT group.

Any person established in Luxembourg including natural persons and VAT non-taxable persons (e.g. passive holding companies) and Luxembourg branches of foreign companies are eligible to form a VAT group.

To form a VAT group, each applicant must be bound to each of the others by financial, economic and organizational links. The law defines these links in a flexible manner. The links could be *de jure* or *de facto*. For example, financial links will be met when a company owns a majority of voting rights of another undertaking (*de jure* control) or when a company has the right to appoint or remove a majority of the members of the administrative, management, or supervisory body of another undertaking (*de facto* control).

In principle, all potential participants that meet these three categories of links must be a member of the group. However, an 'opt-out' option is available for persons closely linked when they are not interposed in the economic flow between two members of the group and if their non-affiliation to the group does not imply a VAT saving. Members should stay in the group at least two calendar years except if the links cease to exist.

A VAT group formed in Luxembourg will be allocated a single VAT identification number to be used in the relationship with the VAT authorities, including the filing of the consolidated VAT returns of the group. Pre-existing individual VAT identification numbers of its respective members will remain active and will be used for relationships with third parties. The members of the VAT group will nominate a representative to exercise all rights and discharge all obligations of the VAT group.

Any supplies of goods or services between members of the VAT group (intra-group supplies) will be disregarded for Luxembourg VAT purposes, on the basis that they fall outside the scope of Luxembourg VAT.

Each member is jointly liable to the VAT authorities for the VAT due by the group.

## **Introduction of open market value for VAT purposes for transactions between related parties**

Luxembourg has decided to introduce article 80 of the EU Principal VAT Directive into its national law, which allows EU Member States to apply the open market value on transactions between closely linked persons. These links could be close personal, management, ownership, membership, financial, or legal ties, including the relationship between an employer and employee or the employee's family, or any other closely connected persons.

This rule could be applied in the three following situations:

- The consideration agreed by the parties is lower than the open market value and the recipient of the supply does not have a full VAT deduction right;
- The consideration agreed by the parties is lower than the open market value and the supplier does not have a full VAT deduction right and the supply is VAT exempt;
- The consideration agreed by the parties is higher than the open market value and the supplier does not have a full VAT deduction right.

The open market value is defined by reference to article 72 of the EU Principal VAT Directive. It is the full amount that a customer would have to pay in order to obtain the goods or the services in question at that time, at the same marketing stage at which the supply of goods or services takes place, under conditions of fair competition, to a supplier at arm's length within the territory of the EU Member State in which the supply is subject to tax. When no comparable supply of goods or services can be ascertained, the open market value is the purchase price of comparable goods or the cost price of comparable goods, or the full cost of the person providing the service.

## **Services qualifying as capital goods for VAT purposes**

Luxembourg has decided to introduce article 190 of the EU Principal VAT Directive into its national law, which allows EU Member States to consider services that have characteristics similar to those normally attributed to capital goods as capital goods, i.e. goods that a taxable person uses over a certain period. These services will thus be subject to the rules regarding adjustment of deductions in the same manner as tangible capital goods, i.e., during five years from their acquisition. Services captured by these new rules are, for example, intellectual property (patents) and software.

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## **The Netherlands**

### **Court of Appeal refers questions for preliminary ruling on qualification of supervisory board member as taxable person for VAT purposes**

On 21 June 2018, a Court of Appeal referred questions to the Court of Justice of the European Union for a preliminary ruling regarding the VAT consequences of membership of a supervisory board. The question is whether a supervisory board member is a taxable person for VAT purposes acting independently, or is carrying out his/her activity in the context of a relationship of subordination and, therefore, not a VAT entrepreneur.

The interested party in this procedure is a supervisory board member of a foundation. Moreover, he is employed as a municipal civil servant. He does not hold any other additional positions apart from his supervisory board membership at the foundation. The Court of Appeal addressed the question whether the interested party should qualify as a VAT entrepreneur in respect of his activities as a supervisory board member of the foundation.

