Deloitte.

Global Tax & Legal | Global Indirect Tax | May 2015

Perspective = everything

Global Indirect Tax News

Your reference for indirect tax and global trade matters

May 2015

Country summaries

Americas

Asia Pacific

EMEA

Welcome to the May 2015 edition of GITN, covering updates from the Americas, Asia Pacific and the EMEA regions.

Highlights of this edition include confirmation in the Australian budget that GST will be applied to services and digital products supplied by foreign suppliers to Australian consumers (from 1 July 2017), the passage of a Bill by the Lower House of the Parliament in India to enable the introduction of GST, and an announcement by the European Commission of its strategy for the EU digital single market.

Related links:

Global Indirect Tax

GITN archive

Global Indirect Tax Rates

Deloitte tax@hand

Contact us:

Deloitte Global & Regional Indirect Tax Contacts

Two upcoming Dbriefs webcasts may be of particular interest to GITN readers. On 4 June, Robert Tsang will host a webcast entitled: Cross-border digital services: A brave new world for indirect tax? The webcast will discuss how new rules to tax inbound digital services will work, with a spotlight on Japan and Korea; whether a non-resident supplier can really be subject to consumption tax, GST or VAT obligations; and what the rules could mean for direct tax or business tax purposes. On 9 June, Prashant Deshpande will host a webcast entitled: GST in India: What's in store for the services sector? The webcast will discuss the background and an overview of the introduction of GST; the latest news on the structure of GST, rates and methodology; highlights of the implications for the services sector, and emerging trends and concerns from the services sector. To find out more and register for the webcasts, please see **Dbriefs Asia Pacific Tax Webcasts**.

The Deloitte – Global Tax Center (Europe) has just released the third edition of the **European Intrastat Guide**, which covers the practical rules and procedures to manage Intrastat reporting in 28 European countries. The content has been updated to 1 March 2015, and is reviewed on a yearly basis.

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

David Raistrick
Deloitte Global
Indirect Tax Global Leader

Back to top

Country summaries

Americas

Colombia

The Ministry of Agriculture has set an annual limit for the importation of denatured ethyl alcohol (classified by sub-tariff code 2208.90.10.00) under the Northern Triangle Free Trade Agreement.

The National Tax and Customs Authority and Ministry of Commerce have regulated the minimum descriptions required for the importation of certain goods.

United States

Remote seller sales and use tax update: the Marketplace Fairness Act has been reintroduced.

Back to top

Asia Pacific

Australia

The Australian Government has released exposure draft legislation in relation to its previous announcement that GST will be applied to services and digital products supplied by foreign suppliers.

Cambodia

Cambodia inaugurates electronic certificates of origin.

China

At the Standing Committee Meeting of China's State Congress on 28 April 2014, Premier Li Keqiang called for improved policies to boost the domestic consumer goods market and urged for specific measures to build a fair import and export environment. Several key measures were specifically mentioned.

India

The Lower House of Parliament has passed the Constitution Amendment Bill 2014 to enable the introduction of GST.

There have been amendments to the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2015, including the definitions of ‘sale price’ and ‘purchase price’ and rules regarding returns and assessments.

The Supreme Court has ruled that the addition of a notional 1% of FOB value for loading, unloading and handling charges for the purposes of customs duty valuation should not apply when the actual handling charges can be ascertained.

A Dbriefs webcast on GST in India will be held on 9 June.

Japan

There is an update on the proposed multiple JCT rate structure.

Vietnam

The Ministry of Finance has issued a new circular with guidance on customs procedure, customs audit and supervision, import/ export duty and tax administration for imported and exported goods.

Back to top

EMEA

Eurasian Economic Union

Introduction of 0% import customs duty rate on certain goods.

Introduction of antidumping duty on citric acid originating from China.

European Union

The EU VAT Expert Group has adopted an Opinion on the EU ‘test case’ on cross-border VAT rulings.

The European Commission has announced its strategy for an EU digital single market.

There will be additional duties on imports from products originating in the U.S. (Byrd Amendment).

Denmark

Goods must be exported ‘within reasonable time’ for zero-rating to apply.

The Government is to enhance the tax authorities’ powers for VAT inspections of foreign e-commerce companies.

Finland

Updated written guidance has been published by the Finnish Tax Administration on the VAT treatment of newspapers and magazines, and health care services.

France

A list of ‘abusive practices’ and ‘tax schemes’ has been published by the tax authorities.

The Administrative Supreme Court has been asked for a preliminary ruling on CPSE (tax on electricity).

Hungary

The tax authorities have released official guidance on the implementation of the *Skandia* CJEU decision.

Italy

There are updates on a number of MOSS issues.

The Government has approved a draft legislative decree regarding electronic invoicing and the electronic transmission of consideration for retailers.

Further guidelines have been issued regarding the application of the split payment regime.

The Ministry of Economy and Finance has responded to questions about the release of VAT refunds where no VR form has been submitted.

The Supreme Court has ruled on a VAT refund rejection for a dormant company.

The Supreme Court has confirmed the CJEU’s principles on accounting for intra-Community acquisitions.

The Supreme Court has ruled on the right of VAT deduction for a rooms' rental business.

An amendment has been proposed to the VAT regime for intra-Community movements of goods subject to processing operations/ handing.

The Italian Association of Joint Stock Companies has issued a case study about keeping books for tax purposes in a foreign language.

The tax authorities have issued updated guidelines for letters of intent for certain import transactions.

