

## **Global Indirect Tax News**

Your reference for indirect tax and global trade matters

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

Features of this edition include confirmation of the vendor collection model for the application of GST on low value imported goods in Australia, the release of a new Combined Nomenclature for the European Union, and the delivery of the Budget in the UK.

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# Country summaries

## Asia Pacific

**Australia** The Productivity Commission has released the report of its inquiry into collection models for GST on low value imported goods, confirming that the legislated model is the most practical and achievable GST collection option and providing certainty about the payment of GST on low value imports from 1 July 2018. [Read More](#)

**New Zealand** The Minister of Revenue has confirmed that New Zealand will start collecting GST on online purchases of low value goods by New Zealand consumers. [Read More](#)

## EMEA

**European Union** The European Commission has published guidelines on food donation. [Read More](#)

A new version of the Combined Nomenclature has been released for 2018.

The European Commission has published the first edition of the annual Free Trade Agreement Implementation Report.

**Finland** The Supreme Administrative Court has issued a ruling in relation to the VAT treatment of a loyalty program. [Read More](#)

The Tax Administration has issued an update to official guidance on the VAT treatment of the letting of real estate.

**France** Electronic invoicing for suppliers to the public sector will apply to intermediate-size companies from 1 January 2018. [Read More](#)

**Ireland** The Finance Bill 2017 includes technical amendments to clarify the application of the VAT education exemption to private bodies. [Read More](#)

Budget 2018 introduced a VAT Refund Scheme for charities.

The tax authorities have updated their Tax and Duty manual in relation to the VAT treatment of payment services.

## **Italy**

There is an update on future VAT rate increases.

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There are amendments to Law Decree n° 148/2017 regarding the communication of invoice data.

There are new draft rules regarding the refund of VAT wrongly charged.

Guidelines have been issued regarding certain excise duty reductions.

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Changes to VAT law and related regulations will enter into force as of 1 January 2018.

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## **Netherlands**

Additional (or 'supplementary') VAT returns must be filed digitally from 1 January 2018.

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The proposal to extend the VAT deduction adjustment rules to apply to 'expensive services' will now not come into force on 1 January 2018.

## **Russia**

Draft laws on amending VAT legislation were approved for further consideration of the Russian Federation Council.

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A draft law proposes to introduce a VAT exemption for supplies of intellectual property rights connected to film creation.

A draft law would require foreign e-stores to pay VAT in Russia.

The Ministry of Finance has clarified the application of VAT on goods transferred from a parent organization to a subdivision and imported to the territory of another EEU Member State

The list of products that are forbidden from import into Russia has been amended.

**South Africa** Anti-dumping duty will be maintained on unframed glass mirrors from Indonesia. [Read More](#)

A rebate provision has been implemented for vintage and/or internationally collectable motor vehicles.

**Switzerland** New VAT e-invoicing rules apply from 1 January 2018. [Read More](#)

There is a summary of the main VAT changes to take effect on 1 January 2018.

The application date for certain VAT measures is postponed until 1 January 2019.

**Ukraine** Rules have been introduced for installment payments of VAT on certain imports. [Read More](#)

There is a new procedure for the allocation of import quotas for ozone depleting substances.

**United Kingdom** Autumn Budget 2018 included a number of indirect tax measures. [Read More](#)

The Court of Justice of the European Union has ruled that bridge is not a sport for the purposes of VAT exemption.

The Supreme Court has ruled that compound interest is not payable on VAT claims.

The Office of Tax Simplification (OTS) has published VAT: routes to simplification, which includes 23 recommendations on how to simplify VAT.

**Eurasian Economic Union** Anti-dumping duty has been introduced on hot-rolled steel angles from Ukraine. [Read More](#)

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# Asia Pacific

## Australia

### **GST on low value imported goods: Vendor collection model confirmed**

On 9 November 2017, the Productivity Commission released the report of its inquiry into collection models for GST on low value imported goods, see [Collection Models for GST on Low Value Imported Goods](#).

#### ***Background***

The GST law was amended in mid-2017 to apply GST on low value imported goods as from 1 July 2018. A streamlined collection model was adopted that requires foreign vendors or, in some cases, online marketplace operators or redeliverers to assess, collect and remit the GST to the Australian Taxation Office (ATO).

Following the legislative amendment, the Commission was directed to conduct an inquiry to verify that the legislated model is the best collection model available to achieve the intended purpose, and to identify any improvements that could be made to it.

#### ***Inquiry outcomes***

The Commission concludes in its report that:

- The legislated model is the most feasible collection model at this time.
- Implementation of the legislated model should not be further delayed; simply waiting for the possible development of a superior alternative model may not bear fruit.
- If the legislated model does not perform as expected, there are several potential improvements that may merit consideration in the future, including changes to the enforcement strategy used.
- The legislated model and feasible alternative models should be reviewed five years after commencement (i.e. in 2023). However, an earlier review should be considered if implementation of the legislated model results in unduly low compliance, unintended consumer impacts, or adverse trade policy responses.