The Court of Appeal considers there to be sufficient doubt about the answer to this question that it prefers to refer the question to the CJEU. The Court of Appeal refers to the State Secretary for Finance's repealed position that supervisory board members who have no more than four supervisory board memberships do not qualify as VAT entrepreneurs. Furthermore, the Court refers to the differing position of the European Commission that a supervisory board membership is to be interpreted as an economic activity for VAT purposes, even if individuals hold only one membership. The State Secretary withdrew his position on the back of impending infringement proceedings by the Committee.

The CJEU's answer to the questions raised by the Court of Appeal may have far-reaching consequences for the current VAT treatment of supervisory board memberships in EU Member States, particularly for supervisory board members of organizations that are not fully entitled to input tax recovery.

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## **Poland**

### **0% VAT rate on export of goods subject to CJEU ruling**

Following a question referred from the Supreme Administrative Court, the Court of Justice of the European Union is to rule on the application of the 0% VAT rate on the export of goods from Poland. The case concerns a taxpayer who applied the 0% VAT rate to export transactions with a Ukrainian customer on the grounds of clear customs evidence that the goods had left the EU customs territory. During the VAT audit the Polish tax authorities questioned the 0% VAT rate, as the purchaser denied that he received the goods, and consequently assessed VAT at the 23% VAT rate on these transactions.

The taxpayer disagreed with this conclusion and challenged the decision in the courts.

The CJEU is to rule on whether: (i) it is possible to apply the 0% VAT rate to exports if there is clear evidence that the goods left the EU territory and export was made to an unidentified recipient; and (ii) it is allowed, based on national practice, to question the 0% VAT rate where there is no doubt that the goods have left the EU but the recipient of the goods is not the purchaser indicated on the invoice. Finally, following question (ii), the CJEU is to conclude whether VAT at the local VAT rate should be assessed or whether no taxable transaction occurred, and thus the taxpayer has no input VAT recovery right.

The ruling would be of crucial importance for taxpayers exporting goods.

### **Split payment mechanism and on demand SAF-T files**

As of 1 July 2018, VAT payers may use the split payment mechanism whilst settling payments to contractors. The Ministry of Finance has published on its website tax explanations on the split payment mechanism which provide official guidelines on the mechanism as well as new VAT-7 form (18) adapted to the regulations that entered into force on 1 July 2018. The new VAT-7 (18) form will be used from the July 2018 VAT reporting period. Within a few days of the split payment mechanism going live, taxpayers noticed some technical issues whilst making payments, however, generally the mechanism is working well and more companies are starting to use it.

Furthermore, as of 1 July 2018, the tax authorities in the course of tax audits or explanatory proceedings may ask to be provided by the taxpayer with SAF-T files concerning transactions included in the ledgers (JPK\_KR), operations on their bank accounts (JPK\_WB), arrivals and dispatches in warehouses (JPK\_MAG), and items of goods or services revealed on sales invoices (JPK\_FA). The Ministry of Finance has also published some explanations as regards the new schemes which outline some technical elements of the schemes and provide guidelines on their application.

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### **Portugal**

#### **Vehicle tax (*Imposto Sobre Veículos*)**

As a consequence of the change in the way CO2 is computed, from an old laboratory test called the New European Driving Cycle (NEDC) to a new procedure called Worldwide Harmonized Light Vehicle Test Procedure (WLTP), as from 1 September 2018, all new cars must be certified according to the WLTP test procedure, and no longer on NEDC.

Taking this into consideration, CO2 emission values will increase based on the WLTP test, since it is a more robust test cycle and more realistic taking into consideration the several evolutions in technology and driving conditions that were not foreseen in the old laboratory NEDC test designed in the 1980s.

Considering that in Portugal the vehicle tax calculation is dependent on the CO2 component (as well as the cubic capacity), and that the calculation formula for vehicle tax has not yet been updated (and there is no information that it will be), vehicles will be subject to a higher vehicle tax as from 1 September 2018.

In addition, from that date, the taxable amount of new vehicles for VAT purposes will also increase, as the vehicle tax is included in the taxable amount computation for VAT purposes.

### **VAT taxable amount in Euro currency of imported goods**

A recent decision from the Portuguese Tax Authorities (PTA) has been released concerning the taxable value of imported goods.

