Welcome to a new edition of the Weekly Digest!

Read all about the latest developments in the field of Indirect Taxation in the Netherlands, the EU and globally.

We sincerely hope that the Indirect Tax Weekly Digest will keep you informed about all the latest developments. Should you have questions or suggestions, please let us know!

Keep safe during these challenging times!
Key developments in the EU

COVID-19: EU Commission extends tax reliefs for medical devices and protective equipment and proposes relief for vaccines and testing kits

The EU Commission has announced that it is extending import VAT and duty relief on imports of medical devices and protective equipment until the end of April 2021. The latest extension of this relief is accompanied by more detailed customs tariff codes and access to customs laboratories to enhance the monitoring and quality controls of imported masks. In the UK the temporary zero rate for medical devices and protective equipment will expire on 31 December 2020. The Commission has also proposed a new zero rate for the supply of vaccines and testing kits to hospitals and medical
practitioners, which would remain in force until the end of the pandemic.

Relevant for: companies involved in combatting COVID-19
Contact: Lex Neijtzell de Wilde

Brexit update: HMRC publishes guidance on UK Intrastat requirements after the end of the transition period

The UK has announced that Intrastat declarations are required for the rest of 2021 for goods transported from the EU to the United Kingdom and published derogating arrangements for EU-Northern Ireland trade. We strongly advise to closely monitor whether the relevant thresholds are exceeded to analyze whether the abovementioned UK Intrastat requirements may apply to your business activities. It is also recommended to analyze the impact of Brexit on your Intrastat and Extrastat declarations in other EU Member States in case you trade with both Northern Ireland and ‘the rest of UK’. Read our alert.

Relevant for: Companies shipping goods between the EU and GB and the EU and Northern-Ireland
Contact: Rob Swenne

A new version of the EU Combined Nomenclature

An annual CN update was published by the EU Commission on 30 October 2020. The updated version (CN 2021) will enter into force on 1 January 2021. In our alert you will find what’s new and the potential impact on the authorisation to use customs warehouse, inward or outward processing, end-use or temporary admission.

Relevant for: companies involved in the declaration of goods imported or exported from the EU or transferred between EU Member States
Contact: Raoul Ramautarsing

VAT Committee publishes Guideline on when VAT id number is not indicated in case of intra-Community supply

After the introduction of the quick fix that the acquirer must indicate a VAT identification number for the application of the exemption of an intra-Community supply of goods, there are still some practical issues which have not been clarified in the Explanatory Notes to the quick fixes or by the VAT Committee. As a result, the VAT Committee had been asked by the EU Commission for its opinion in a new Working Paper on the following cases:

- When the acquirer, by negligence or ignorance, did not communicate the VAT identification number to the supplier;
- When the VAT identification number has been requested but not attributed to the acquirer; and
- When the supplier stopped his activity before the acquirer receives its VAT identification number
From the recently published VAT Committee Guidelines it appears that only a large majority (between 18 and 23) of EU Member States agrees on the possibility that a supplier is allowed to correct the initial invoice and apply the VAT zero-rate on intra-Community supply of goods in case the acquirer has communicates his VAT id number at a later stage and there is no reason to suspect any fraudulent intention. The Guideline can be consulted on p. 262 here.

Relevant for: all companies carrying out cross-border transactions in the EU  
Contact: Merel van Maurik

VAT Committee publishes Guideline on correct VAT treatment of combined lifestyle intervention

The Netherlands had requested the VAT Committee to express its opinion on the VAT rules applicable to so-called ‘combined lifestyle intervention’ (in Dutch: Gecombineerde Leefstijlinterventie). In particular, the Netherlands asked whether CLI qualifies as VAT exempt medical care covered by the VAT exemption for medical services or as a taxable service of a more general nature and not exempted from VAT. From the recently published VAT Committee Guideline it appears that all EU Member States agree that services such as CLI without a therapeutic purpose do not fall under the VAT exemption. The Guideline can be consulted on p. 261 here.

Relevant for: all businesses involved in providing combined lifestyle intervention  
Contact: Maria van Helden

Key developments in the Netherlands

Acquisition bare legal ownership of shares in real estate entities subject to Dutch RETT

AG Wattel has advised the Dutch Supreme Court to rule that real estate transfer tax is due by a Kapitalverwaltungsgesellschaft that acquired the bare legal ownership of shares in Dutch real estate entities. For more background read our alert.

Relevant for: businesses involved real estate  
Contact: Kevin van Lierop

Voornaamste ontwikkelingen in de EU

Btw-comité publiceert Richtsnoer voor btw-behandeling Gecombineerde Leefstijlinterventie

Nederland had het Btw-comité verzocht om een opinie van de EU-lidstaten over de btw-regels omtrent Gecombineerde Leefstijlinterventie (GLI). Nederland wilde met name weten of
GLI kwalificeert als btw-vrijgestelde medische zorg of als een btw-belaste generieke dienst. Uit het recent door het Btw-comité gepubliceerde Richtsnoer blijkt dat de EU-lidstaten het unaniem ervan zeggen dat GLI niet onder de medische vrijstelling valt als het geen therapeutisch doel dient. Het Richtsnoer is te raadplegen op p. 261 hier.

Van belang voor: ondernemingen die betrokken zijn bij de levering van Gecombineerde Leefstijlinterventie
Contact: Maria van Helden

Voornaamste ontwikkelingen in Nederland

Wel overdrachtsbelasting bij verkrijging kale juridische eigendom van aandelen in onroerendezaak-rechtspersonen

In een voor de praktijk belangrijke procedure heeft A-G Wattel de Hoge Raad geadviseerd te oordelen dat een naar Duits recht opgerichte Kapitalverwaltungsgesellschaft overdrachtsbelasting is verschuldigd over de verkrijging van de (kale) juridische eigendom van aandelen in Nederlandse onroerendezaak-rechtspersonen. Lees onze alert.

Van belang voor: bijvoorbeeld fondsen die belangen (willen) verkrijgen in vastgoedvennootschappen
Contact: Kevin van Lierop

Verplichting tot inbreng van stukken geldt ook in verwijzingsprocedure

De rechter moet actief toezien op naleving van de verplichting van de inspecteur om alle op de zaak betrekking hebbende stukken in te brengen in de procedure. Laatstgenoemde verplichting geldt ook na cassatie en verwijzing van een zaak door de Hoge Raad. Lees onze alert.

Van belang voor: belastingplichtigen die (van plan zijn te) procederen
Contact: Aart Nolten

Get Brexit done: join our VAT FS Brexit Webinar

On Thursday, November 20, 2020, we will organize our Indirect Tax Brexit Webinar. In this context, we would like to update you on several Indirect Tax developments. We will share our point of view on the VAT legislation concerning financial services and insurance and suggested Brexit approach for 2021. Our guest speaker is Albert Bomer of the Vrije Universiteit Amsterdam. Register here.

Relevant for: businesses in the FS sector preparing for Brexit
Contact: Elwin Makkus
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