The customs and tax authorities have provided guidelines regarding the procedure to be applied by 'net exporters' for the electronic transmission of 'dichiarazioni di intento' (i.e., special declarations that allow purchases or imports to be made without VAT under certain conditions).

A task force from the customs and tax agencies has been working over recent months to analyze the impact of transfer pricing policies on customs valuation.

Customs guidelines on experimental pre-clearing have been updated.

The customs authorities have provided operative guidelines regarding experimental 'fast corridors'.

Kazakhstan

The President of Kazakhstan has proposed the introduction of a sales tax, instead of VAT.

Malta

The 2015 Budget Measures Implementation Act has been published, including measures regarding the eco-contribution and excise duty (for ammunition cartridges, tires for motor and commercial vehicles and petroleum oils) and VAT refunds.

Netherlands

There has been a final judgment in the CJEU *Granton Advertising* case.

Poland

CJEU judgment on the VAT treatment of supplies associated with property rentals.

The standard VAT rate is to apply to restaurant services.

Portugal

The new regime for online betting and gambling in Portugal will enter into force on 28 June 2015.

Russia

There have been amendments to the list of technological equipment the import of which is not subject to VAT.

There is now a requirement to provide insurance for risk of damage to third parties for the inclusion of objects of intellectual property in the respective customs register.

Sweden

The CJEU has found that Sweden, by failing to exempt from VAT the supply by the public postal services of services and the supply at face value of postage stamps valid for use for postal services within national territory, has failed to fulfil its obligations under the VAT Directive.

Turkey

The Ministry of Finance is considering whether to bring electronically supplied services supplied by non-resident businesses to Turkish consumers within the scope of Turkish VAT.

Ukraine

Special duties on imports of cars have been halved.

The export of rough timber has been temporarily banned.

There have been changes in the timeframes for inward and outward processing of certain goods.

United Kingdom

The results of Deloitte UK's third survey of indirect tax professionals are now available.

The Court of Appeal has released its decision in *Littlewoods Limited and others*, the lead case on whether compound interest should be paid on VAT repayments by the tax authorities

Back to top

Americas

Colombia

Ministry of Agriculture sets annual limit for importation of certain alcohol under Northern Triangle Free Trade Agreement

The Ministry of Agriculture has, by resolution, set a limit of 15 million liters per annum for the importation of denatured ethyl alcohol with a volumetric alcohol level of less than 80%, classified by sub-tariff code 2208.90.10.00, originating from El Salvador, Guatemala, and Honduras (under the Northern Triangle Free Trade Agreement).

Resolutions regulate minimum descriptions required for importation of goods

The National Tax and Customs Authority and the Ministry of Commerce have, by resolution, regulated the minimum descriptions required for the importation of certain products.

The resolution also regulates the minimum descriptions that must be included to apply origin prerogatives claimed under Free Trade Agreements.

Pedro Sarmiento, psarmiento@deloitte.com, Deloitte Colombia

Back to top

United States

Remote seller sales and use tax update: Marketplace Fairness Act reintroduced

A bipartisan group of U.S. Senators recently introduced the Marketplace Fairness Act of 2015 (S. 698; the 'MFA 2015'). If adopted into law, MFA 2015 generally would make it easier for a state to collect sales and use taxes from sales made by out-of-state or 'remote' sellers (such as catalog or online retailers) that do not have an in-state physical presence.

Similar legislation was approved by the U.S. Senate in the 113th Congress, but was not passed by the U.S. House of Representatives before the 113th Congress concluded on 3 January 2015, resulting in the need to re-introduce the legislation in the 114th Congress.

This Tax Alert, **Remote seller sales & use tax update: Marketplace Fairness Act reintroduced**, summarizes the MFA 2015 and highlights other recent developments concerning remote seller nexus for sales and use tax purposes.

Stephanie Gilfeather, sgilfeather@deloitte.com, Deloitte United States

Back to top

Asia Pacific

Australia

GST on inbound supplies of services and digital products

On 12 May 2015, the Australian Government released **exposure draft legislation** in relation to its previous announcement that GST will be applied to services and digital products supplied by foreign suppliers to Australian consumers.

Key features of the proposed measure include:

- Application to the broadest range of inbound supplies – anything other than goods or real property will potentially attract GST. Apart from supplies of streamed entertainment content and digital downloads, for example, all manner of services, as well as supplies of intellectual property and other rights, will also potentially be caught.

- Affected supplies will not be limited to those made to private consumers. Supplies to small business entities that are not GST-registered, and to GST-registered businesses making acquisitions other than for the purpose of their enterprise, are also included in the proposed definition of ‘Australian consumer’. Suppliers will be expected to take ‘all reasonable steps’ to ascertain whether a customer is an ‘Australian consumer’. The scope of what ‘reasonable steps’ would be has yet to be determined by the Government.

- In certain circumstances, supplies made through an ‘electronic distribution service’ (EDS) will result in the EDS operator having the GST liability instead of the supplier. ‘Electronic distribution service’ is very widely defined to include websites, internet portals, gateways, electronic stores and marketplaces, potentially affecting a very wide range of intermediaries. The practical implications of this deeming measure are potentially substantial.

- A limited registration regime will be introduced, with simplified registration, reporting and remittance requirements. Input tax credits will not be available to entities which elect to register this way. The framework of the limited registration regime, including whether a registration threshold should apply, will be established after consultation with affected suppliers.

- The measure will take effect for supplies made on or after 1 July 2017.

This change is being welcomed by Australian businesses competing against foreign suppliers selling services and intangibles to Australian end consumers. Requiring foreign suppliers to remit GST on supplies made to Australian consumers is seen as an overdue levelling of the playing field.

