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Global Indirect Tax News

Your reference for indirect tax and global trade matters

October 2014

Welcome to the October edition of GITN, containing updates from the Americas, Asia Pacific, and EMEA regions.

This edition includes news of the opening of Mini One Stop Shop registration (for businesses supplying telecommunications, broadcasting and electronically supplied services to non-business customers within the EU) in a number of EU countries, including Italy, Malta, the Netherlands and the UK – see **Deloitte's EU: 2015 place of supply changes website** for information about the changes to the VAT place of supply rules from 1 January 2015.

Other highlights include global trade news from the US, a number of amendments to the VAT rules in Greece and Slovenia, and the publication of the Green Tax Commission's proposals and recommendations in Portugal.

If you have any queries or comments about the GITN, I would be delighted to hear from you.

David Raistrick
Global Indirect Tax Leader

Country summaries

Americas

Mexico: There have been amendments to the lists prohibiting and controlling the export and import of certain goods. A list of cancelled IMMEX programs has been published. The final resolution of the antidumping investigation on imports of galvanized steel wire mesh/netting from China has been published. Recent meetings include a meeting between the Pacific Alliance and ASEAN, the VIth Binational Permanent Commission México-China meeting, and the XXVIth meeting of the Pacific Alliance High Level Group. **More**

United States: The state of Illinois has amended its remote seller nexus law. Conflicting perspectives on investor protection provisions may threaten EU-US free trade talks. The US has continued to tighten restrictions on certain Russian activities. **More**

Asia Pacific

China: Shanghai Customs introduces four new innovative supervision and management measures. **More**

India: Court cases have ruled on the place of supply of marketing services for foreign companies and the payment of interest by the tax authorities. **More**

Japan: The introduction of multiple consumption tax rates is being considered. **More**

EMEA

Belgium: Official guidelines have been issued regarding the application of the tax point rules in respect of advance invoices. Several indirect tax measures were considered during the negotiations to form the Belgian Federal Government. **More**

Denmark: The tax authorities issued a clarification regarding distance selling. There have been changes to customs authorization forms. **More**

Eurasian Union Treaty between Belarus, Kazakhstan and Russia: There have been changes to a number of import customs duty rates. **More**

Finland: There has been a ruling on the VAT treatment of commission fees collected in relation to bitcoin exchange services. **More**

Greece: There have been a number of significant VAT developments, including the introduction of a cash accounting scheme and amendments to VAT return rules. **More**

Italy: MOSS registration is now available. There are new rules for certain VAT forms and payments. **More**

Kazakhstan: There have been amendments to export customs duties and excise duties and the rules regarding the origin of goods. **More**

Malta: MOSS registration is now available. **More**

Netherlands: MOSS registration is now available. The medical exemption may be extended to commercial health care institutions from 1 January 2015. **More**

Poland: The tax authorities seem to be applying stricter rules regarding the deduction of input VAT on conference organization services. There is an update on the potential extension of the application of the domestic reverse charge. **More**

Portugal: The Green Tax Commission has presented its final proposals and recommendations. The due date for invoicing software certification has been extended. **More**

Russia: The Russian government has rejected the introduction of sales tax. There may be a refund to nonresident individuals for goods purchased on Russian territory for personal use. The procedure for applying the 0% rate to works supplied to the Eurasian Economic Commission has been clarified. A draft law has introduced important changes to VAT administration procedures. The Agreement on the Eurasian Economic Union, signed by Russia, Kazakhstan and Belarus in Astana on 29 May 2014 has been ratified. Import duties may be introduced on goods originating from Ukraine. **More**

Slovenia: A number of changes to the VAT legislation have been approved by the Slovene parliament. Following discussions earlier this year regarding potential VAT rate changes, the Slovene parliament has now confirmed that the current rates will remain until further notice. The tax on financial services and insurance contracts may be increased. Deloitte Slovenia is holding a VAT seminar in November. **More**

Sweden: The CJEU has delivered its judgment in a case concerning the VAT treatment of services provided by an overseas head office to its branch in a VAT group in Sweden. **More**

Switzerland: Supreme Court decision on opting for taxation of tax -exempt supplies. **More**

United Kingdom: MOSS registration is now available. HMRC have reviewed their guidance on VAT recovery by holding companies. Two court cases have ruled on VAT claims by disbanded VAT groups and the supply of banking services. HMRC have announced guidance on the due diligence checks that businesses dealing in alcoholic drinks are expected to carry out. **More**

Americas

Mexico

Export of certain goods to Lebanon and the Central African Republic prohibited

On 22 September 2014, the Ministry of Economy and the Ministry of Foreign Affairs published in the Mexican Official Gazette an amendment to the agreement prohibiting the export and import of certain goods in respect of specific countries, entities and persons.

Numbers 12 and 13 were added to the agreement, listing goods that are prohibited from exportation to the Lebanese Republic (Lebanon) and the Central African Republic, respectively. Most of these goods are intended for military use, including:

- Helicopters
- Aircraft and related equipment
- Parachutes
- Binoculars
- Several kinds of weapons and guns
- Other military equipment.

Amendment to list of goods that can only be imported and exported with the permission of the Ministry of National Defense

On 6 October 2014, the Ministry of Economy published in the Mexican Official Gazette an amendment to the agreement that establishes the classification and codification of goods the import and export of which are subject to regulation by the Ministry of National Defense (SEDENA).

The amendment added a number of goods that can only be imported or exported with the permission of SENENA, including the following:

- Bombing computers and weapon control systems
- Surveillance or tracking systems
- Detection, recognition or identification, equipment
- Specialized equipment for military training or for simulating military scenarios

- Devices for aircraft launching
- Night vision monoculars
- Detonators and igniters used in air bags and seat belts of vehicles and other devices that trigger airbags for user safety.

There are some goods that will no longer be subject to SENENA's permission, including sabers, swords, bayonets and other edged weapons.

List of cancelled IMMEX programs

On 8 October 2014, the Ministry of Economy published in the Mexican Official Gazette the list of companies that have had their IMMEX program cancelled.

This program, for the manufacturing, maquiladora and export services industry, allows companies to make temporary imports of raw materials and machinery for the manufacture, elaboration or transformation of goods that will be exported, with no payment of VAT and with the ability, in some cases, to defer import duties until exportation.

200 companies had their IMMEX program cancelled because they did not submit their Foreign Trade Annual Report for 2013, and 120 companies had their program cancelled for not complying with specific tax obligations, such as having an electronic signature, having an active tax ID, among others.

Final resolution of antidumping investigation on imports of galvanized steel wire mesh/netting from China

On 9 October 2014, the Ministry of Economy published in the Mexican Official Gazette the conclusion of the antidumping investigation on imports of galvanized steel wire mesh/netting of Chinese origin.

A countervailing duty of USD 2.08 per kilogram on imports of this product was imposed, when it is classified in tariff codes 7314.19.02, 7314.19.03 and 7314.31.01, or in any other, regardless of the country they are arriving from.

Meeting between Pacific Alliance and Association of Southeast Asian Nations

On 26 September 2014, a meeting between the Pacific Alliance Cabinet and the Association of Southeast Asian Nations (ASEAN) was held in New York City, in which economic, social and cultural topics were discussed.

At the meeting, the work done under the framework of the two integration processes, as well as possible areas of collaboration, were discussed.