The applicant undertakes the majority of its acquisitions via the importation of goods in US dollars from foreign countries and sought to obtain confirmation of whether the rules in article 16 (8) and (9) of the VAT Tax Code (transposing article 91 of the EU Principal VAT Directive) applied.

The PTA clarified that the taxable amount in Euro currency of the imported goods should correspond to the customs value, to be determined in accordance with the relevant Community Customs Code, as per article 85 of the EU Principal VAT Directive.

The PTA also clarified that a monthly circular letter is to be published concerning the exchange rates to be used during the following month to determine the Euro equivalent customs amount of imported goods.

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### **Russia**

#### **State Duma approves draft law on VAT rate increase in the first reading**

On 3 July 2018, the State Duma approved a draft law that will increase the standard VAT rate from 18% to 20% (from 15.25% to 16.67% for e-services, assuming amounts received are VAT inclusive) from 1 January 2019, in the first reading.

The Government predicts that this will result in an increase in Federal Budget additional incomes in the amount of RUR 620 billion starting from 2019.

## **Ministry of Finance clarifies application of VAT with respect to foreign entities' services of provision of IP-addresses and content access**

The Ministry of Finance has clarified that the provision of IP-addresses and content access should be treated as e-services. Where such services are purchased by Russian entities, they are subject to Russian VAT as they are considered to be rendered in the territory of the Russian Federation.

A Russian entity should act as a tax agent and should transfer Russian VAT to the budget at the time the fee is paid to a foreign entity.

The Ministry of Finance also noted that in accordance with amendments to the Tax Code from 1 January 2019, foreign entities that make supplies of e-services to businesses tax registered in Russia will have to account for and pay Russian VAT on such B2B supplies themselves.

## **Ministry for Industry and Trade announces preliminary results of tax-free implementation pilot project**

From 1 January 2018, amendments were made to the Tax Code introducing the tax-free system in Russia. The pilot tax-free project was rolled out at the beginning of April 2018.

The Ministry for Industry and Trade has advised that retailers, within the tax-free implementation process, received RUR 350 million from the sale of goods.

From 10 April 2018, more than 2,500 people from 100 states requested a refund of tax within the tax-free system. Chinese customers were leaders from the total number of customers, 50% of all customers, 5% and 4% were from US and Israel, respectively.

At this stage, 130 stores in Russia apply the tax-free system.

In future, special software for the electronic workflow between stores, tax-free operators, and the tax and customs authorities will be implemented.

## **Government adopted list of VAT-exempt airport services**

Historically, the Tax Code exempted airport services provided to airlines from VAT, i.e. in accordance with the provisions of the Tax Code effective prior to 1 January 2018, services rendered directly in airports of the Russian Federation and the airspace of the Russian Federation on aircraft maintenance including aeronautical maintenance were exempt from VAT.

In accordance with amendments to the Tax Code effective from 1 January 2018, services rendered directly in airports of the Russian Federation and airspace of the Russian Federation on aircraft maintenance including aeronautical maintenance indicated in the list established by the Russian Government became exempt from VAT.

In Resolution No. 588 of 23 May 2018, the Government adopted the respective list.

This list includes the following services: maintenance of landing and takeoff of aircraft in Russian airports, provision of parking to the aircraft at the airfield, provision of aviation security, provision of fueling of aircraft by aviation fuel, storage of aviation fuel, aeronautical maintenance.

The document came into effect on 1 July 2018.

### **Obligatory certification of radiators and heating convectors**

Decree of the Government of the Russian Federation No. 717 of 17 June 2017 establishes obligatory certification for radiators and heating convectors. The decree came into effect on 27 June 2018.

### **Introduction of import licensing of aluminum wheels**

Decree of the Government of the Russian Federation No. 725 of 26 June 2018 establishes import licensing of aluminum wheels from 1 July 2018 to 31 December 2018 inclusive. The decree applies to aluminum wheels that are classified under the classification code 8708 70 500 9 and are originating from non-Eurasian Economic Union Member States. The decree came into effect on 7 July 2018.

### **Increased import customs duty rates for certain goods originating from the US and imported into Russia**

Decree of the Russian Government No. 788 of 6 July 2018 establishes increased import customs duty rates for certain types of vehicles, construction and road machinery, oil and gas equipment, tools for metal processing and rock drilling, and fiber optics in the amount of 25% to 40% of customs value of goods.