On the other hand, foreign suppliers, as well as EDS operators, will be focusing on the detail of the proposed measure. The first step will be to gain a full understanding of all of the circumstances in which GST liabilities will arise on services and intangibles supplied to Australian customers. This task will be made more difficult by the uncertainty created by particular aspects of the proposed amendments, together with the fact that some of the practical administrative details have yet to be worked out by the Government and may take an extended period to be resolved.

The Government has invited public input on the proposed legislative changes, with submissions being accepted until 7 July 2015.

Jon Graham, JonGraham@deloitte.com.au, Deloitte Australia

Back to top

Cambodia

Cambodia inaugurates electronic certificates of origin

The Ministry of Commerce launched its online system to generate certificates of origin (COs) on 31 March 2015. The Ministry's new portal, developed in partnership with Singapore-based Crimson Logic, allows exporters to apply for CO online, instead of at Government offices. The online system aims at increasing transparency and reducing the time for exporters to receive a hard copy of the certificate with the Ministry's stamps and seals.

However, the process is not fully automated as foreign trade partners, including the European Union, still require hard copies of documents with physical signatures. The Government is currently in talks with its foreign trade partners to recognize the e-signature as a replacement for the Cambodian Government's official seals and stamps.

Using the new procedure, exporters can make online or offline payments for their COs at three banks – Acleda, Canadia and Foreign Trade Bank of Cambodia. Other banks will be approved for processing payment for COs in the future.

The Ministry aims to implement a payment gateway and electronic signature (e-signature) program by the end of the year. The ultimate goal is to allow exporters to print their own CO completely online without the need of a hard copy.

Kimsory Chhv, **kchhiv@deloitte.com**, Deloitte Cambodia

Back to top

China

Import/ export tax policy adjustment on consumer goods

At the Standing Committee Meeting of China's State Congress on 28 April 2014, Premier Li Keqiang called for improved policies to boost the domestic consumer goods market and urged for specific measures to build a fair import and export environment. Several key measures were specifically mentioned as follows:

- Decrease import duty on daily consumer goods – a pilot will start by the end of June 2015 and more products would gradually be included;
- Refine the consumption tax policies for apparel and cosmetics products, which includes modifying the taxable scope, tax rate and point of tax;

- Expand the ports for duty free shops and the scope of duty free products, and increase the quota for duty free purchase;
- Refine the policy of tax refunds to individuals upon departure from China and establish a policy of inspection and quarantine which facilitates the importation by cross-border e-commerce companies, and remove unreasonable charges on imports; and
- Facilitate the China brands establishment and improvement, and encourage the development of physical stores and online-offline interaction.

Comments

- As China is set to boost imports of consumer goods to further diversify and expand imports, consumer goods, especially those with high domestic demand, are expected to enjoy lower import duty rates. Therefore, companies which engage in importing such consumer goods are expected to benefit from this trend, and become more competitive in the market.
- This is the first time that there has been an official comment on the application of consumption tax on, especially, apparel products. The timeline and the detailed implementation rules are still to be released.
- It is suggested that affected industry sectors closely monitor and gather information on the potential consumption tax policy trends.
- Cross-border e-commerce companies will be encouraged to boost operations and business in China, with more convenient and efficient Customs clearance and more transparent charges.

Sarah Chin, sachin@deloitte.com.hk, Deloitte Hong Kong

Back to top

India

Lower House of Parliament passes Constitution Amendment Bill 2014 to enable introduction of GST

In a significant development signalling the onset of this radical reform, the Lower House of the Parliament (Lok Sabha) passed the Constitution Amendment Bill 2014 to enable introduction of GST.

The Bill will now have to be passed by the Upper House of the Parliament (Rajya Sabha) by a majority of the total membership of that House and by majority of not less than two-thirds of the members present and voting, and ratified by the Legislatures of not less than one-half of the States, before being presented for the President's assent.

Presently, the Bill has been referred to the select panel of Rajya Sabha, and their report is expected at the beginning of monsoon session, i.e., July 2015.

Amendments to Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2015

Important changes to the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2015 are effective from 1 April 2015. In summary:

- An explanation has been added to the definitions of 'sale price' and 'purchase price' to provide that the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately shall not be included in the sale price or purchase price, as the case may be.
- The restriction on filing revised returns only once pursuant to intimation of incorrect disclosure of tax quantum, set-off or a refund claim in a particular year has been removed.
- An assessment can be initiated in respect of a transaction if the prescribed authority has reason to believe that tax has been evaded or sought to be evaded, a tax liability has not been disclosed correctly, or an excess set off has been claimed.
- An option has been introduced to allow a company to elect the date of transfer of business (on account of an amalgamation, a merger or a demerger) either from:
    - The date of the order of the High Court, Tribunal or Central Government, or
    - The date on which the Registrar of Companies notifies the amalgamation, merger, or demerger.

Addition of notional 1% of FOB value for cost of loading, unloading and handling to value of goods not to apply when actual expenses for such charges can be ascertained

The Supreme Court was asked to consider whether the rule setting the notional value for handling charges at 1% of the FOB value of goods should be applied to the valuation of goods for the purpose of levying customs duty even where the actual handling charges could be ascertained.

The tax authorities stated that this rule was incorporated because it was impossible to ascertain the actual amounts incurred on loading, unloading and handling charges while making an assessment, as the amounts vary depending upon quantities and the place of import.