For its coverage of social, economic, cultural and commercial issues, the Pacific Alliance and the ASEAN represent two major initiatives in the Pacific to explore actions to encourage greater flows of cooperation, investment and trade among its member countries.

The leaders of both initiatives agreed to identify specific areas of cooperation for the near future, and to continue their talks in subsequent meetings.

The Pacific Alliance was established in April 2011, and comprises Chile, Colombia, México and Perú; ASEAN was established in August 1967, and the member countries are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Singapore, Thailand and Vietnam.

VIth Binational Permanent Commission México-China meeting

On 29 September 2014, the VIth meeting of the Binational Permanent Commission México-China was held between the Mexican Ministry of Foreign Affairs and China's Ministry of Foreign Affairs.

The Permanent Commission was originally established to further strengthen the economic, political, technical, scientific and cultural links between the two countries.

With respect to customs and foreign trade, topics discussed in the meeting included the following:

- Promotion of trade and investment
- The textile industry
- Sanitary and phytosanitary measures
- Access of Mexican products to the Chinese market
- Customs cooperation
- Mining.

XXVIth meeting of the Pacific Alliance High Level Group

On 10 October 2014, the XXVIth meeting of the Pacific Alliance High Level Group concluded. The meeting was held at Viña del Mar, Chile.

The High Level Group discussed and evaluated the progress made by the negotiation teams, and issued instructions to ensure compliance with the mandates of the summits of the Pacific Alliance, comprised of Chile, Colombia, Mexico and Peru.

They also agreed to create an Education group, a Mining Development Group and a Consumer Protection Subgroup.

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United States

Illinois amends remote seller nexus law previously deemed unenforceable by the state's highest court

Illinois Governor Pat Quinn recently signed Senate Bill 352 (S.B. 352), amending the state's use tax and service use tax remote seller nexus laws to broaden their application in response to the Supreme Court of Illinois' ruling in *Performance Marketing Association Inc. v. Hamer*.

The remote seller laws, enacted in 2011, created a new nexus category by adding to the statutory definitions of the terms "retailer maintaining a place of business in this State" a specific reference to a retailer using an in-state commissioned "person" to refer potential customers to the retailer by a link on the person's Internet website.

Focusing on the nexus law's disparate treatment applied to marketing over the Internet as compared to print or over-the-air marketing, in 2013 the Supreme Court of Illinois held in *Performance Marketing* that the applicable definition provisions "are void and unenforceable" under the federal Internet Tax Freedom Act.

In response to this court decision, S.B. 352 broadens the statutory provisions defining a "retailer maintaining a place of business in this State" to include out-of-state retailers contracting with in-state commissioned "persons" who refer potential customers to the retailer by providing to such customers "a promotional code or other *mechanism* that allows the retailer to track purchases referred by such

persons." Among the identified mechanisms are "a link on the person's Internet website" (a concept carried over from the 2011 law), "promotional codes distributed through the person's hand-delivered or mail material, and promotional codes distributed by the person through radio or other broadcast media."

These law changes take effect on 1 January 2015.

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Conflicting perspectives on investor protection provisions may threaten EU-US free trade talks

Citing alleged abuses of investment protection provisions in free trade agreements, Cecilia Malmstrom, Sweden's nominee to the European Commission, introduced the idea during a confirmation hearing in the European Parliament on 27 September 2014, that the investor-state dispute settlement (ISDS) clause may be removed from the proposed Transatlantic Trade and Investment Partnership (T-TIP). The German Economic Minister, Sigmar Gabriel, expressed his support for the removal of the ISDS clause by indicating that he would reject any deal that includes the clause, including the EU-Canada commercial agreement that is projected to take effect in 2016. Ms. Malmstrom, among others, are not considering altering the EU-Canada commercial agreement (which took five years of negotiations to conclude) as the removal of the ISDS clause may jeopardize the entire pact.

According to the Office of the US Trade Representative, the US currently is party to 50 agreements with ISDS provisions and is considered the "leader in developing carefully crafted ISDS provisions to protect the ability of governments to regulate and discourage non-meritorious claims and to ensure a high level of transparency." Based on the US's role in promoting the inclusion of ISDS provisions in its trade agreements, it is likely that the US will urge for the inclusion of some form of ISDS and reject any deal that does not address ISDS.

While the EU-Canada commercial agreement seems to remain secure for the time being, the EU trade commissioner stated that discussion of investment protection with the US related to T-TIP is frozen pending further consultation. The conflicting perspectives of the US and the EU on investment protection provisions could derail negotiations of the T-TIP, which the Office of the United States Trade Representative believes will "help unlock opportunity for American families, workers, businesses, farmers and ranchers through increased access to European markets for Made-in-America goods and services."

Russian sanctions: Addition of persons to Entity List and restrictions on certain military end uses and military end users

In an effort to respond to Russian activity in Crimea and Ukraine, the US has continued to tighten restrictions on certain Russian activities, with a focus on the financial services, energy and defense industries. These restrictions include economic sanctions administered by the Office of Foreign Assets Control and export controls administered by the Department of Commerce, Bureau of Industry and Security (BIS) and the US Department of State, Directorate of Defense Trade Controls.

The most recent update to the restrictions on certain Russian activities came from BIS, which published an amendment to the Export Administration Regulations (EAR) on 17 September 2014, adding additional entities to the Entity List and, of most significance, imposing license requirements for items destined to Russia when those items are intended for a military end use or military end

user (Final Rule). The Final Rule is effective as from 17 September, and mirrors the “China Rule” that BIS established in 2007 to prevent the export of items the US believes could contribute to China’s military capability.

The Final Rule adds Russia to the previous “China Rule” under Part 744.21 of the EAR, making the same military end use and military end user restrictions previously applicable only to China, also applicable to Russia.

As is the case with China, it is often difficult for US companies to recognize when a seemingly commercial Russian entity is actually a state-owned entity associated with Russia’s military. Therefore, as companies have struggled to implement appropriate controls to comply with the “China Rule,” companies will now need to grapple with how to implement similar controls as it relates to their business with Russia.

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Asia Pacific

China

Shanghai Customs introduces four new innovative supervision and management measures

Further to the 19 new customs measures announced in April and July 2014 (see the May 2014 and September 2014 editions of this newsletter), Shanghai Customs recently introduced four new innovative supervision and management measures in the Shanghai Pilot Free Trade Zone (SPFTZ) in September 2014. The four additional measures aim to continue with the simplification of customs clearance procedures and improve customs clearance efficiency in the SPFTZ.

The table below summarizes the four new measures, the previous or current practice, and the new practice:

New measures and previous/current practice	New practice	Effective date
1. Auto release and review key shipments Customs documents are physically examined, shipment by shipment, before the goods are cleared. This is clearly a lengthy procedure so this simplification is aimed at increased efficiency from a supply chain perspective.	The review of Customs documents will be automated and only key shipments will be reviewed manually.	1 September 2014
2. One filing for multiple uses Generally, a company can only declare one business activity with one filing. This procedure is cumbersome.	A company can now conduct various businesses under one filing to include activities such as display of bonded goods outside SPFTZ, overseas/domestic repair and maintenance, delivery of bonded goods for futures trading, and such filing is valid for multiple uses in the future.	12 August 2014
3. Introducing third party agencies to facilitate Customs work There are no specific rules or regulations for Customs to procure/outsource the services of a third party.	Qualified third party agencies can now be officially engaged either by Customs to assist in supervision on bonded goods and Customs audits, or by companies to assist in activities such as compliance review on internal control and import/export activities.	16 September 2014
4. Online payment of import taxes Currently, Customs review the import declaration made by companies to assess import taxes, shipment by shipment, and then companies pay import taxes before the goods are cleared. The procedure is lengthy and requires a lot of Customs work from the on-site supervision of importation, so this is aimed at improved customs clearance efficiency.	It is expected that a voluntary declaration system will be implemented where companies will be able to pay import taxes automatically online based on the information declared, and only key shipments will be reviewed manually.	To be expected

Companies should pay close attention to the new Customs measures introduced in the SPFTZ, and review current import/export activities so as to understand the impact the measures might have on them, and to further explore the opportunities to enjoy the benefit of the new measures.