The increased import customs duty rates are applied with regard to goods originating from the US and imported into Russia.

The decree will come into effect on 6 August 2018.

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### **South Africa**

#### **International Trade Administration Commission of South Africa notice on various rates of antidumping duty due to expire in 2019**

The International Trade Administration Commission of South Africa (ITAC) notified manufacturers of the below listed products within the South African Customs Union (SACU) of the various rates of antidumping duties which are due to expire in 2019.

The listed products are:

- Frozen potato chips from Belgium and Netherlands, which are set to expire on 7 August 2019;
- Wire ropes from China, Germany, and United Kingdom, which are set to expire on 7 August 2019;
- Gypsum plasterboard from Indonesia and Thailand, which are set to expire on 31 July 2019;
- Soda ash from the USA, which are set to expire on 18 June 2019.

SACU manufacturers of the listed products should consider whether the expiry of the antidumping duties will likely lead to the continuation or reoccurrence of dumping and injury to their markets. A manufacturer who requires a review of the antidumping duty on their affected product must submit a request to ITAC no later than 9 July 2018.

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## **Spain**

### **General State Budget 2018 approved**

On 4 July 2018, the General State Budget 2018 was published in the Official Gazette, entering into force the following day. No major changes were included during the parliamentary debate. Below are the main changes introduced by this law.

From a **VAT perspective**, the amendments introduced by the General State Budget Law are the following:

- The reduced VAT rate (i.e. 10%) will apply, from the enforcement of the law, to cinema access tickets, instead of the current applicable standard rate (i.e. 21%). The aim of this amendment is to reduce the VAT rate for cultural events, as it was raised at the beginning of the economic crisis.
- Following the latest Court of Justice of the European Union judgments concerning the applicability of the VAT exemption within the framework of the supply of services rendered by an economic interest group (AEI) to its members (including *DNB Banka*), with effect from 1 January 2019, the VAT exemption will only apply to the aforementioned provision of services if the corresponding members carry on an activity in the public interest (i.e. education, healthcare, etc.), other than financial, insurance transactions, among others. The aim of this amendment is to align the content of the Spanish VAT Law with the recent CJEU judgments regarding this topic.

- With effect from 1 January 2019, the location rules for services rendered by electronic means will be updated, under a scenario in which such services are rendered by small entrepreneurs established in only one EU Member State to final consumers located in a different EU Member State. The aim of this amendment is to simplify the administrative proceedings for suppliers of these type of services, which are currently taxable in the EU Member State where the recipient (final consumer) is established. Thus, a EUR 10,000 annual threshold has been introduced that, provided it is not exceeded, will allow that this provision of services is taxable where the small/medium size firm supplier is established instead of being taxable in the recipient EU Member State.
- Further to the above, the same VAT regime is amended when the provision of such services are rendered by companies or entrepreneurs that are not established within the EU. In this case, the aim of this amendment is both to promote the use of the one-stop shop simplification schemes and to incentivize the voluntary fulfilment of the tax compliance obligations of these suppliers. Therefore, the obligation has been removed that required VAT registration in an EU Member State for these entities in order to be entitled to apply this special regime.

From an **excise duties perspective**, the main amendments are as follows:

- Tax rates for the tax on fluorinated greenhouse gases have been reduced. In addition, the potential liabilities for global warming caused by these gases are updated, according to the latest EU guidelines.
- With respect to the hydrocarbons tax, among other measures, the regional tax rates (as the Autonomous Regions are entitled to regulate on this area) have been adapted to the state tax rate, in order to guarantee market unity within Spain. Furthermore, an exemption for this tax is introduced when producing or importing biogas, to be employed in facilities in which electricity or heat will be produced. In addition, this exemption will also apply to self-consumption in those installations where the electricity or the heat has been produced.
- An amendment been introduced to the electricity tax to promote the use of electric power, with the aim of reducing the pollution caused by means of transport in the cities. Also, the legislation has been updated to standardize the minimum tax rates, as well as to clarify that the tax exemption should apply to the owners of the facilities in which the energy is produced.