After analyzing the evolution of the principle for including such charges, the Supreme Court held that when the actual charges paid are available and ascertainable, introducing a fiction for arriving at the purported cost of loading, unloading and handling charges was clearly arbitrary, with no nexus with the objective sought to be achieved. The Supreme Court further held that the said provision would be valid and justified only in those cases where the actual cost is unascertainable.

The practice of including notional charges for loading, unloading and handling has been followed for a long time. The ruling of the Supreme Court may be a welcome move for importers in cases where they are able to substantiate the actual charges incurred by them, with the help of appropriate documentary evidence.

Dbriefs webcast on GST in India

On 9 June, there will be a Dbriefs webcast entitled: Goods and Services Tax (GST) in India: What's in store for the services sector?

The webcast will be hosted by Prashant Deshpande and during the call the Deloitte India panel of experts will discuss the background and overview of India's GST introduction, latest news on the structure of GST and the rates and methodology, highlights of the indirect tax implications to the services sector, and emerging impacts and concerns from the services sector.

To register for the webcast, please click here: **Register**.

Prashant Deshpande, pradeshpande@deloitte.com, Deloitte India

Back to top

Japan

Update on proposed multiple JCT rate structure

On 23 April 2015, the ruling parties' Tax Commission announced its intention to start a wide-ranging discussion from mid-May towards the implementation of a multiple Japanese Consumption Tax (JCT) rate structure. Also, they confirmed that they would narrow down the scope of items eligible for a lower JCT rate.

Currently there is only one standard JCT rate of 8%, but the Government has been contemplating introducing a reduced JCT rate concurrently with or after the JCT rate increase to 10% on 1 April 2017. Last year, to evaluate the feasibility of a multiple JCT rate system, the ruling parties worked out eight models for items covered and the estimated revenue fall for each model. All of the eight models consist of food, with their scope ranging from polished rice only to all kinds of food including eating out.

This time, the Tax Commission decided to narrow down the scope of discussions to three models, i.e., (a) all food items excluding alcohol; (b) perishable food; and (c) polished rice. Of them, Model (c) will have the minimum impact on tax revenues, but its effect as a measure to aid lower-income households will be limited. On the other hand, Model (a) is likely to greatly reduce tax revenues, while Model (b) is expected to cause disputes over how to distinguish between covered and non-covered items.

The introduction of a differential rate structure may be accompanied by the adoption of the invoice credit method for JCT purposes to efficiently deal with multiple JCT rates for tax and accounting purposes. Currently Japan is the only OECD country that uses the subtraction method for VAT-type tax, under which output JCT and input JCT are directly calculated based on the amount of sales and purchases, respectively.

It is intended that the Tax Commission will compile a specific plan by autumn this year with an aim to introduce a multiple rate system in 2017.

Chikara Okada, chikara.okada@tohmatsu.co.jp, Deloitte Japan

Back to top

Vietnam

New circular provides guidance on customs procedure, customs audit and supervision, import/ export duty and tax administration

On 25 March 2015, the Ministry of Finance issued a new circular with guidance on customs procedure, customs audit and supervision, import/ export duty and tax administration for imported and exported goods. The circular took effect from 1 April 2015, with significant changes to customs procedures and the supervision mechanism.

Application of risk management for certain customs operations

The circular provides a mechanism to classify enterprises into three levels:

i. Prioritized Enterprise;

ii. Complied Enterprise; and

iii. Non-complied Enterprise.

The risk classification result will be applied for customs inspection during clearance, customs supervision and management, and post-clearance audit.

Reduction of compliance dossiers to facilitate customs clearance

Another positive change under the new circular is the reduction of compliance dossiers to be submitted at importation/ exportation. In particular, sales contracts and packing lists will no longer be required in customs dossiers, while a number of documents, such as import/ export licenses and specialized inspection results are to be collected automatically by customs authorities from competent offices.

In addition, the new circular offers a clear mechanism for the verification of the origin of goods and the dutiable value during customs clearance. For example, if enterprises disagree with customs authorities on the determination of dutiable value, the clearance may still be carried out at the declared price and the controversy then would be brought to post-clearance audit.

Abolition of registration requirements for material codes and consumption norms for export processing and manufacturing

Under the new circular, enterprises are not required to register processing contracts, materials codes and consumption norms applied to export processing and manufacturing. Accordingly, imported materials should be finalized annually on the actual inventory balance, instead of on customs liquidation, which mainly depends on self-determined consumption norms.

Aside from simplifying customs procedures, the intention of the changes is that customs declaration should be consistent with accounting records, and that it is better for customs offices to utilize an enterprise's available encoding rather than create a new one for customs purpose only.

At present, this abolition apparently provides relief for manufacturers from a difficult procedure. However, there may still be a compliance risk upon post-clearance audit where enterprises do not have good internal control systems for materials.

Registration procedures for classification of unassembled machinery

Where importers intend to classify unassembled machinery under Rule No. 2a of the HS General Interpretative Rules, they are required to register the list of unassembled parts of machinery and equipment machinery with the customs authority before the goods are imported. Upon actual importation, the customs authority will monitor, follow-up and reconcile the actual import against the registered list.

Tuan Bui, **tbui@deloitte.com**, Deloitte Vietnam

Back to top

EMEA

Eurasian Economic Union

Introduction of 0% import customs duty rate on certain goods

The Eurasian Economic Commission Collegium Resolution No. 31 of 21 April 2015 introduces an import customs duty rate of 0% in relation to lead ores and concentrates with lead content of not less than 45 wt.% classified under classification code 2607 00 000 1. The 0% import customs duty rate is effective from 25 May 2015 to 24 May 2017. This Resolution came into effect on 22 May 2015.