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India

Services provided to foreign principal to market its products in India held to be an export of service

An assesse was engaged in the activity of marketing and promotion of the foreign principal's product in India. The tax authorities contended that such services were provided in India and could not be delivered or used outside India, and hence such services did not qualify as export of service.

By a majority decision of the Tribunal it was held that the marketing operations undertaken by the assesse in India could not be said to be at the behest of any Indian customer. The services were

being provided by the assesse to the foreign recipient company and were to be used by them outside India. It held that such services were to be considered as export of services.

Though this judgment is delivered in the context of the pre-negative list, the ratio laid down would continue to be relevant under the new Place of Provision of Services Rules, 2012. However, it is important to note the definition of "intermediary" introduced in these Rules, and also the recent amendment to the said definition pertaining to brokers, agents or any other person facilitating a sale of goods, before taking action on the basis of this decision.

Interest for delay in sanctioning refund of CENVAT credit

An assesse had filed a refund claim for interest on account of the tax authorities' delay in sanctioning the refund claim. The tax authorities contended that the delay in sanctioning the refund claim was due to the assesse not providing documents. It was also contended that no interest was admissible if the refund of the CENVAT credit was filed under Rule 5 of the CENVAT Credit Rules.

The Tribunal observed that no efforts were made by the tax authorities to reject the refund claim as unsubstantiated when the assesse was not providing the required details and documents. It held that there was a delay in sanctioning the refund claim, and the interest on the delayed payment of the refund of the accumulated CENVAT credit under Rule 5 of the CENVAT Credit Rules was admissible to the assesse.

This decision is important for those claiming interest on a refund amount where the refund claim is sanctioned after an inordinate delay.

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Japan

Proposed introduction of multiple consumption tax rates

Japanese Consumption Tax (JCT) was raised from 5% to 8% on 1 April 2014, and a further rise to 10% is expected on 1 October 2015.

To mitigate the impact of the two-stage rise on lower income households, the ruling parties have agreed to introduce lower JCT rates concurrently, or after the rate increase to 10%, and incorporated this decision in the tax reform proposal for 2014.

In June 2014, the Tax Commission presented eight models for items eligible for lower JCT rates. All of the eight models consist of foods, with their scope ranging from polished rice only to all kinds of food including eating out.

The items covered and the estimated revenue fall per one percentage point JCT rate cut for each model are as follows:

(i) All food items and eating out – JPY 660 billion

(ii) All food items excluding alcohol, and eating out – JPY 630 billion

(iii) All food items excluding alcohol – JPY 490 billion

(iv) All food items excluding confectionary and alcohol – JPY 440 billion

(v) All food items excluding beverages, confectionary and alcohol – JPY 400 billion

(vi) Perishable food – JPY 180 billion

(vii) Rice, miso and soy sauce – JPY 25 billion

(viii) Polished rice – JPY 20 billion.

The Commission also proposed four invoicing models to separately record items that are taxable at different JCT rates. Currently, the information that must be shown on an invoice for JCT purposes is limited to: (i) the issuer's name; (ii) the date of supply of goods/services; (iii) a description of the goods/services supplied; (iv) the amount payable for the supply (including JCT); and (v) the recipient's name. Since suppliers are not required to indicate the amount of JCT on invoices under the current rules, new invoicing rules that enable accounting and tax calculation using different JCT rates should be developed with the implementation of multiple JCT rates. A brief description of each invoice model proposed is as shown below:

(i) Non-mandatory rate-classified invoice:

- Suppliers, whether a JCT taxable enterprise or a JCT exempt enterprise, may issue invoices on which reduced-rate items are marked with an asterisk and the total amount is shown for each rate (rate-classified invoice).
- The issuance of rate-classified invoices is not mandatory; however, buyers need to retain rate-classified invoices to claim the input JCT credit, and this will effectively force suppliers to issue rate-classified invoices.
- Input JCT and output JCT are calculated by multiplying JCT taxable sales/purchases by the applicable JCT rates.

(ii) Mandatory rate-classified invoice:

- Same as (i), except that suppliers, whether a JCT taxable enterprise or a JCT exempt enterprise, are obliged to issue rate classified invoices.

(iii) Tax invoice without taxpayer ID or invoice number.

- JCT taxable enterprises must issue invoices that show the applicable JCT rates and the amount of JCT charged for each rate in addition to the currently required items (JCT invoice).
- JCT exempt enterprises are not allowed to issue JCT invoices.
- Input JCT and output JCT are calculated by adding up JCT amounts shown on JCT invoices received/issued.

(iv) EU VAT-type tax invoice

- Same as (iii), except that suppliers are required to also include their JCT taxpayer ID and invoice number on invoices.
- Modeled on EU VAT invoicing system.

Subsequent to the announcement of these two sets of models, in July and August 2014, the Tax Commission conducted hearing sessions with business organizations and trade groups regarding the introduction of reduced JCT rates. Out of 62 organizations/groups that joined the hearings, 26 were against the implementation, and 33 were in favor (including 9 parties that were in favor with some reservations). The Commission plans to start full-scale discussions in October 2014 in order to make a final decision by the end of this year on whether to introduce lower rates and to work out the details of lower rates should they be implemented.

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EMEA

Belgium

Final VAT tax point rules for 2015 published by VAT authorities

Upon the invoicing directive's transposition on 1 January 2013, a major change was made to the Belgian VAT tax point rules, by abolishing the issuance of an (advance) invoice as a tax point. Given the major practical impact of this change, a transitional regime applied in 2013 and 2014. Recently, the Ministry of Finance published its final guidance on the tax point rules, with definitive guidelines and simplifications that will apply as of 1 January 2015.

By abolishing the issuance of an invoice as a tax point date, it was unclear to what extent invoices raised before the actual tax point would require the supplier to report VAT on a transaction and would thus allow the customer taxpayer to deduct the VAT invoiced. The focus is therefore on advance invoices, defined as "an invoice containing all mandatory requirements (except the tax point date) and issued before the taxable event arises and before a payment is made". In such cases, the new legislation forced the parties to closely follow up on either the payment or the taxable event (delivery, completion of service, etc.).

There will now be tolerances allowing taxpayers to overcome some practical hurdles in ERP systems which resulted from the new tax point rules. These mainly focus on local B2B transactions in Belgium, where VAT is charged between the parties rather than reverse charged by the buyer. The guidelines can be summarised as follows:

- The **supplier** can issue an advance invoice (even if no tax point has yet occurred) but should refer to the "expected" tax point date if the invoice is issued more than seven days before the taxable event. Such expected tax point reference can be an expected or ultimate payment date, or the planned date of the taxable event. These advance invoices will be considered to be compliant, and no other document will have to be issued once the effective tax point (payment or taxable event) occurs. The supplier is free to report the transaction and pay the VAT based on the advance invoice date or based on the actual tax point date.
- Upon receipt of the advance invoice, the **customer** can deduct VAT based on the invoice date. This does away with the major concern of having to verify the actual tax point date for each invoice received. There will be a "window period" of three months for the customer to prove that a tax point occurred. If no payment or taxable event took place during the three months following the end of the month in which the advance invoice was issued, the customer should regularise the initially deducted VAT by repaying it via his/her VAT return. If a tax point arises at a later stage, the VAT can be recovered.