The Ministry of Finance has already commenced work on gathering the relevant information for the Budget 2019 draft, which should be delivered to the Parliament for debate in September 2018, in order to be passed by December 2018.

## **New Intrastat regulation**

On 1 March 2018 a new Ministerial Order was issued by the Government regarding the Intrastat form. However, this was pending approval by way of a regulation, which was recently published.

Under the regulation:

- It is no longer required to submit information related to the port/airport of charge/discharge.
- For the introductions flow, an additional field (which was left blank previously) named 'Country of origin of the goods' has been introduced. Therefore, there are two fields related to the origin of the goods: 'Member State of origin' and 'Country of origin of the goods'.

The method of calculation of the statistical value has changed: this value must be calculated on the basis of the value of the goods (invoice value) and include, in respect of ancillary costs such as transport and insurance, the part corresponding to the transport from the original point of departure of the goods to the place of departure in Spain (for EU dispatches) or the place of entry in Spain (for EU introductions).

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## **Tunisia**

The main indirect tax provisions of the Financial Act of Management, which came into force on 1 January 2018, are as follows:

### ***Increase in VAT rates***

From 1 January 2018, the VAT rates were increased by 1%. The new VAT rates are as follows: 19%, 13% and 7%.

### ***Introduction of social solidarity contribution***

A 1% social solidarity contribution should be included in the calculation of the personal income tax and corporate income tax rates. For companies, this tax applies to FY18 revenues, which are declared in FY19.

### ***Increase in customs duties***

The customs duties due on the import of goods has increased. The customs duties rates for the majority of equipment or products increase from 20% to 30% and from 0% to 15%.

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## United Kingdom

### CJEU judgment on VAT treatment of penny auctions

In penny auctions, participants pay a fee (a Credit) to place bids. Each bid increases the price of the auctioned goods by 1p and restarts a timer. When the timer reaches zero, the last person to bid gets an opportunity to buy the goods, normally at a price far below their recommended retail price (RRP). Unsuccessful bidders can buy the goods, at the RRP reduced by whatever Credits they have spent in bidding.

The Court of Justice of the European Union has now endorsed the Advocate General's Opinion (and the tax authorities' (HMRC) approach) and ruled that the Credit should be treated as a separate right to participate in the auction, and not merely a preliminary step to the purchase of the goods. Therefore Marcandi should account for VAT in the UK when it issues the Credits, not in the country where the goods are being sent when an auction ends. This analysis brings forward the time when VAT should be accounted for, and ensures that VAT is accounted for on unused Credits, as well as resolving different approaches by the UK and Germany.

### Indirect tax measures in draft Finance Bill

Draft legislation and responses to various consultations were published on 6 July 2018. Measures relevant to indirect tax include changes to VAT and vouchers, to implement the EU Principal VAT Directive from 1 January 2019, see [VAT treatment of vouchers](#); and changes to VAT grouping, to allow non-corporates to join VAT groups in limited circumstances, see [VAT grouping eligibility criteria changes](#). Further details were also published on the replacement of default surcharges with a points-based penalty system, and changes to the way that interest will be paid on claims and assessments.

### HMRC guidance on Making Tax Digital for VAT

HMRC have published a VAT Notice, a stakeholder communications pack, and a list of software developers in relation to Making Tax Digital for VAT (MTDfV), see [Making Tax Digital for VAT](#). The requirements for businesses to keep digital records and send VAT returns using compatible software will come into effect from April 2019.

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# Eurasian Economic Union

## **Decrease of import customs duty rates due to Russia's obligations to World Trade Organization**

Decision of the Board of the Eurasian Economic Commission No. 94 of 5 June 2018 decreases import customs duty rates in respect of certain goods in accordance with Russia's obligations to the World Trade Organization (WTO).

In particular, new reduced rates are set for certain fish, gunpowder, precious metals, automotive components, etc.

Decision No. 94 will come into effect on 1 September 2018.

## **Introduction of zero import customs duty rate for certain components of two-deck passenger wagons**

Decision of the Board of the Eurasian Economic Commission No. 59 of 24 April 2018 introduces amendments into the customs classification codes with regard to certain components of two-deck passenger wagons.