The Eurasian Economic Commission Collegium Resolution No. 32 of 21 April 2015 introduces an import customs duty rate of 0% in relation to waste and scrap of precious metals classified under classification codes 7112 30 000 0, 7112 91 000 0, 7112 92 000 0, 7112 99 000 0. The 0% import customs duty rate is effective from 1 June 2015 to 31 December 2016. This Resolution came into effect on 22 May 2015.

The Eurasian Economic Commission Collegium Resolution No. 17 of 10 March 2015 introduces an import customs duty rate of 0% in relation to industrial fatty alcohols classified under the classification code 3823 70 000 0. The 0% import customs duty rate is effective from 10 April 2015 to 31 December 2017. This Resolution came into effect on 10 April 2015.

The Eurasian Economic Commission Collegium Resolution No. 18 of 17 March 2015 introduces an import customs duty rate of 0% in relation to coronary stents classified under classification code 9021 90 900 1. The 0% import customs duty rate is effective from 20 April 2015 to 19 April 2017. This Resolution came into effect on 17 April 2015.

Introduction of antidumping duty on citric acid originating from China

The Eurasian Economic Commission Collegium Resolution No. 15 of 10 March 2015 introduces antidumping duty on citric acid originating from the People’s Republic of China and imported to Russia and classified under classification code 2918 14 000 0. The antidumping duty is established for five years starting from 10 April 2015.

The antidumping duty rates are from 4.20% to 16.97% of the customs value of the imported citric acid, depending upon the Chinese manufacturer of the citric acid.

The Resolution came into effect from 10 April 2015.

Andrey Silantiev, asilantiev@deloitte.ru, Deloitte Russia

Back to top

European Union

EU VAT Expert Group Opinion in the cross-border rulings test case

The VAT Expert Group that was set up by the European Commission has adopted an **Opinion on the EU 'test case' on cross-border VAT rulings**. The European Commission announced recently that **the cross-border VAT rulings trial**, which aims to facilitate cross-border VAT rulings for taxpayers on contentious or inconsistent issues, is being extended to 30 September 2018. The trial allows businesses planning cross-border transactions between two or more of the participating Member States (Belgium, Cyprus, Estonia, Finland, France, Hungary, Latvia, Lithuania, Malta, the Netherlands, Portugal, Slovenia, Spain, Sweden and the UK) to seek a ruling on the VAT treatment of them in each country involved.

Among other things, the Opinion calls for businesses to make use of the test case, for more Member States to join the test case as soon as possible, for Member States to engage in open and constructive discussions in order to achieve agreement on the VAT treatment of submitted cross-border fact patterns and for Member States, the Commission and businesses to improve and promote the process.

European Commission strategy for an EU digital single market

The European Commission has announced its **strategy for the EU digital single market**. Among other things, **the Commission's 'communication'** and **its 'staff working document'** contemplate extending the single electronic registration and payment mechanism (the 'mini one-stop shop' that currently allows businesses supplying certain e-services to consumers in other Member States to account for their intra-EU supplies through an electronic portal in their 'home' country) to intra-EU and third country online sales of tangible goods to private consumers; introducing a new, common EU-wide simplification measure (a VAT threshold) to help small start-up e-commerce businesses (replacing the current distance selling thresholds); allowing for home country controls including a single audit of cross border businesses for VAT purposes; and removing the VAT exemption for the importation of small consignments from suppliers in third countries.

The strategy also proposes to look into the cost of cross-border deliveries and 'geo-blocking' (the blocking of access to websites in other countries), and a range of other 'non-tax' issues that the Commission considers may be obstacles to cross-border trading.

Deloitte is currently carrying out a study for the Commission on these topics, which will provide the relevant economic evidence and qualitative analysis to inform the Commission's decisions on potential legislative proposals.

Aili Nurk, anurk@deloitte.co.uk, Deloitte United Kingdom

Additional duties on imports from products originating in the U.S. (Byrd Amendment)

In 2005, the EU introduced retaliatory measures on imports of products originating in the U.S. These additional duties are the result of the EU's 'Byrd Amendment' dispute with the U.S. Since then, both the list of U.S. originating products for which these measures apply and the additional duty rate have been adjusted several times, the last time on 1 May 2014.

On 30 April 2015, the European Commission published the Commission Implementing Regulation (EU) 2015/675 announcing an adjusted additional duty rate of 1.5 % for certain products. This new additional duty rate shall apply from 1 May 2015. The list of products for which these retaliatory measures apply remains the same compared to the previous year.

The additional duty rate will apply to the following products:

CN code	Description
0710 40 00	Sweet corn, uncooked or cooked by steaming or by boiling in water, frozen
9003 19 30	Frames and mountings for spectacles, goggles or the like, of base metal
8705 10 00	Crane lorries (excl. breakdown lorries)
6204 62 31	Women's denim trousers and breeches

Companies that import goods into the EU originating in the U.S. should review whether they import one or more products mentioned in the above list. If this is the case, there will be a higher duty burden on EU inbound sales, deliveries and imports.

Daphne Van Kints, **DvanKints@deloitte.nl, Deloitte Netherlands**

Back to top

Denmark

Export of goods ‘within reasonable time’ for zero-rating to apply

The tax authorities have communicated that an export of goods (the transport of the goods) must take place ‘within reasonable time’ for the supply to be zero-rated. Previously there has not been any specific case law concerning how long the goods can stay in stock after the sale has taken place.

Companies operating within Denmark should note that ‘within reasonable time’ often will vary within each line of business and the situation of each individual company.