This system allows a significant level of flexibility for the supplier, whilst also limiting the administrative burden for the customer with regards to the follow-up of purchase invoices that are unpaid for over 90 days. There are special rules where corrections are made to the VAT invoiced, where the customer becomes bankrupt, or where the supplier recovers VAT paid too early on bad debts.

The guidelines also consider the application of the new tax point rules for intra-EU transactions (both goods and services). Simplifications are limited to the reverse charge to be reported by the customer (possible on the basis of the received advance invoice). On the other hand, the supplier should report the transactions in the VAT return and the EC Sales Listing in line with the actual tax point

rather than the invoice date. This is justified on the need to have correct exchange of information on these flows between EU Member States.

Whereas the newly published guidelines bring an end to a long period of uncertainty and have the benefit of not introducing new requirements for invoicing processes and ERP systems, businesses should, within the short deadline of January 2015, pay specific attention to, amongst others, the following aspects:

- Possible changes required to invoice references (expected tax point date)
- Processes to be put in place to monitor the "window period" and undertake the regularisation where appropriate
- Intra-EU invoicing and/or reporting to be adapted if this has not been done already.

Federal Government agreement

Several indirect tax measures have been considered during the negotiations for the formation of the Belgian Federal government, including the following:

- The VAT exemption for medical services regarding cosmetic surgery and treatment (other than therapeutic treatment) is to be abolished. Such services would become subject to VAT at the rate of 21% from 1 July 2015.
- The reduced 6% rate for renovation, maintenance and repair works related to private dwellings will only be available after 10 years (instead of 5 years). This measure would enter into force on 1 January 2016.
- Electronic services supplied by European enterprises to Belgian individuals will be subject to VAT in Belgium from 1 January 2015. This is a mandatory measure introduced under the 2010 VAT Package and only requires limited implementing legislation.
- Other VAT initiatives include:
    - Reform of the VAT penalty system and interest for the late payment regulations.
    - Examination of whether the threshold for the VAT exemption for small enterprises can be increased to EUR 25,000.
    - Revisiting administrative VAT obligations in light of other accounting obligations: in the case of double use, the abolition of the VAT obligation.
    - Assessment of the VAT deduction for movable business assets and the VAT rules regarding advance invoices.
    - Assessment and where appropriate modernization of VAT reporting obligations (e.g., the filing deadline for periodic returns and the payment deadline for VAT due).

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Denmark

Web shop involved in transportation when distance selling – a clarification

The tax authorities have issued a clarification regarding distance selling when a web shop is selling goods to private persons and the web shop is considered to be indirectly or directly involved with the transportation of the goods to Denmark.

If a web shop sells goods and has settled an arrangement with a carrier according to which the purchaser must only confirm the transport by a click on the carrier's homepage, then the web shop will be considered as being indirectly involved in the transportation of the goods to Denmark.

The consequence is that the web shop must apply Danish VAT on the sale if the goods are sold and delivered to a Danish purchaser (and the distance selling limit for Denmark is exceeded).

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Changes to customs authorizations

Due to an EU-level review showing discrepancies in the Danish customs authorities' issuance of customs authorizations, there have been a number of changes to customs authorization templates, to comply with legislation at EU level.

The changes have caused confusion in the Danish customs landscape, as the Danish customs authorities have issued and sent out the new, updated authorizations to several Danish authorization holders, without any prior notification.

One example of the changes revolves around the authorization "local clearance procedure – export (approved exporter)" (ECC Art. 76), where new authorizations have been issued and sent out with a new title "designated place of presentation of goods to customs (approved exporter)" (ECC Art. 63).

Deloitte Denmark is aware of a number of cases where the unannounced issuances, combined with the fact that the new title of the authorization in Danish closely resembles another authorization ("authorization to issue invoice declarations"), have led to confusion for authorization holders. In addition, many holders are not aware of the difference between Art. 76 (simplified procedures) and Art. 63 (standard procedure).

Therefore, authorization holders should be aware that they could receive a new authorization(s) from the Danish customs authorities. In order to limit risk and assure consistent procedures, it is important for holders to check new Danish customs authorizations against previous versions.

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Eurasian Union Treaty between Belarus, Kazakhstan and Russia

Import customs duty rate for certain component parts for the production of electronic technology

The Eurasian Economic Commission Collegium Resolution No. 160 of 16 September 2014 introduces import customs duty rates of 0% in relation to certain component parts for the production of electronic technology classified under classification codes 8529 90 490 0 and 8529 90 650 9.

This Resolution came into effect on 17 October 2014.

Import customs duty rate for certain types of pressure equipment for the aviation industry

The Eurasian Economic Commission Board Resolution No. 64 of 18 September 2014 amends the Unified Nomenclature of Goods of Foreign Economic Activity of the Customs Union and the Unified Customs Tariff of the Customs Union in relation to certain types of pressure equipment for the aviation industry. In particular, an import customs duty rate of 0% will apply to certain types of pressure equipment for the aviation industry classified under classification codes 8462 10 100 3, 8462 21 100 3, 8462 21 800 2.

This customs duty rate will be in effect until 30 June 2015. This Resolution came into effect on 3 October 2014.

Import customs duty rate for certain types of diesel engine

The Eurasian Economic Commission Board Resolution No. 67 of 18 September 2014 amends the Unified Nomenclature of Goods of Foreign Economic Activity of the Customs Union and the Unified Customs Tariff of the Customs Union in relation to certain types of diesel engine. In particular, an

import customs duty rate of 0% will apply to certain types of diesel engine for heavy goods vehicles until 30 September 2017 inclusive (classification code 8408 20 990 4).

This Resolution came into effect on 3 October 2014.

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Finland

VAT treatment of the sale and purchase of bitcoins

In a recent ruling (034/2014) the Finnish Central Board of Taxes (CBT) considered the VAT treatment of commission fees collected in relation to bitcoin exchange services.

A company maintained a platform, which enabled the users to sell and to purchase bitcoins and exchange them for standard currency. The company charged the users of the platform a commission fee that was determined as a percentage of the sale or purchase price.

The CBT considered that bitcoins should be regarded as payment instruments. Thus, the services provided by the company were exempt from VAT as financial services specified in Art. 135(1)(d) of the VAT Directive.

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Greece

There have been a number of important VAT developments, including the following:

- A special regime for cash accounting scheme has entered into force through a decision of the General Secretariat of Public Revenue.
- Law 4281/2014 has introduced amendments to the rules relating to VAT returns, including the abolition of the annual clearance VAT return and changes to the form and content for periodic VAT returns.
- Changes have been made to the time for the submission of periodic VAT returns and for VAT payments, and the exemption from the obligation to treat specific donations as self-supplies.

Entry into force of the cash accounting scheme

Ministerial Circular POL. 1214/2014 implements the cash accounting scheme, which was introduced by Law 4261/05.05.2014 as a special regime of article 39A of the VAT Code (Law 2859/2000).