Also, Decision No. 59 introduces a zero customs duty rate for certain two-deck passenger wagons components from commodity positions 8607 19 and 8607 21 from 27 May 2018 to 30 June 2020 (inclusive).

Decision No. 59 came into effect on 27 May 2018.

## **Introduction of zero import customs duty rate for cashew nuts in shell**

Decision of the Board of the Eurasian Economic Commission No. 98 of 13 June 2018 establishes a zero import customs duty rate in respect of cashew nuts in shell (customs classification code 0801 31 000 0) from 2 September 2018 to 31 August 2021 (inclusive).

Decision No. 98 will come into effect on 2 September 2018.

## **Introduction of zero import customs duty rate in respect of industrial fatty alcohols**

Decision of the Board of the Eurasian Economic Commission No. 99 of 13 June 2018 establishes a zero import customs duty rate in respect of industrial fatty alcohols (customs classification code 3823 70 000 0) from 2 September 2018 to 31 August 2021 (inclusive).

Decision No. 99 will come into effect on 2 September 2018.

## **Eurasian Economic Union and Iran sign Interim Agreement on cancelling non-tariff restrictions and decrease of customs duty rates for certain goods**

On 17 May 2018, the Eurasian Economic Union (EEU) and Iran signed an Interim Agreement cancelling non-tariff restrictions for certain goods.

The Interim Agreement also establishes decreased customs duty rates for a wide tariff nomenclature both for Iran and for the EEU.

The Interim Agreement is valid within three years, but a year after the entry into force, EEU and Iran undertake to start negotiations on the establishment of a free trade zone.

The Interim Agreement will enter into force 60 days from the date of receipt of the last written notification certifying that the EEU Member States and Iran have completed their respective internal legal procedures required by national law.

### **Amendments to procedure for customs value control**

Decision of the Board of the Eurasian Economic Commission No. 42 of 27 March 2018 introduces amendments to the procedure for customs value control, in particular, with regard to the following:

- Cases when the customs value is not controlled due to acceptance of the customs value for previous shipments of identical goods under the same contract under the same transaction terms;
- Reasons which can be accepted as meaning that it would be impossible to provide customs authorities with the requested documents.

Decision No.42 came into effect on 2 May 2018.

### **Amendments to procedure for inclusion of additional calculations in customs value**

Decision of the Board of the Eurasian Economic Commission No. 83 of 22 May 2018 introduces amendments to the procedure for the inclusion of additional calculations in the customs value. In particular, there is established a new procedure of calculation of license payments (royalties) that should be included in the customs value.

Decision No. 83 came into effect on 24 June 2018.

### **Amendments to list of goods subject to permission for import/export into/from the EEU**

Decision of the Board of the Eurasian Economic Commission No. 61 of 24 April 2018 specifies the list of goods subject to permission for import/export into/from the EEU.

From 27 May 2018, a permissive procedure is applied for certain detonating charges (commodity position 3603 00). Ammunitions (commodity position 9306 30) are excluded from the said list.

Decision No.61 came into effect on 27 May 2018.

## **Expiry of certain forms of customs documents**

Decision of the Board of the Eurasian Economic Commission No. 84 of 11 July 2017 establishes an expiration date for certain forms of customs documents, blanks of which were made before 1 January 2018.

In particular, forms of customs documents approved by Decision of the Customs Union Commission No. 260 of 20 May 2010 (e.g., act of customs inspection, preliminary decision on classification of goods), blanks of which were made before 1 January 2018, are valid until 1 July 2018.

Decision No. 84 came into effect on 1 January 2018.

## **Amendments on marking of milk-containing products**

Decision of the Council of the Eurasian Economic Commission No.102 of 10 November 2017 establishes new rules for marking milk-containing products, in particular, at the importation of milk-containing products.

Decision of the Board of the Eurasian Economic Commission No. 40 of 20 March 2018 establishes that documents on the assessment of the conformity of milk-containing products, which are issued or adopted before 15 July 2018, are valid until the end of term of their validity but not later than 15 January 2019.

Decision No.102 and Decision No. 40 came into effect on 15 July 2018.

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