It is therefore recommended that companies evaluate their process of shipping goods from Danish stock after a zero-rated invoice has been issued, and consider contacting the tax authorities, to confirm the approach taken.

Government to enhance VAT inspection for distance sales to Denmark

On the basis that foreign e-commerce companies should not enjoy better conditions than Danish companies, the Government has announced, as part of a wider growth initiative, that the tax authorities will be granted wider powers for the VAT inspection of foreign e-commerce companies, to ensure Danish VAT is returned on the same terms that apply to Danish companies.

The Tax Minister has concluded that Danish companies are exposed to unfair competition on the Internet, because foreign Internet companies do not always properly account for Danish VAT. Accordingly, the Minister has announced that it will be easier for the tax authorities to inspect foreign e-commerce companies’ VAT accounting under the rules for distance sales to Danish private consumers.

Under a permission from the National Tax Board, the tax authorities are able to review tax assessments by accessing credit card information regarding Danish residents’ use of credit cards in other countries. However, this does not apply to VAT. To ensure that Danish and foreign companies are treated equally, the Government has proposed measures to enable the tax authorities to request Danish private customers’ use of credit cards in foreign web shops for VAT inspections of foreign e-commerce.

The Government's initiative is expected to become effective from 2016.

Henrik Pedersen, henpedersen@deloitte.dk, Deloitte Denmark

Back to top

Finland

Updated written guidance published by Tax Administration

The Finnish Tax Administration has updated the written guidance concerning VAT on subscribed newspapers and magazines. The updated guidance now contains a new chapter regarding the current VAT treatment of magazines and newspapers transported from the Åland Islands to mainland Finland, as the legislative amendment regarding the VAT treatment of the magazines entered into force on 1 January 2015.

The Finnish Tax Administration has also provided new guidance regarding the VAT treatment and applicable VAT rate for the production of magazines, in accordance with the ruling of the Finnish Supreme Court on 31 December 2013 (KHO 31.12.2013 T 4119).

In addition, updated official guidance was published on 8 May 2015 regarding health care services.

Kati Heino, Kati.Heino@deloitte.fi, Deloitte Finland

Back to top

France

List of 'abusive practices' and 'tax schemes' published

The tax authorities have recently published a list of 'abusive practices' and 'tax schemes' revealed during tax audits, which are unlawful in their view. If one of these schemes has been used by a taxpayer, the taxpayer should correct the situation by filing amending returns. The authorities will determine the tax consequences on a case by case basis.

Two tax schemes on this list relate to VAT. They concern the non-application of VAT on hidden services (the consideration being unlawfully qualified by the parties as loans granted by the recipient to the provider) and the non-application of VAT to Internet sales of goods (sales exceeding the distance sales annual threshold of EUR 100,000).

This list should not be considered as exhaustive.

Administrative Supreme Court asked for a preliminary ruling on CSPE (tax on electricity)

In the *Praxair* case, in a judgment dated 17 March 2015, the Administrative Court of Appeal of Paris asked the Administrative Supreme Court for a preliminary ruling in litigation relating to a request for a refund of the tax on electricity (CSPE).

The Administrative Supreme Court must issue its ruling within three months.

Among the questions raised by the Administrative Court of Appeal of Paris, the following are of the most significance for taxpayers seeking a CSPE refund:

- Which authorities and courts are to deal with CSPE claims?
- What statute of limitations applies to these claims?
- Is the CSPE, as a tax, State aid?

Michel Guichard, mguichard@taj.fr, Deloitte France

Back to top

Hungary

Guidance on the *Skandia* CJEU case

In May 2015, the tax authorities released official guidance on the implementation of the *Skandia* CJEU decision. The tax authorities have confirmed that a VAT group constitutes a single and separate entity (taxable person) for VAT purposes. This overrides the fact that a head office and its branch constitute a single legal entity. The guidance confirms that supplies of services between a domestic head office/ branch and its foreign branch/ head office will be taxable supplies for VAT purposes. This applies equally to branches/ head offices in other EU member states or third (non-EU) countries.

The tax authorities have also confirmed that this treatment is consistent with existing domestic legislation and as such, has effect from 1 January 2008, when the current Hungarian VAT Act came into force.

Istvan Veszpremi, iveszpremi@deloitteCE.com, Deloitte Hungary

Back to top

Italy

Mini One-Stop Shop

MOSS decree on payments, distribution and overpayments

With effect from 30 April 2015 (i.e., date of publication in the Official Gazette), the MOSS decree dated 20 April 2015 has officially come into force.

The new decree is mainly focused on the following issues:

- **VAT payments**: payment of VAT as declared in the MOSS return must be made as follows:

    a) Businesses under the Union scheme make the payment directly through the MOSS web-portal; the bank transfer is charged from their account with an Italian bank;

    b) Businesses under the non-Union scheme make the payment through a bank transfer from a dedicated account with the Bank of Italy; the IBAN code is available on the MOSS web portal.

  In both cases, the transfer reason must be the reference number of the filed MOSS return.

- **Distribution of money to Member States of consumption**: when payment has been made of the total amount declared in the MOSS return in Italy (i.e., the Member State of identification), the tax authorities then distribute the money to the various Member States of consumption. In the case of underpayments, the distribution of money to the various Member States of consumption shall be proportionate, on the basis of the VAT declared in the filed MOSS return.

- **VAT overpayments**: overpayments shall be refunded within 30 days from the date of distribution of money. Interest shall accrue in cases of late refunds.