The Commission's findings have been welcomed by the Federal Treasurer on behalf of the Government for providing confirmation that the legislated model is the most practical and achievable GST collection option, and for giving the retail industry certainty about the payment of GST on low value imports from 1 July 2018.

## ***Key issues for foreign suppliers, EDP operators, and redeliverers***

The Commission's report brings to an end uncertainty about whether the legislated model might be modified or replaced ahead of 1 July 2018.

Foreign entities involved in supplying low value goods to consumers in Australia should be actively preparing for the implementation of the legislated model. A range of issues need to be considered and addressed before 1 July 2018, relating to matters such as registration and reporting obligations, systems and process modifications, and pricing and Australian consumer law requirements. Key issues to consider include:

- Will the level of supplies to Australian customers require a business to become GST-registered?
- What form of GST registration, limited or standard, would best suit the business?
- What is the status of the business (actual supplier, online marketplace operator, or redelivery service provider), and are there any special rules to be aware of?
- What modifications will automated and non-automated customer interface and business systems need to correctly determine whether GST should be charged or not? For example:
  - Depending on the supply chain for the goods in question, which entity is actually liable for GST on the supply?
  - Determining the 'customs value' of the goods purchased;
  - Determining whether a customer is an 'Australian consumer' or a GST-registered business customer;
  - Acceptable methods for converting foreign currency to Australian dollars;
  - How will goods be consigned – should the 'taxable importation' exception be applied?
  - The basis for GST calculation;
  - Have any 'GST-free' (i.e. zero-rated) goods been identified?
- Will transition issues arise; for example, how will pre-1 July 2018 orders that are unable to be fulfilled before that date be affected?
- What ongoing GST reporting, payment, and compliance obligations will be required?
- What obligations exist in relation to any supplier-taxed goods that also end up being taxed at the Australian border?

- How will returned or replacement goods need to be treated for GST purposes?

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## **New Zealand**

### **GST on online purchases of 'low value goods'**

On 15 November 2017, the new Minister of Revenue, Hon Stuart Nash, confirmed via the New Zealand media that New Zealand will start collecting GST on online purchases of 'low value goods' by New Zealand consumers. The Minister is quoted as saying that collecting GST on overseas online purchases is the "right thing to do."

There has been no detail supplied beyond this statement and, therefore, it is a matter of waiting and seeing how this tax will be collected.

Currently 'low value goods' are goods where the combined GST and duty owing is NZD 60 or less (this equates to a purchase worth approximately NZD 400, subject to the application of duties).

The options available to the Government include lowering the collection threshold to collect the tax at the border. The alternative, and perhaps more likely, option is to follow the lead of Australia, which is introducing a vendor registration process from 1 July 2018 (see above).

New Zealand is committed to following the Generic Tax Policy Process when implementing tax changes; therefore, it is expected that there will be consultation on any proposals before they are legislated. Accordingly it is expected that it will be at least 12 months before any legislation would be in place.

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## **EMEA**

### **European Union**

#### **European Commission guidelines on food donation**

The European Commission has published guidelines on food donation, highlighting the extent of food waste and setting out the role that food donation could play, see [EU guidelines on food donation](#).

The guidelines include a recommendation that food donated when it is approaching its 'best before' date should be valued accordingly (i.e. very low, or nil) to prevent VAT from becoming a barrier to donation.

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## New Combined Nomenclature 2018

The Combined Nomenclature (CN) forms the basis for the declaration of goods:

- At importation or exportation;
- When subject to intra-Union trade statistics.

The CN determines which rate of customs duty applies and how the goods are treated for statistical and commercial purposes. The CN is thus a vital working tool for businesses and EU Member States' customs and VAT administrations.

A new version of the CN was published on 31 October 2017 and will enter into force as of 1 January 2018 (see [Commission Implementing Regulation \(EU\) 2017/1925](#)).

New codes have been introduced for products including chemical products, machinery and parts thereof, and foodstuffs.

Additional changes to the CN can occur during the year.

### ***Implications***

When shipping the goods listed below from 1 January 2018, it may be necessary to use new codes for customs and VAT declaration. Set out below are the nomenclature codes that are new in CN 2018 and those with an amended description in CN 2018.

### ***New nomenclature codes in CN 2018***

<b>Heading and subheading</b>	<b>New codes</b>	<b>Description</b>
<b>1905</b>		<b>Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products</b>
1905 90		- Other
		-- Other
	1905 90 70	--- Containing 5 % or more, by weight, of sucrose, invert sugar or isoglucose
	1905 90 80	---- Other
<b>2939</b>		<b>Alkaloids, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives</b>
		- Alkaloids of opium and their derivatives; salts thereof:
2939 79		-- Other
	2939 79 10	--- Nicotine and its salts, ethers, esters and other derivatives thereof
	2939 79 90	--- Other