Under the regime, the obligation for the issuer of an invoice to pay the output VAT and the right for the recipient of the supply to deduct the corresponding input VAT (regardless of whether the recipient has adopted the new regime) arise at the time the consideration for the supply is collected (in whole or in part).

- An eligible VATable person who wishes to adopt the regime from 1 October 2014 must submit an application by 20 October 2014. To adopt the regime as from the next financial year (FY), and for any subsequent FY, the VATable person may submit an application at any time before the beginning of the relevant FY.
- Consent from the recipient of the VAT invoice (who may not have adopted the regime) appears not to be a requirement.

- Companies adopting the regime should adjust their information technology reporting systems to monitor payments/collections and VAT obligations. The same adjustments should be made by any other VATable person who will receive invoices from VATable persons who have entered the regime.

Eligibility and scope: A taxable person is eligible to enter the special VAT regime if its annual turnover for the previous accounting year and for the current accounting year up to the time of exercising the right (submitting the application) has not exceeded EUR 500,000. With respect to periods of less than 12 months, the realized turnover must be projected for a 12-month period.

- Entry into the regime will be denied where there is evidence that the VATable person a) has not filed VAT returns, income tax returns or a clients/suppliers list within the two previous financial years, and/or b) has committed tax offenses/omissions related to tax evasion.

- The regime excludes VAT-exempt supplies; imports and intra-community acquisitions; transactions falling within the scope of the reverse charge; retail sales; and transactions taxable outside Greece.

Filing an application: As a prerequisite for entering the regime, an application must be filed electronically through TAXISNET (an example is included in the relevant circular). The application must be filed before the FY in which the regime will be implemented. For the first implementation of the regime, a VATable person may enter the regime retrospectively as from 1 October 2014 by filing an application by 20 October 2014.

Obligations: Under the special regime, a VATable person has the following obligations:

- To indicate on each of its invoices that it has been issued under the “special regime for VAT remittance upon collection of consideration, article 226.7 a of the EU VAT Directive 2006/112/EC – art.39B of the Greek VAT Code”; and
- To record its collections/payments by all appropriate means, and to inform the tax authorities of the collections/payments by submitting its lists of tax records. The above obligations apply for the recipient of the records, regardless of whether subjected to the special regime.

Payment definition: Consideration may be collected through all means of payment, provided they are sufficiently proven (including cash, bank checks, postal checks, bank transfers, credit cards, the offsetting or assignment of receivables, payments in kind, direct debits, etc.). The “collection date” is the date listed on the payment record or (if there is no record), the date collection or payment is reported in the accounting books of the parties. Such date must be the same for both the recipient and the supplier.

In cases of an advance payment for a future transaction, the outstanding VAT must be paid upon collection of the advance payment, and the issuance of a “special record of advance payment for the purposes of the special VAT regime of article 39B” is required. When the advance payment wholly or partially is returned, the same record is issued with a credit indication (-). The advance payment is included in the file of payments, as well as in the lists of tax records to be provided to the tax authorities.

Exiting the regime: A VATable person may exit the special VAT regime either voluntarily or involuntarily:

- Voluntarily, by submitting an electronic application through TAXISNET, but only if the VAT regime applied for at least a full 12-month financial period. The exit will be effective from the FY following the year the application is filed.

- Involuntarily, if the tax authorities note that the turnover limit of EUR 500,000 has been exceeded, or the VATable person fails to fulfil its obligations (e.g., if it does not transmit the data for the collections and payments, or if it has been involved in tax evasion). The exit is effective as from the next financial period or (when applicable) the VAT period following the notification of involuntary exit from the tax authorities.

In all exit cases, the outstanding VAT amount for all unsettled invoices must be paid, and input VAT deducted, along with the VAT return of the last VAT period prior to exit. At the same point, customers of the exiting VAT person will be requested to deduct VAT for unpaid invoices they have received.

Abolition of annual clearance VAT return

Pursuant to recent Law 4281/2014, the obligation to file an annual VAT return is abolished for accounting periods ending after 1 January 2014. Further guidance is expected from the Ministry of Finance regarding the calculation and reporting of adjustments for VAT on investment assets (deducted upon purchase). Guidance is expected on the calculation of the prorata portion of input VAT on common expenses (i.e., expenses covering both a) activities that are VATable or VAT-exempt with the right to deduct input VAT, and b) activities that are VAT-exempt without the right to deduct input VAT) that may be treated as deductible.

Other amendments under the same law include:

- Abolition of the VAT adjustment obligation in the case of a supply of investment assets before the end of the VAT settlement period, even when the VAT that remains to be adjusted is higher than the VAT on the sale.

- Recognition of the right to a VAT refund, regardless of the reason for which the VAT credit was generated. It is at the taxpayer's discretion whether it will request a VAT refund or offset the credit amount against output VAT with the periodic VAT return.

- The definition of the VAT period is amended to range from one month to one year, depending on the VATable person. The VAT return must be submitted by the last business day of the month following the end of the tax period.

- Introduction of a reverse charge mechanism on work carried out on immovable property for consideration when the project owner is a public authority and a VATable person with the right to deduct input VAT. In this case, the VAT is due by the recipient of the service through the reverse charge mechanism. The contractors retain the right to deduct VAT on inputs incurred to perform the work, but do not charge VAT on their invoices. However, they are required to indicate on the invoice the reference "Article 39a, the recipient of the supply is liable for VAT payment."

- Introduction of a "VAT-exempt" regime that applies to VATable persons with net turnover of up to EUR 10,000 in the previous FY. A declaration for entering the regime must be submitted to the tax authorities. Once a taxable person enters into the regime, it must apply the regime for at least two years. Under the regime, no input VAT is deductible and invoices must be issued with the indication "No VAT – Exemption for Small Businesses."

If the threshold of EUR 10,000 is exceeded, the taxable person must exit the regime. Upon entering or exiting the regime, an inventory must be performed indicating the existing stock of goods per VAT rate. In the case of entering the regime, the VAT deducted upon the purchases of goods must be paid to the tax authorities. In the case of exiting the VAT-exempt regime, deduction rights resume.

New form for periodic VAT returns

Ministerial decision POL 1198/2014 provides for a new form and content for the periodic VAT return. The adoption of the new periodic VAT return is effective for transactions taking place as from 1 January 2015. The most important changes to the periodic VAT return include the following:

- Inputs (i.e., expenditures and purchases) will not be recorded separately per VAT rate, but they will be reported with two codes referring to the value and the VAT due.
- The information fields of the return are incorporated into the boxes for inputs and outputs.
- The application for a VAT refund appears to have been incorporated into the periodic VAT return, since the VATable person must indicate any refundable amount and the reason for the refund in the relevant boxes. The taxpayer also may note the bank account in which the VAT refund should be deposited.
- The application to offset refundable VAT against future liabilities has been incorporated into the new VAT return.

Due to the abolition of the annual clearance VAT return, the new periodic VAT return is likely to be used for purposes of VAT adjustments on investment assets and the calculation of the (prorata) deductible portion of VAT on common expenses. Further guidance is expected from the Ministry of Finance (14th Directorate of VAT) with respect to the above issues.