MOSS forms and procedures

Act n° 56191 dated 23 April 2015 includes forms and relevant procedures regarding the MOSS regime, in particular:

- **Transmission of identification information:** the Act approved the forms for MOSS registration requests, data amendment, and cancellation under the Union and the non-Union schemes. In addition, there was further clarification regarding information that must be included in forms, transmission rules and procedures.
- **MOSS VAT returns:** the Act approved the quarterly MOSS VAT return forms, detailing supplies of telecommunications, broadcasting and electronically supplied services to non-taxable persons in other Member States. There were also some further clarifications regarding information that must be included, submission rules and procedures.
- **Competent tax office:** The Venice Tax Office (Centro Operativo di Venezia) is the competent tax office for MOSS matters (e.g., reporting obligations, payments and quarterly returns).

E-invoicing and e-transmission

The Government has approved a draft legislative decree (dated 21 April 2015) regarding electronic invoicing and the electronic transmission of consideration for retailers.

In particular, from 1 July 2017, retailers will be able to opt for the electronic storage and transmission of consideration collected on daily basis (electronic transmission will be mandatory only for those providing supplies of goods through automatic machines). Where retailers opt in to electronic storage and transmission, the following special exemptions will apply:

- Exemption from the obligation to certify consideration by means of tax receipts or bills (retailers will still be required to issue invoices upon request from customers);
- Exemption from the requirement to record the consideration.

With effect from 1 January 2017, all taxpayers can opt for electronic submission to the tax authorities of all invoices issued/ received by means of the ‘Inter-charge System’ (which is already available for electronic invoices issued to public administrations). This option will be valid for five years, renewable for a further five years. From 1 July 2016, the tax authorities will provide a free service for the generation and transmission of e-invoices.

According to the draft of the legislative decree, taxpayers that will opt for electronic transmission will benefit from:

- Exemption from the 'Spesometro' reporting obligation;
- Exemption from the 'Black List' reporting obligation;
- Exemption from the Intrastat reporting obligation;
- Processing of VAT refunds as a matter of priority;
- Some further simplifications, providing certain conditions are met.

Further guidelines regarding the application of the split payment regime

On 13 April 2015, the tax authorities issued further guidelines regarding the application of the new split payment regime (under which VAT on goods and services supplied to certain public bodies is paid to the State by those public bodies, and not the supplier). The main clarifications refer to the scope of the new regime (including clarification and examples of transactions that are not subject to the regime), detailed analysis of payment procedures, refund rules, and the treatment of supplies made before 31 December 2014 (i.e., before the regime came into force).

VAT refunds where no VR form submitted

On 23 April 2015, during the question time meeting held at the Finance Committee of the Italian Parliament, the Minister of Economy and Finance was asked to respond to a question about refunds of VAT credits accrued prior to FY 2009, where the VR form was not submitted (the VR form was deleted from FY 2010). The question arises because of the significant amount of pending litigation in respect of VAT refund claims that have been refused by the tax authorities; the authorities have taken a formal approach (taking the view that the omission of the VR form is a substantial irregularity that affects the right to a VAT refund), whereas the Supreme Court has ruled that the omission of the VR form is a formal irregularity that cannot affect the right of VAT refund, provided the intention to request a VAT refund was expressed in the VX or RX box of the annual return.

On the basis of the answer n° 5-05400 (gathered during the question time meeting), the tax authorities have now recognized the right to refund VAT credits without the VR form, provided the claimant can prove that all the VAT refund requirements have been met. In this case, the right to a VAT refund will be time-barred after ten years when the claimant

has filled in the VX or RX box of the annual return, and after two years where the VX or RX box has not been filled in.

Supreme Court judgment on VAT refund rejection for dormant company

The tax authorities had denied a VAT refund to a taxpayer solely on the basis of the dormant companies test (that is, the taxpayer was non-operative), based on a literal interpretation of the rules regarding non-operative companies.

In a recent decision (n° 7534 dated 14 April 2015), the Supreme Court upheld this decision. According to the Supreme Court, the refund should not be paid; given the non-operative status of the taxpayer company, it was not necessary to prove also any fraudulent intent (on the contrary, the taxpayer must prove a lack of fraudulent intent).

Supreme Court judgment on the right to deduct VAT on invoices related to intra-Community acquisitions where formal requirements are not met

The Supreme Court has again confirmed the Court of Justice of the European Union's principles on accounting for intra-Community acquisitions as recently stated in the *Idexx Laboratories Italia Srl* case (Case C- 590/13).

In decision n° 7576 dated 15 April 2015 regarding incorrect accounting and integration of intra-Community purchase invoices, the Court stated that the right to deduct the VAT payable in relation to intra-Community acquisitions cannot be denied on the grounds that formal requirements are not satisfied. Based on the consolidated approach followed by the Supreme Court (as confirmed also by decision n° 5072 dated 13 March 2015), provided the substantive requirements governing the right of deduction are met, violations of the formal requirements will not result in the loss of that right.

Supreme Court rules on right of VAT deduction for rooms' rental business

In decision n° 8628 dated 29 April 2015, the Supreme Court recognized the right to deduct the input VAT charged on supplies of renovation work on immovable property to be used as room rentals or holiday home rentals. In particular, such rental activity is deemed to be a business activity, distinguished from the mere leasing of immovable property, which is subject to specific VAT deduction limitations.

Expected amendment to VAT regime for intra-Community movements of goods subject to processing operations/ handling

The Government has proposed some amendments to the current VAT regime applying to the intra-Community movement of goods subject to processing operations/ handling, in response to the infringement procedure started by the European Commission against Italy, due to the contrast between the domestic rules and the EU law (refer to CJEU cases *Dresser Rand* (C-607/12) and *Dresser Rand SA* (C-606/12)).