<b>Heading and subheading</b>	<b>New codes</b>	<b>Description</b>
<b>3215</b>		<b>Printing ink, writing or drawing ink and other inks, whether or not concentrated or solid</b>
		- Printing ink
	3215 11 00	-- black
	3215 19 00	-- Other
<b>3603</b>		<b>Safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators</b>
	3603 00 20	- Safety fuses
	3603 00 30	- Detonating fuses
	3603 00 40	- Percussion caps
	3603 00 50	- Detonating caps
	3603 00 60	- Igniters
	3603 00 80	- Electric detonators
<b>3824</b>		<b>Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included</b>
		- Other
3824 99		-- Other
		--- Other
	3824 99 56	---- Containing products of subheading 2939 79 10
	3824 99 57	---- Other
<b>8414</b>		<b>Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters</b>
8414 10		- Vacuum pumps
	8414 10 15	-- Of a kind used for the manufacture of semiconductors or solely or principally used for the manufacture of flat panel displays
<b>8543</b>		<b>Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter</b>
8543 70		- Other machines and apparatus
	8543 70 70	-- Electronic cigarettes

## **Nomenclature codes with an amended description in CN 2018**

<b>Heading and subheading</b>	<b>Code with changed description</b>	<b>Description</b>
<b>3824</b>		<b>Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included</b>
		- Other
3824 99		-- Other
		--- Other
	3824 99 96	---- Other
<b>8543</b>		<b>Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter</b>
8543 70		- Other machines and apparatus
	8543 70 90	-- Other

### **Efficient use of EU free trade agreements**

On 9 November 2017, the European Commission published the first edition of the annual Free Trade Agreement (FTA) Implementation Report. The goal of the report is to assess transparency and highlight progress as well as problems and shortcomings. The main conclusion of the report is that there is an untapped potential in FTAs, due to their insufficient utilization.

FTAs are negotiated between two (or more) parties and aim to liberalize trade, and meet social and environmental objectives. The EU has a wide variety of FTAs in place with different partner countries and/or regions, and is continuously negotiating new agreements. The main differentiator in current FTAs is that they cover services and investments, which have not been taken into account in FTAs negotiated before 2006 (which only applied to trade in goods). Plans to update these pre-2006 FTAs are being discussed, with the aim of establishing a better match with the more complex economic reality.

The main incentive to negotiate FTAs is achieving an increase in exports from and imports into the EU. This is pursued by, among others, assigning preferential tariffs on import in both the EU and its partner countries or regions. In practice, it can generally be concluded that the FTAs in place generated a higher GDP for both parties to the agreement, but have also proven to be more beneficial to the EU overall. In times of economic recession, FTAs have had a stabilizing effect, as corroborated by statistical data from the last decade.

At the same time, however, the European Commission established that there is a rather low uptake of FTAs by European companies. It has identified three main reasons for this:

- Lack of awareness of existing FTAs;
- Difficulties in understanding the rules for obtaining preferential origin; and
- Cumbersome procedures for obtaining documents needed to benefit from preferential treatment.

### ***Implications***

Procured as well as produced or processed goods that comply with the rules of origin, set out in the FTA with the specific country or region with which a company is trading, can in principle be imported into the EU or the partner countries at lowered import duty rates. The effect of this is twofold:

- Import into the EU of raw materials for production at a lower cost (reduction of standard cost); and
- Procurement by the buyer of a company's products at a lower cost upon export to an FTA country.

Consequentially, this results in increased competitiveness in countries having signed an FTA with the EU and in the local and global market. The financial savings from the efficient use of FTAs could therefore be beneficial to a company's future business and that of its customers.

### ***Next steps***

When an organization is exporting to or importing from countries that have an FTA with the EU, an assessment on possible duty optimisation and eligibility for preferential origin claiming should be performed.

The [Deloitte Global Trade Radar](#) can be used to perform a preliminary assessment on historical data for a range of products and provide valuable insights into untapped trade preference potential.

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## **Finland**

### **Supreme Administrative Court ruling on VAT treatment of loyalty program**

The Supreme Administrative Court (SAC) issued ruling KHO:2017:164 on 20 October 2017, which relates to the liability to account for VAT for own use of goods provided either free of charge or with a discount based on loyalty points.

A wholesale distributor, Company A, had a sales promotion campaign where corporate customers could join a loyalty program. The members of the program received points based on the value of their purchases. The points could be used:

- 1) To order a gift from a catalogue published by Company A (the goods in the catalogue were not Company A's sales products);
- 2) To receive a product for free from the range of Company A's sales products; or
- 3) As a part payment for the customers' ordinary purchases.

Referring to the ECJ case *Kuwait Petroleum*, the SAC ruled that Company A was liable to account for VAT for own use of the goods in cases 1) and 2) above where the goods were provided in exchange for the points without any additional payment by the customer. In this case the products in question did not qualify as low-value marketing gifts, the give-away of which would not have led to any VAT consequences. However, according to the SAC, VAT for own use was not payable for the goods where points were used as a part payment. In this case, the part payment made with points was considered a discount on the normal price of the product.