Self-supply for specific donations

It no longer is required to treat donations of goods as self-supplies if the donations are made to domestic legal entities with charitable or welfare purposes for the goods to be further distributed without consideration to vulnerable groups of society. The prerequisites for the exemption from self-supplies are specified by Circular POL 1095/2014 and include the following:

- The donated goods must be food, medicine, clothes or other goods covering basic needs (except for those subject to excise duty), which must be inappropriate for sale or use.
- A delivery receipt must be prepared and delivered to the donee and to the competent tax office of the donor.
- The donor must verify the legal incorporation and nonprofit charitable or welfare character of the donee.

Payment of VAT

A different scheme for payments of debit VAT, as indicated on the new periodic VAT return, has been established by Law 4252/2014.

Specifically, the VAT payment may not necessarily follow the filing of the VAT return. In cases where the amount of debit VAT does not exceed EUR 30, the liability is transferred to the next tax period (effective from 7 April 2014). If the amount due (debit VAT) exceeds EUR 100, it may be paid in two equal consecutive monthly installments, without any additional charges. The amount of the first installment must be paid by the last working day of the month in which the VAT return was submitted, and the second by the last working day of the next month.

Deadline for filing periodic VAT returns

Periodic VAT returns, irrespective of their balance (debit, credit or nil), must be submitted by the last business day of the next month after the month the VAT period ends; previously, until the 20th day of the next month for returns with a debit balance, and the last day (not the last working day) of the next month for returns with a credit or a nil balance.

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Italy

VAT Mini One Stop Shop (MOSS)

The MOSS comes into force on 1 January 2015. It will allow businesses supplying telecommunications, broadcasting and e-services to non-business customers within the EU to report and pay all VAT charged and collected on those supplies via a web-portal in the EU Member State in which they are identified for VAT (the Member State of Identification).

A provision dated 30 September 2014 has set out how registration in Italy will operate.

Registration is via the MOSS webpage on the Italian tax authorities' website, which is also in English. There is also a link for non-EU taxpayers to request an EU identification number.

New TR form and instructions effective from the third quarter 2014

A provision dated 19 September 2014 has approved new instructions (and related specifications for electronic filing) for the TR form (request for a quarterly VAT refund or the offsetting of a VAT credit) to be used by taxpayers as from the third quarter of 2014.

The amendment has introduced a new situation where a priority refund can be obtained, where the conditions are satisfied, by economic operators whose activity code is identified by ATECO2007 30.30.09 (construction of aircraft and space vehicles and related devices).

New rules for tax payments through the F24 form

Circular number 27 dated 19 September 2014 has provided some clarification regarding new limits to the payment of taxes and social contributions through the F24 form, applicable from 1 October 2014.

From 1 October:

- F24 forms with a final balance of zero can only be submitted through the electronic services provided by the Italian tax authorities. Payment can be made:
    - Directly by the taxpayer, using the electronic services of the tax authorities "F24 web" or "F24 online";
    - With the assistance of an intermediary (e.g., professionals, centers for tax assistance, associations etc.).

- F24 forms with a tax offset (a tax credit used to offset a tax debit) where the final balance exceeds zero and F24 forms where the final balance exceeds EUR 1,000 (also without tax offsetting), can be submitted:
    - Through the electronic services provided by the tax authorities following the instructions under the above bullet point; or
    - Through internet banking provided by banks, post offices or by collection agents.

Therefore, as of 1 October 2014, payments can only be made via a paper F24 form by taxpayers not registered for VAT purposes, provided the final balance to be paid is less than EUR 1,000 and there is no tax offset.

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Kazakhstan

Export customs duties

Government Resolutions No. 833 dated 28 July 2014 and No. 1046 dated 30 September 2014 have introduced amendments and additions to export customs duties set by Government Resolution No. 520 dated 7 June 2010.

FEA CN code	Customs duties on goods		Seasonal customs duties
	Exported from Kazakhstan*	Exported to FTZA member countries**	
7601 20 910 0	3%, but no less than EUR 22 per tonne	3%, but no less than EUR 22 per tonne	
8607***	20%, but no less than EUR 15 per tonne	20%, but no less than EUR 15 per tonne	
2713 20 000 0	USD 112.59 per tonne	USD 112.59 per tonne	EUR 15 per tonne from 15 October until 15 April

* Except for CU countries and countries with which Kazakhstan has entered into bilateral and multilateral free trade zone agreements stipulating exemptions from import customs duties.

** Countries subject to a free trade zone agreement dated 18 October 2011 and protocol on the application of the free trade zone agreement dated 18 October 2011 between its parties and Uzbekistan.

*** Except for CN FEA code 8607 19 100 9 which is subject to export customs rates of 10% of customs value, but no less than EUR 7.5 per tonne.

Resolution No. 833 entered into force on 28 August 2014. Resolution No. 1046 entered into force on 8 October 2014.

Excise duties on imported goods

Minister for Economics and Budget Planning Order No. 208 dated 25 July 2014 approved an additional list of imported goods subject to excise duties according to country of origin. For example, for imports from Uzbekistan, excise duties are KZT 100 per cm^3.

CN FEA code	Goods
8703 21 1099	Vehicles with an internal combustion engine and spark plug ignition and translation movement, working cylinder volume of up to 1,000 cm^3
8703 22 1099	Vehicles with an internal combustion engine and spark plug ignition and translation movement, working cylinder volume of between 1,000 cm^3 and 1,500 cm^3

The Order entered into force from 1 August 2014

Rules for determining the country of origin of goods

Government Resolution No. 793 dated 16 July 2014 has appointed the National Chamber of Entrepreneurs as the authorized body for issuing certificates of origin for goods for domestic circulation, and also approved rules for determining the country of origin of goods, drafting, certifying and issuing certificates of origin for goods (the Rules).

The Rules also establish criteria for the sufficient processing of goods.

The resolution entered into force on 12 July 2014 and was officially published on 17 September 2014.

Documents confirming the origin of goods

Order of the Deputy Prime Minister – Minister for Industry and New Technology No. 257 dated 8 July 2014 has approved a list of documents confirming the origin of goods (the List).

Among other things, the List determines the documents used to confirm an applicant's status, and also documents for goods produced in Kazakhstan, incorporating sufficient processing criteria.

The order entered into force on 26 August 2014.

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Malta

VAT Mini One Stop Shop

The MOSS comes into force on 1 January 2015. It will allow businesses supplying telecommunications, broadcasting and e-services to non-business customers within the EU to report and pay all VAT charged and collected on those supplies via a web-portal in the EU Member State in which they are identified for VAT.

The web portal set up by the Malta VAT authorities was made available on 1 October 2014, enabling qualifying businesses to apply for registration at their convenience.

The Maltese legislator has also introduced an exemption from the obligation to issue fiscal receipts; as from 1 January 2015, businesses established outside Malta providing telecommunications, broadcasting or e-services to non-business customers in Malta under the MOSS will not be required to issue fiscal receipts to their customers in respect of such supplies made.

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Netherlands

VAT exemption for commercial health care institutions

It is proposed (but not yet confirmed) that from 1 January 2015, the medical exemption will apply to commercial health care institutions (which systematically aim to make a profit). On the basis of an approval, certain commercial nursing and care homes already now apply the exemption on their medical activities; but not for the provision of food and drink.

VAT Mini One Stop Shop

From 1 October 2014, entrepreneurs have been able to register for the MOSS system (EU-scheme) in the Netherlands through an **online form**. This registration allows entrepreneurs to report and pay all VAT due on telecommunications, broadcasting and e-services in the EU (except EU Member States where they have a (fixed) establishment) as of 1 January 2015 through a portal made available by the Dutch tax authorities.

