



Global Tax Update

United Kingdom

Deloitte Tohmatsu Tax Co.

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1. Corporate Tax

Senior Accounting Officer: electronic submission of certificates and other updates

HM Revenue and Customs (“HMRC”) have published Revenue and Customs Brief 12, which draws attention to recent updates to their Senior Accounting Officer (“SAO”) guidance. One of the changes is that SAO certificates may now be submitted through any recognised paper or electronic format. Previously, SAO certificates had to be submitted in hard copy original format, although the notification of the identity of the SAO could be submitted electronically. It should be noted that, if the SAO certificate is submitted electronically, it must still include the ‘identifiable signature’ of the SAO. Other changes include updates to reflect organisational change within HMRC, new examples of how groups and aggregation should be applied and clarification of HMRC’s view on the inability to delegate the SAO role and on time limits for short or long accounting periods.

2. VAT

(1) CJEU decides that ‘deemed’ Customs debt does not crystallise VAT liability

The Court of Justice of the European Union (“CJEU”) has delivered its judgment in the joined cases of Eurogate Distribution GmbH (“Eurogate”) and DHL Hub Leipzig GmbH (“DHL”). The cases concerned claims by the

German tax authority that ‘technical’ failures to comply with Customs formalities resulted in a value added tax (“VAT”) liability as well as a Customs debt. The CJEU decided that, despite the fact that the failures to comply with the terms of the Customs regimes that the goods were under meant that Customs debts were incurred in relation to them, that did not mean that there was an ‘import’ for VAT purposes. On the facts of the two cases, it decided that there was no ‘import’ for VAT purposes and it follows that Eurogate and DHL were not liable for the import VAT claimed by the German tax authority.

(2) Input VAT is recoverable when sales are made at less than cost price

The CJEU has gone straight to judgment in the Dutch case of Gemeente Woerden, about recovery of input VAT by a local authority which sold a pair of buildings for about 10% of their cost to a foundation that made parts of them available for use free of charge. The Dutch tax authority treated the transaction as equivalent to a VAT exempt lease and imposed a self-supply charge (in effect, disallowing the local authority’s input tax recovery). The CJEU decided that the use made of the building by the (unconnected) purchaser has no effect on the VAT position of the local authority and that, notwithstanding the fact that the buildings were sold for less than the cost of acquiring them, the authority made a taxable supply of them and was entitled to reclaim all the input VAT it incurred on them.

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