### **Finnish Tax Administration issues update to official guidance on VAT on letting of real estate**

The Finnish Tax Administration (FTA) issued an update on 27 October 2017 to its official guidance on the VAT treatment of the letting of real estate in Finland. In general, the letting of real estate is VAT exempt in Finland, although the lessor can opt for VAT, if certain conditions are met. The guidance has been updated, for example, by adding references to relevant court cases and examples, and by incorporating the changes introduced to the concept of real estate as of 1 January 2017. The updated guidance also contains clarifications to the VAT treatment of certain special cases such as co-offices and shop-in-shops.

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### **France**

#### **Electronic invoicing for suppliers to public sector: Next step on 1 January 2018 for intermediate-size companies**

By way of reminder, a decree dated 26 June 2014 introduced an electronic invoicing obligation for suppliers invoicing the State, local authorities, and their respective public institutions, and detailed the implementation calendar.

Following large groups (more than 5,000 employees) and public authorities, intermediate-size companies (250 to 5,000 employees) must now meet this requirement from 1 January 2018.

This electronic invoicing requirement will then be extended to small- and medium-size companies (10 to 250 employees) as from 1 January 2019, and to very small companies (fewer than 10 employees) as from 1 January 2020.

A computer solution designed by the tax authorities, *Chorus Portail Pro*, is offered to operators to make their transition to electronic invoicing easier.

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## **Ireland**

### **VAT exemption for providers of vocational training**

As a result of the 2015 amendment to the VAT exemption for providers of education, vocational training, or retraining, an uncertainty had arisen with regards to application of such exemption to private bodies.

The Finance Bill 2017 provides for a number of technical amendments to the existing legislation which clarify the application of the VAT exemption to private bodies. There is still some uncertainty, as the Revenue Commissioners must introduce the qualifying conditions to be met by the private providers in order to qualify for the VAT exemption. At present, private providers must anticipate the nature of these conditions before they can gain certainty on the application of the exemption in each circumstance. In any event, it is expected that the change will allow for a wider application of the existing exemption to vocational training and retraining services.

The fact that the VAT exemption will be broadened is welcomed by many as it promises a greater competitive capacity for the private sector providers that had been placed at a considerable disadvantage following the 2015 change, especially when competing for business in the state and financial sectors.

The changes will apply with effect from the passing of the Finance Act 2017.

### **VAT compensation scheme for charities**

Budget 2018 introduced a VAT Refund Scheme for charities, which provides for a refund of VAT on costs incurred in proportion to the ratio that non-public funding received bears to the total funding (i.e., public and non-public).

To qualify for the Scheme, charities must be registered with the Charities Regulator, have tax clearance, and provide a set of audited accounts for the year in which the claim is being submitted. Furthermore, the minimum refund claim is set at EUR 500 per annum, and any claims below this amount will not qualify.

Due to the information technology and administrative system restraints, the Scheme will only become operational from 2019, with a capped fund of EUR 5 million per annum made available for the calendar years 2019 to 2021. The refund cap and the Scheme itself will be subject to a review after the first three years.

It is planned that where the total claims in any given year would exceed the EUR 5 million cap, the refunds would be subject to a pro rata basis, for example, if the total value of claims by all charities in 2019 amounts to EUR 10 million, each charity would receive 50% of their claim. This means that claims made in 2019 will not be honoured until early 2020 at the earliest, when the full value of the 2018 year claims have been received and totalled as of the end of 2019, compared to the EUR 5m pot, and then awarded on a pro rata basis.

Further information on the above scheme can be found in the document issued by the Department of Finance, see [VAT Compensation Scheme for Charities](#).

### **VAT and payment services**

On 6 November 2017, the Irish Revenue issued an eBrief on VAT and payment services which updates their Tax and Duty Manual, see [Revenue eBrief No. 100/17](#). In the light of the numerous cases decided by the Court of Justice of the European Union in recent years on the VAT exemption for payment processing (i.e., *Everything Everywhere*, *AXA UK*, *Bookit Ltd*, and *National Exhibition Centre Ltd*) the addition to the Manual sets out the Revenue's position on how the exemption applies to negotiating and dealing in payments and transfers.

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### **Italy**

#### **VAT rates**

By way of update to the item on future VAT increases in the [October 2017 edition](#) of this newsletter, the following rates are included in the draft of the Financial Bill for FY 2018. The changes have not yet been officially published in the Official Gazette of the Italian Republic and are therefore not yet entered into law. They are currently awaiting final approval by both the chambers of the Italian Parliament. This means that there will be no changes to the VAT rates on 1 January 2018.

The new VAT rates that are expected to be introduced are as follows:

- The 10% reduced VAT rate will be increased to 11.5% from 1 January 2019 and 13% from 1 January 2020.
- The 22% standard VAT rate will be increased to 24.2% from 1 January 2019, 24.9% from 1 January 2020, and 25% from 1 January 2021.

#### **Amendments to Law Decree n° 148/2017, including communication of invoice data**

In the context of conversion into law of Law Decree n° 148/2017, the Budget Committee of the Government approved a number of amendments, including simplifications for the communication of the data of the invoices issued and received. The conversion into law is still awaiting final approval.