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Poland

Conference organization services

Deloitte Poland understands that the tax authorities have recently started challenging input VAT recovery on the services of conference organization.

Previously, the tax authorities have treated such services as composite supplies, allowing input VAT recovery for the entire amount invoiced. Recently, the tax authorities have examined such services in more detail, requesting a breakdown of the fees incurred. If the calculations indicate that there are elements such as accommodation services, restaurant services, etc., with respect to which input VAT recovery is restricted in Poland, the tax authorities may deny input VAT recovery to the extent of such expenses; although these are just elements of the remuneration calculation of the service provider.

Further developments on this issue will be reported in future editions of this newsletter.

Reverse charge mechanism for electronic devices

As discussed in the July edition of this newsletter, draft amendments to the Polish VAT Act have been introduced. According to the current wording of the draft law, the group of goods subject to the reverse charge mechanism, i.e., gold, some new groups of steel products and mobile phones, will be extended to laptops, tablets and gaming consoles.

The reverse charge would apply to these goods when the value of a daily supply to a single contractor would exceed PLN 20,000 (aprox. EUR 4,900), net of VAT.

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Portugal

Environmental tax reform

On 16 September 2014, the Green Tax Commission presented the Final Project for Environmental Tax Reform. As noted in previous editions of this newsletter, Deloitte Portugal partner Afonso Arnaldo is a member of this Commission.

The proposals/recommendations cover a number of areas, namely, energy, transport, urbanism, forests and biodiversity.

Two examples of the Commission's proposals are the introduction of a surtax on carbon emissions (applicable to "non-CELE entities") and a tax on plastic bags.

Deadline extended for invoicing software certification

Under an Order of the Secretary of State of the Ministry of Finance for Tax dated 30 September 2014, the requirement to have certified invoicing software (which is internally produced by the taxpayer), which was to apply from 1 October 2014, will now apply from 1 January 2015.

The obligation to have certified invoicing software does not apply to taxpayers that are not established or do not have a permanent establishment in Portugal.

The extension of the deadline applies only to taxpayers that have already filed an application for invoicing software certification and have also made available to the tax authorities the requisite information for testing purposes.

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Russia

Government rejects introduction of a sales tax

It was reported in the August edition of this newsletter that the Russian government was considering allowing regional authorities the right to introduce sales tax.

The government has now decided not to introduce sales tax, and to retain the existing tax base.

A proposed increase in VAT rates also will not proceed.

VAT refund for nonresident individuals for goods purchased on Russian territory for personal use

The Prime Minister of the Russian Federation has requested that the Ministry of Finance and the Ministry of Economic Development develop a draft law under which nonresident individuals would have the right to receive VAT refunds on goods purchased on Russian territory for personal use upon transporting those goods out of the customs territory of Russia.

Procedure for applying 0% VAT rate to works supplied to Eurasian Economic Commission

The procedure for applying the 0% rate to works supplied to the Eurasian Economic Commission is clarified in Ministry of Finance Letter No. 03-07-P3/46019 dated 15 September 2014.

According to the tax legislation, where the 0% VAT rate applies to supplies of goods (works, services) for official use to international organizations and their branches, carrying out their activities in Russia, the companies supplying such goods (works, services) issue VAT invoices with the 0% rate. VAT invoices for such official use contracts are marked "For official needs of an international organization". Such contracts should include the specification of the goods (works, services) supplied, and the cost specification.

Draft law introduces important changes to VAT administration procedures

The Government Committee on legislative drafting activities has approved a draft law introducing important changes to VAT administration procedures. The draft law is aimed at executing the VAT administration improvement roadmap (Government order No. 162-p dated 10 February 2014).

The draft law proposes the following changes to VAT administration procedures:

- Moving the deadline for filing the VAT return from the 20th to the 25th day of the month following the reporting quarter.

- Making it possible to claim VAT recovery on VAT invoices received after the reporting period, but before the date of filing the tax return.
- Permitting, at lawmaking level, the inclusion of extra particulars in VAT invoices, including primary document particulars.

Ratification of Agreement on the Eurasian Economic Commission

Federal Law No. 279-FZ of 3 October 2014 ratifies the Agreement on the Eurasian Economic Union, signed by Russia, Kazakhstan and Belarus in Astana on 29 May 2014.

This Law came into effect on 15 October 2014.

Introduction of import duties on goods originating from Ukraine

Government Resolution No. 959 of 19 September 2014 establishes the rates of import customs duties on goods originating from Ukraine.

These duties will be applied upon the practical application by the Government of Ukraine of the economic terms of the European Union Association Agreement (signed by Ukraine and the European Union on 27 June 2014) or upon its implementation.

This Resolution comes into effect upon the decision of the government.

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Slovenia

Proposed changes to VAT legislation approved by Slovene Parliament

On 10 October 2014, a proposal concerning amendments to the Value Added Tax Act was approved by the Slovene Parliament and has been sent to the National Assembly for adoption via a shortened legislative process.

To recap, the main objectives of the proposed changes are the implementation of Directive 2008/8/EC, Directive 2008/9/EC, Directive 2013/43/EC and Directive 2013/61/EC, as well as changes related to provisions concerning the tax base, corrections of calculated VAT and related corrections of input VAT. Other proposed changes include broadening the application of joint and several liability, increases to the VAT rates which were previously implemented by the Slovenia Budget Implementation Act in 2013, changes related to the special scheme for farmers and penalty provisions. Finally, the proposed changes envisage the implementation of a special scheme for foreign taxable persons that engage in the occasional provision of services of the international road transport of passengers.

As the above changes to the Slovene VAT legislation have now been confirmed, there is some further administrative information available in relation to the amendments to the VAT Act, which are to be implemented, as follows.

Special scheme for taxable persons, not established in Slovenia, supplying telecommunications services, broadcasting or e-services to nontaxable persons – implementation of changes related to the place of supply rules for services

For suppliers of the abovementioned services, established in countries outside the EU which choose Slovenia as their EU Member State of VAT registration, the simplified process of VAT registration will be implemented, under which the application form must be submitted through the e-filling system. The Slovene tax authorities will issue a Slovene VAT number to be used for the relevant special scheme, within eight days of receiving the application.

The following additional information is already available regarding the VAT compliance obligations to be met by taxable persons using this scheme:

- VAT returns will be submitted quarterly;
- The deadline for the submission of VAT returns under this scheme will be the 20th day of the month following the period for which the VAT return is prepared;
- Correction of the values reported in the special VAT return under this scheme may be made within three years following the deadline for the submission of the VAT return that is being corrected;
- The deadline for payment of VAT obligations under this scheme will be the 20th day of the month following the period to which the VAT obligation corresponds;
- A taxable person opting to use the special scheme must use the scheme for the whole year in which the special VAT registration is made and the two subsequent years.

Special scheme for foreign taxable persons occasionally performing international road transport of passengers services

Due to the lengthy administrative process of VAT identification and mandatory monthly submission of VAT returns, a special scheme was proposed for foreign taxable persons occasionally performing services of international road transport of passengers.

Namely, for suppliers of these services established in other EU Member States or countries outside EU, a simplified process of entry into the Slovene tax register and VAT registration will be implemented. A Slovene VAT number to be used for the relevant special scheme should generally be issued by the Slovene tax authorities within eight days of receiving the application. In addition, it has been confirmed that taxable persons established outside the EU will not have to name a fiscal representative to acquire a Slovene VAT number under this special scheme.