In particular, for the FY 2018:

- The communication must be made on an half yearly basis;
- For invoices with an amount lower than EUR 300, booked in a single document summarizing all the transactions, only the latter document must be reported;
- The data to be mandatorily included in the communication will be reduced.

Although no specific clarifications have been released for the year 2017, it is very likely that these simplifications will also apply for the second quarter of 2017.

According to the text of the amendments approved, the tax authorities will issue an official document including the practical application of the amendments related to the communication.

In addition:

- At this stage, starting from the FY 2019, communication of invoice data will be abolished due to the introduction of mandatory e-invoicing (no clarifications have yet been released regarding the taxpayers for which mandatory e-invoicing will not apply, as the non-resident subjects);
- The penalty for transmission of incorrect data of invoices issued and received during the first semester of 2017 will not be applied, on the condition that the communication including the correct data is e-filed by the end of February 2018.

### **New draft rules regarding refund of VAT wrongly charged**

An important legislative process is currently in progress for the enactment of a new rule to be introduced in the VAT law regulating the refund of VAT wrongly charged. The draft rule (refund of the undue VAT) would provide for the following:

- The taxable subject will file a request of refund of the undue VAT within two years from the date in which VAT was applied or, if following, from the date on which the refund condition arises;
- Where the wrong application of VAT is definitively assessed by the tax authorities, the refund request can be filed by the supplier within two years from the date on which the undue VAT is paid back to the customer;
- The refund is excluded in case of fraud.

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### **Excise duty reductions: guidelines issued**

Based on Italian excise duty law, a 30% reduction applies to the standard excise duty rate for fuels for certain machinery used in harbors for moving goods in transshipment operations.

On 13 November 2017, the Customs Agency issued Circular Letter No. 12 providing operative guidelines to be met by operators in order to request and benefit from the reduction at hand.

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## **Latvia**

### **VAT changes to apply from 1 January 2018**

Changes to VAT law and related regulations will enter into force as of 1 January 2018.

#### ***VAT law***

The VAT registration threshold for companies registered in Latvia is reduced to EUR 40,000.

A domestic VAT reverse charge will apply to the following local supplies:

- Supplies of all types of construction services and construction products;
- Supplies of game consoles;
- Supplies of certain metal products and related services; and
- Supplies of certain household appliances and electrical household devices.

#### ***VAT regulations and guidelines***

As the local reverse charge mechanism will apply to additional local supplies, the following codes have been added to the VAT return PVN1-I (input VAT on local acquisition) appendix indicating the nature of the transaction:

- 'R7' for metal products and related services;
- 'R8' for household appliances and electrical household devices;
- 'R9' for construction products.

With respect to the application of the domestic reverse charge to metal products, household appliances, and electrical household devices, the regulations provide a list of products and Combined Nomenclature codes to be considered as metal products, household appliances, and household devices.

The tax authorities have also published guidelines regarding the application of domestic reverse charge VAT to construction services and construction products as of 1 January 2018.

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## **Netherlands**

### **Additional VAT returns as of 1 January 2018 only digital**

On 20 October 2017, the tax authorities announced that additional (or 'supplementary') VAT returns can only be filed digitally from 1 January 2018.

Filing an additional VAT return is possible when too much or too little VAT has been declared in the current year or in the past five years. After 1 January 2018, VAT supplementations can only be filed via the tax authorities' website or via a company's own special software.

If an adjustment amounts to EUR 1,000 or less, this can also be incorporated in the next VAT return.

### **No revision of VAT adjustment rules for 'expensive services' as of 1 January 2018**

The Ministry of Finance has indicated that the proposal for the VAT deduction adjustment rules for services, specifically to extend the rules to apply to 'expensive services', will not come into force on 1 January 2018. (See the [June 2017 edition](#) of this newsletter for more information about the proposals.)

Currently, the revision period only applies to capital goods that qualify as movable or immovable property. This implies that the usage of the goods is followed for five years for movable property and ten years for immovable property. Changes in circumstances during these periods can lead to the situation that previously too much or too little VAT was deducted. In that case the initial VAT deduction needs to be corrected.

When the proposal is implemented, the revision period will also apply to 'expensive services'. These are services that are subject to depreciation by businesses based on the corporate or income tax rules.

It is not yet clear when the proposal, on which an internet consultation took place approximately six months ago, will come into force.

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## **Russia**

### **State Duma reviews draft laws amending VAT legislation**

The following draft laws on amending VAT legislation were approved for further consideration of the Russian Federation Council:

- Draft law on tax-free system implementation;
- Draft law on implementation of the rules according to which exporters may voluntarily not use the 0% VAT rate and the 0% VAT rate option can be used with respect to re-export;

- Draft law introducing the following amendments:
  - Cancellation of VAT relief related to the supply of ferrous and non-ferrous scrap and waste metal;
  - Tax agents (buyers of goods) will become responsible for the accounting and payment of VAT with respect to supplies in the territory of the Russian Federation of raw animal skin, ferrous and non-ferrous scrap, and waste metal and compensating product, including secondary aluminum and aluminum alloy;
  - Amendments to separate VAT accounting rules, i.e., the 5% VAT barrier rule will be applied only with respect to expenses related to purchases of goods (work, services) that are used in both VATable and non-VATable activities; the 5% VAT barrier rule will not be applied with respect to expenses related to purchase of goods (work, services) that are used only for non-VATable activity;
  - Input VAT related to purchases of goods (work, services), in particular premises, equipment and intangible assets, property rights, and related to capital repair work and purchases of real property under subsidies and/or budget investments received from the Russian Federation budget, will not be subject to recovery.

### **Draft law on VAT exemption for operations related to supplies of intellectual property rights connected to national films creation**

The draft law proposes to introduce VAT exemption with respect to operations related to granting licenses to use characters, musical work, and other protected rights and related intellectual property rights connected to the creation of cinema products.

### **Draft law requiring foreign e-stores to pay VAT in Russia**

The draft law suggests treating foreign e-sellers as taxpayers, and e-stores and other possible intermediaries as tax agents required to withhold VAT on e-sales of goods to Russian consumers.

It is suggested that e-sellers or e-stores with a quarterly turnover of above RUB 2 million will have to register with the tax authorities for VAT purposes.

It is also suggested that non-compliant e-stores or seller websites might be blocked by *Roskomnadzor* (the Federal Service for Supervision of Communications, Information Technology and Mass Media) upon request of the Russian Federal Tax Service.

The document has not yet been officially published.

## **Ministry of Finance clarifies application of VAT with respect to goods transferred from parent organization to subdivision and imported to territory of another EEU Member State**

The Ministry of Finance has clarified that the transfer of goods from a parent organization to its subdivision and imported from the territory of one Eurasian Economic Union Member State to the territory of another EEU Member State is not subject to VAT in accordance with the provisions of the Treaty on the Eurasian Economic Union dated 29 May 2014.

## **Introduction of import ban on certain live animals**

Resolution of the Russian Government No. 1292 of 25 October 2017 introduces amendments to the list of products that are forbidden from import into Russia.

The list now also includes live swine (except pure-bred breeding animals); edible offal of bovine animals, pigs, sheep, horses and other farm animals (except goods for the production of pharmaceutical products); pigs' fat and poultry fat; cattle fat; fat of sheep and goats; lard stearin; lard oil; oleo stearin; oleo oil; and tallow oil.

Resolution No. 1292 came into effect on 4 November 2017.

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## **South Africa**

### **Continuance of anti-dumping duty on unframed glass mirrors originating in or imported from Indonesia**

A 'sunset review' initiated by the International Trade Administration Commission (ITAC) in respect of anti-dumping duties on unframed glass mirrors, originating in or imported from Indonesia, has been concluded. A decision was made to maintain the protective anti-dumping duty after the investigation concluded that the expiry of the anti-dumping duty on unframed glass mirrors originating in or imported from Indonesia would likely lead to the continuation or recurrence of dumping and the recurrence of injury.

### **Creation of rebate provision for vintage and/or internationally collectable motor vehicles**

The ITAC has implemented a rebate provision for vintage and/or internationally collectable motor vehicles classifiable under tariff heading 8703 after concluding that the vehicles would not disadvantage the local industry, as vehicles were imported for historical, educational, and aesthetic purposes. A permit requirement will be used to ensure the provisions of the rebate are adhered to, and importers of the said vehicles would not be allowed to dispose of the vehicles within two years of the vehicles being entered for home consumption.

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## Switzerland

### Abolition of strict VAT e-invoicing rules

In connection with the revision of the Swiss VAT law (see the [April 2017 edition](#) of this newsletter) Switzerland will abolish its strict regime on VAT e-invoicing which has very specific rules regarding advanced digital signatures. The recently published VAT ordinance to the revVAT-L refers in art. 122 revVAT-O in respect of electronic invoicing to standard accounting, whilst the legal basis for the current regime, art. 125 VAT-O (valid until 31 December 2017), has been removed in the revVAT-O.

From 1 January 2018, the standard accounting and archiving rules must be complied with (OR957-958f) to secure the usual proof or relevance of accounting documents that are the underlying document for VAT interpretation and declaration.

This now allows for increased participation by VAT payers in more modern interactions with suppliers and customers, and more will be possible in terms of e-invoicing/e-communication than has previously been the case. On the other hand, more attention will have to be paid to accounting processes, documentation, and archiving standards. VAT payers should consider:

- Analyzing their current status and working on a gap analysis towards sufficient accounting and archiving processes;
- Analyzing current processes and documentation, and establishing process documentation where this does not exist;
- Determining the special exemptions from accounting and archiving rules, for example, the archiving of real estate documents.

### Summary of main VAT changes to take effect on 1 January 2018

To recap previous news, the following is a summary of the main VAT changes that will take effect on 1 January 2018:

- VAT registration will be mandatory with the first taxable supply in Switzerland/Principality of Lichtenstein unless global turnover is below CHF 100,000.
- The reduced VAT rate of 2.5% will apply to e-magazines, e-newspaper and e-books.
- The VAT rates will decrease to 7.7% (standard rate) and 3.7% (special rate for hotel accommodation). The 2.5% reduced rate remains the same.