The following additional information is already available regarding the VAT compliance obligations to be met by taxable persons using this scheme:

- VAT returns will be submitted annually;
- The deadline for the submission of VAT returns under this scheme will be the last working day of the month following the period for which the VAT return is prepared, i.e., the last working day of January for the previous calendar year;
- The deadline for payment of VAT obligations under this scheme will be the last day of the month following the period to which the VAT obligation corresponds, i.e., the last day of January for the VAT obligation related to the previous calendar year;
- A taxable person opting to use the special scheme must use the scheme for the whole year in which the special VAT registration is made.

Given the information system requirements, the scheme will not come into force until 1 April 2015. Taxable persons will be able to apply for VAT registration under this scheme from 1 March 2015.

Requirement to provide copies of invoices/customs documents for EU VAT refund claims

From 1 January 2015, businesses established and registered for VAT purposes within the EU that request a refund of VAT incurred in Slovenia must provide an electronic copy of the invoice or the customs documents (in the cases of imports) where the taxable basis on the invoice or import document is EUR 1,000 or more (EUR 250 for invoices relating to fuel costs). This requirement is being introduced because of an increase in attempted fraud related to VAT refund claims made under the EU refund mechanism.

Slovene VAT rates not changing

In early 2014, there were some discussions as to whether to increase the VAT rates to 24% (standard rate) and 10% (reduced rate). The Slovene Parliament has now dismissed the possibility of any such changes. Accordingly, the current rates, which have applied since 1 July 2013, will remain until further notice as follows:

- Standard VAT rate of 22%; and
- Reduced VAT rate of 9.5%.

Potential increase in tax rates for financial services and insurance contracts

In the context of adjustments to the state budget for the 2015 year, required because of estimates of the deficit level under the current state budget plan, the Ministry of Finance is considering an increase in the rate of tax on financial services and insurance contracts.

The current tax rate for these taxes is 6.5%. Information regarding what the new rates may be is not yet available, as the negotiations regarding this issue are still at an early stage.

VAT seminar in November

Deloitte Slovenia is holding a VAT seminar on 26 November 2014, from 9.00 to 14.00.

The seminar will cover the following topics:

- An overview of novelties in the VAT taxation area;
- 2015 place of supply changes;
- Instructions on how to use the MOSS system;
- E-invoicing;
- An overview of the latest Court of Justice of the European Union cases.

For more information on seminars and other events organized by Deloitte Slovenia, please visit the **website**.

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Sweden

CJEU judgment on VAT treatment of charges to VAT group by overseas head office

The CJEU has delivered its decision in the case of *Skandia America Corporation*, about the VAT treatment of charges made by the corporation's US head office to its Swedish branch, which was included in a VAT group in Sweden.

The CJEU confirmed that, in situations where a branch of an overseas entity is part of a VAT group, any supplies of services made by an overseas head office in a non-EU country to this branch are considered taxable transactions made to the VAT group as a whole and hence subject to VAT. It is then the responsibility of the VAT group to account for VAT on these supplies under the reverse charge provisions.

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Switzerland

Supreme Court decision on opting for taxation of tax-exempt supplies

In Switzerland there is a right to opt to tax most VAT-exempt services. The option can be selected and applied as per each single transaction.

The Swiss Supreme Court (in a case concerning a golf course) has ruled that the requirement to clearly detail tax on the invoice is a mandatory provision. The option is only valid in respect of invoices that clearly detail the tax.

The option is not valid if it is only declared on the VAT return (and not on the invoice). If an option is not detailed on the invoice, it is invalid, the underlying service remains exempt, and the respective input VAT is unrecoverable.

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United Kingdom

VAT Mini One Stop Shop

The UK tax authorities (HMRC) have announced that the registration system for the MOSS is now available. Although the MOSS will not come into operation fully until 2015 – the first returns under it will cover the calendar quarter to 31 March 2015 – businesses are now able to set up their MOSS registrations.

The system requires each business that wants to use the scheme to set up its own registration. Once the registration is in place, businesses can appoint agents to assist with their compliance obligations

HMRC Brief on VAT recovery and holding companies

HMRC have reviewed their guidance on the recovery of VAT incurred by holding companies in the wake of the decision of the Court of Appeal in the case of *BAA Ltd*. **HMRC's announcement** indicates that there has been no change in policy but the **guidance in its Input Tax Manual** has been revised and taken together with the challenges to VAT recovery in the cases of *Norseman Gold plc* and *African Consolidated Resources plc*, this suggests that the recovery of VAT on costs incurred by holding companies is likely to come under increased scrutiny.

VAT refund claims and disbanded VAT groups

The Upper Tribunal has dismissed an appeal by Taylor Clarke plc (TC) against the First-tier Tribunal's decision that it was not entitled to keep over £1.3 million of VAT and interest paid to it by HMRC in response to a "Fleming" claim filed by Carlton Clubs Limited (CC), a company that was in a VAT group headed by TC at the time that the overpayments of VAT took place. By the time the refund was made, the VAT group had been disbanded, and HMRC made the repayment to TC, as it was the representative member of the VAT group at the time that the overpayments occurred.

The First-tier Tribunal considered the competing claims of TC and CC to receive the money and decided that the cash should have gone to CC.

The Upper Tribunal dismissed TC's appeal against the First-tier Tribunal's decision. Lord Doherty decided that TC (and not CC) was the entity entitled to make the claims, but that it did not do so before the expiry of the limitation period applicable to them. The UT decision implies that neither TC nor CC were entitled to the cash.

"Due diligence" checks for dealers in alcoholic drinks from 1 November

HMRC have issued guidance on the "due diligence" checks that businesses dealing in alcoholic drinks which are approved or registered by HMRC will be expected to carry out from 1 November 2014. The requirement for businesses to carry out reasonable, appropriate checks on their customers, suppliers and supply chains and to have robust procedures to reduce risks of trading in illicit goods will be extended to wholesalers of alcoholic drinks from 2016. The measure is intended to help identify and prevent fraud (which is estimated by HMRC to cost £1 billion a year) and prevent illicit alcoholic drinks entering the market place.

ING Bank supplied "banking services" when it accepted deposits

The First-tier Tribunal has decided that there was a VAT exempt supply of "banking services" by ING Bank when it accepted deposits and paid interest on them. It rejected the bank's arguments that the telephone and internet facilities used by depositors to operate their accounts and the provision of cheque deposit facilities, account statements, etc., which were provided free by the bank, did not involve supplies made by the bank to its depositors for VAT purposes. The First-tier Tribunal concluded that they amounted to supplies for (non-monetary) consideration paid by the depositors and decided that "…the value of the consideration (the deposits) was *both* what the bank was prepared to spend in interest and what it was prepared to spend in providing banking services, the value of the deposits *less* the value of the interest was equal to what the bank was prepared to spend on its banking services; so the value of the banking services is what the bank was prepared to spend on providing them."

The First-tier Tribunal's conclusion that the bank was making exempt supplies meant that its claim for a refund of some of the VAT incurred on securing the deposits (just over £6 million) was unsuccessful.

Whilst this finding was sufficient to dispose of the appeal, the First-tier Tribunal went on to suggest that the bank's investment activities (buying and holding bonds to maturity) did not amount to an "economic activity" for VAT purposes, meaning that the VAT claimed would not have been recoverable even if the bank had not been making exempt supplies to its customers.

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