## **Application date for certain VAT measures postponed until 1 January 2019**

The application date of the following VAT measures has been postponed to 1 January 2019:

- The imposition of a tax liability on the import of low value goods to Switzerland/Principality of Lichtenstein where the annual value of such imports exceeds CHF 100,000.
- The broadcasting charge based on annual global turnover according to VAT returns. Further, this legal provision may be abolished before entering into force, if voters decide to abolish the broadcasting charge entirely (the vote will take place on 4 March 2018).

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### **Ukraine**

#### **Rules introduced for installment payment of VAT on certain imports**

From 14 October 2017, taxpayers can pay VAT by installments when importing woodworking machinery and medical equipment for free circulation in Ukraine. The appropriate Procedure was approved by Resolution of the Cabinet of Ministers of Ukraine (CMU) No. 775 dated 4 October 2017.

The Procedure provides for installment payments of VAT on the importation of:

- Woodworking machinery (commodity heading [8465](#) according to the Ukrainian Harmonized System (UHS));
- Wood dryers (commodity subheading 84 19 32 00 00 according to the UHS);
- Wood particle and fiberboard press machines (commodity subheading [8479 30](#) according to the UHS);
- Equipment for the manufacture of medical products (commodity subheadings [8421 39 20 00](#), [8422 30 00 99](#), [8422 90 90 00](#), [8428 20 20 00](#), [8428 20 80 00](#), [8477 10 00 00](#), [8477 20 00 00](#), [8477 30 00 00](#), [8477 40 00 00](#), [8477 59 10 90](#), [8477 90 80 00](#), [8480 71 00 90](#) according to the UHS).

The decision on whether to allow a taxpayer to pay VAT by installments is made upon a written application filed by the taxpayer or its authorized representative. In addition to the standard set of documents, the application for customs clearance must be supported by the following documents:

- A business project that specifies the technological process and includes the cost analysis and the expected deliverables of the company's activities;

- Conclusions of the state authorities and expert institutions, national standards and corporate standards of the company, technical specifications, technical documentation, and documents confirming the availability of production capacities, premises, as well as the purpose of importing the installment subject.

The customs authorities have 10 days from the date of the application submission to make their decision on permitting the taxpayer to pay VAT in installments.

If the tax liabilities to be paid in installments amount to or exceed UAH 1 million, the customs authorities have an additional 15 working days to obtain approval of their decision from the State Fiscal Service of Ukraine.

If paid by installments, VAT is payable within 36 calendar months. Installment VAT liabilities are to be paid in equal parts as from the month following the month in which the installment payment decision was taken, and no interest or penalty will be charged.

### **New procedure for allocating import quotas for ozone depleting substances**

From 1 October 2017, the national quota for imports of ozone depleting substances fixed for Ukraine by the Montreal Protocol will be allocated through electronic auctions. The appropriate Procedure was approved by Resolution of the CMU No. 756 dated 4 October 2017.

Applicants for the quota are required to submit the following documents to the Ministry of Ecology and Natural Resources of Ukraine:

- Statement of intent to participate in the electronic auction (in optional form);
- Applicant's contact details;
- Copy of the registration document;
- Information on the applicant's ownership structure, including the applicant's ultimate beneficial owner (for legal entities);
- Information about ozone depleting substances to be imported (name, chemical composition, state of matter, volume, and the intended use);
- A response regarding the use of ozone depleting substances for business entities that have been importing the ozone depleting substances over the past five years.

The decision on the applicant's admission to the electronic auction should be taken at least five days prior to the announced date of the auction. After the applicant receives the admission decision allowing it to participate in the electronic auction, it must register on the website of the electronic auction organizer and submit, for each lot separately, an application for participation in the auction through this website, and pay a guarantee fee.

The electronic quota auction is held based on open competition in accordance with the rules approved by the electronic auction organizer. No minimum price is established for shares in the annual national quota (auction lots). The final price of auction lots is fixed in the electronic trade system based on the quotas offered by bidders.

The winning bidder is the participant whose quota is the highest at the close of electronic trading. Based on the auction results, the Ministry of Ecology and Natural Resources of Ukraine will conclude an agreement with the winning bidder on sale of the share of the annual national quota for ozone depleting substances import.

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## **United Kingdom**

### **Autumn Budget 2017**

Autumn Budget 2017, delivered on 22 November 2017, included a number of indirect tax measures, including the below. For comprehensive coverage of the announcements relevant to tax, see [Autumn Budget 2017](#).

### ***Online marketplaces: joint and several liability***

The Government has announced plans to hold online marketplaces jointly and severally liable for:

- Any future VAT that a UK business selling goods via the online marketplace fails to account for after the tax authorities (HMRC) have issued a notice to the online marketplace; and
- Any VAT that a non-UK business selling goods via the online marketplace fails to account for, where the business was not registered for VAT in the UK and that online marketplace knew or should have known that that business should be registered for VAT in the UK.

Legislation in Finance Bill 2017-18 will also require online marketplaces to ensure that VAT numbers displayed for third party sellers on their websites are valid. They will be required to display a valid VAT number when they are provided with one by a third party seller operating on their platform. These requirements will be supported by a regulatory penalty. The changes will have effect on and after Royal Assent of Finance Bill 2017-18.

### ***No change in VAT registration and deregistration thresholds before 1 April 2020***

The current VAT registration and deregistration turnover thresholds (GBP 85,000 and GBP 83,000 respectively) are to be maintained until at least 31 March 2020. The recent Office of Tax Simplification report published on 7 November 2017, see below, recognized the distortions that the current threshold causes and recommended that the Government "should examine the current approach to the level and design of the VAT registration threshold, with a view to seeking out a future direction of travel". The Government intends to act on this recommendation by consulting on the design of the threshold.

## **VAT and vouchers: consultation and changes from 1 January 2019**

The Government plans to legislate in Finance Bill 2018-19 to implement certain changes in the VAT treatment of vouchers with effect from 1 January 2019. According to the announcement, these changes will simplify the VAT treatment of vouchers, including the point at which they will become subject to VAT, and in some cases their value for taxation. A consultation paper about the proposal will be published on 1 December 2017.

### **Excise duty:**

- Fuel duty rates frozen for 2018/9;
- Alcohol duty rates frozen for 2018/9 but a new duty band for high strength cider is to be introduced from 1 February 2019;
- Tobacco products duty will increase by 2% over inflation (and the duty on hand rolling tobacco is to increase by 3% over inflation). The tobacco minimum excise tax on cigarettes is set at £280.15/1000 cigarettes;
- Vehicle excise duty rates for cars, vans and motorcycles will increase by the rate of inflation, from 1 April 2018. In addition, new diesel cars registered on or after 1 April 2018 will be subject to a supplementary charge, so that the first year rate of duty will be one band higher than it otherwise would have been.

### **Court of Justice of the European Union rules that bridge is not a sport for purposes of VAT exemption**

In *English Bridge Union*, the CJEU has ruled that 'sport' (applying the ordinary meaning of the word) involves a physical element, and therefore does not include card games like contract bridge. The fact that bridge might, by challenging players' logic, memory and lateral thinking, be good for mental health was not relevant – "activities of pure rest and relaxation" were also beneficial in that sense. Equally, the fact that bridge is a competitive game was not important.

Therefore, fees charged by the English Bridge Union were subject to VAT.

Countries with a significant tradition in particular games might consider whether they qualified for the cultural exemption; but if they involve negligible physical effort they are not sports. The judgment does not comment on the fact that chess is recognized as a sport in various countries, as well as by the International Olympic Committee.

### **Supreme Court holds that no compound interest on VAT claims**

The Supreme Court has rejected Littlewoods's claim for compound interest (of GBP 1.25 billion) on VAT repayments of GBP 205 million for 1973-2004. The Court held that Littlewoods' claim for restitution was, under UK legislation, prevented by the provisions for statutory interest in section 78 VAT Act 1994 (which Parliament had intended to be the only route for obtaining interest). The Court further determined that there was no right in EU law to compound interest.



The Court of Justice of the European Court's judgment in *Littlewoods* had endorsed a general entitlement to interest, but left it to Member States to determine whether it should be paid on a simple or compound basis (provided that it was an 'adequate indemnity'). In the view of the Supreme Court, the CJEU had indicated that simple interest (of GBP 268 million) was reasonable redress, and it noted that various other Member States award simple interest.

Therefore, the Supreme Court felt that payment of simple interest in this case did not deprive Littlewoods of an adequate indemnity.

The judgment means that claims for compound interest cannot be pursued through a High Court claim. It is possible that other taxpayers with Tribunal appeals may seek a further reference to the CJEU, but the Supreme Court's assertion that no further reference is needed makes it highly unlikely that such an approach would succeed.

### **Office of Tax Simplification VAT review**

The Office of Tax Simplification (OTS) has published [VAT: routes to simplification](#), which includes 23 recommendations on how to simplify VAT.

Much of the report focuses on the impact of the UK's high VAT registration threshold, and the potential complexity of administering VAT for small traders. However, the report also considers matters that are of interest to larger businesses. Amongst other things, it considers how to improve HMRC guidance, dispute resolution, partial exemption negotiations, option to tax administration, and the capital goods scheme. It also proposes a wide-ranging review of the different VAT rates that currently apply in the UK as a medium- to long-term project.

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## **Eurasian Economic Union**

### **Introduction of anti-dumping duty on hot-rolled steel angles from Ukraine**

Decision of the Board of Eurasian Economic Commission No. 133 of 3 October 2017 introduces from 3 November 2017 anti-dumping duty on hot-rolled steel angles originating from Ukraine classified by customs classification codes 7216 21 000 0, 7216 40 100 0, 7216 50 100 0, 7216 50 990 0, 7228 70 100 0 under the rate of 37.89% from customs value.

Anti-dumping duty is introduced for 4 years and 8 months.

Decision No. 133 came into effect on 3 November 2017.

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