Bookkeeping in foreign languages

In case study n° 1/2015 dated 4 May 2015, Assonime (the Italian Association of Joint Stock Companies) stated that it is permitted to keep books for tax purposes in a foreign language, upon condition that: (a) there are objective functional reasons for the use of a foreign language (e.g., a foreign company or a company belonging to a multinational group); (b) the foreign language is commonly used in the business relationship (e.g., English).

In particular, the fact that, based on general Civil law principles, books must be in the Italian language for tax litigation purposes does not imply that the books must be originally set up in the Italian language, provided that the language condition can be met with a mere translation of the books.

On the contrary, Assonime pointed out that, instead of the use of any mandatory language, books for tax purposes must comply with the general principle of 'proper accounting', meaning that the books must be duly kept in order to provide a clear, true and complete picture of the company's business activity, including to third parties.

Updated guidelines for letters of intent for certain import transactions

According to Resolution n° 38/E dated 13 April 2014, as already recognized for zero-rated domestic purchases, it is now also possible to submit a sole letter of intent with reference to several import transactions. In particular, the tax authorities clarified that frequent exporters may alternatively opt for the submission of:

- One single letter of intent for each import transaction; or
- A letter of intent for several import transactions. In this case, the letter of intent shall include the amount of imports that are not to be charged with VAT and the period in which they expect to carry out these imports.

On 20 April 2015, the tax authorities updated the guidelines for completing the letters of intent, to implement Resolution n° 38. However, although the guidelines have already been published, as officially announced by the Customs Authorities (with Note n° 46452 dated 20 April 2015), the relevant procedure (ruling the submission of letters of intent valid for several imports) is not available yet.

Antonio Piciocchi, **apiciocchi@sts.deloitte.it**, **Deloitte Italy**

Guidelines regarding 'dichiarazioni di intento'

The customs and tax authorities have provided guidelines in February, April and May 2015 regarding the procedure to be applied by 'net exporters' for the electronic transmission of 'dichiarazioni di intento' (i.e., special declarations that allow purchases or imports to be made without VAT under certain conditions), granting some simplifications and in particular allowing the filing of the above declaration for all the imports carried out in a certain period rather than having to file it for each single import.

Transfer pricing policies and customs valuation

A task force from the customs and tax agencies has been working over recent months to analyze the impact of transfer pricing policies on customs valuation. It is understood that Italian Customs are to issue a circular letter (not yet published) maintaining the following:

- According to Article 78 of Regulation (EEC) No 2913/92 "establishing the Community Customs Code" (CCC), a customs declaration can be amended after the release of goods only in respect of issues that were already known at the time of importation. This would mean that it is not possible to file a refund claim in the case of 'negative' transfer pricing adjustments arising from a 'transfer pricing contract' signed by related companies after the clearance of the goods. There could be an argument that this approach is too restrictive, giving clarifications of this issue by the Court of Justice of the European Union.

- Where transfer pricing adjustments are expected, organizations can benefit from the procedure for incomplete declaration provided for by Article 76 of the CCC, so are able to declare a provisional customs value at the time of importation/ exportation subject to future adjustments of the price paid or to be paid.

- From a technical point of view, the transactional net margin method and profit split transfer pricing policies are not valid for customs purposes. However, from a practical point of view, in certain circumstances, transfer pricing policies based on profit/ margin criteria may be accepted under Article 156a of Regulation (EEC) No

2454/93 “laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code”, according to which the customs authorities may authorize organizations to determine, on the basis of appropriate and specific criteria (e.g., forfeit criteria), the value of certain elements that are to be added to the price actually paid or payable, although not quantifiable at the time of importation/ exportation.

If the Central Department of Italian Customs publishes a circular letter relating to the impact of transfer pricing adjustments on customs values, local customs offices may review these issues more closely.

Customs guidelines for experimental pre-clearing updated

On 5 May 2015, Customs updated the guidelines they previously issued regarding the experimental pre-clearance procedure (i.e., allowing for the customs clearance of goods whilst they are still at sea), extending the pre-clearance procedure to Ro.Ro. (Roll-on/ Roll-off) traffic provided certain conditions are met.

Experimental ‘fast corridors’

In Notes No 44053/RU of 13 April 2015 and No 53313/RU of 5 May 2015, the customs authorities have provided operative guidelines regarding experimental ‘fast corridors’, which allow containers to be moved from the place of their uploading to a temporary storage facility within the destination plant (i.e., located outside the harbor area).

Alessandra Di Salvo, adisalvo@sts.deloitte.it, Deloitte Italy

Back to top

Kazakhstan

Sales tax or VAT?

At a Government session, the President of Kazakhstan proposed the introduction of a sales tax, instead of VAT, thus to radically change the mechanism of tax collection. The tax authorities were tasked to study in detail the issue of the introduction of a sales tax instead of a complex, opaque VAT.

At present, the tax authorities have neither commented on the situation nor prepared any draft legislation. This issue is currently under discussion only.

Irina Tyan, ityan@deloitte.kz, Deloitte Kazakhstan

Back to top

Malta

Publication of Budget Measures Implementation Act

On 30 April 2015, the 2015 Budget Measures Implementation Act was published, bringing into effect some of the measures that were announced by the Minister of Finance in his Budget Speech in November 2014.

Eco-contribution

One of the most striking indirect tax measures contained in the 2015 Budget is the removal, with effect from 18 November 2014, of eco-contribution on ammunition cartridges, tires for motor and commercial vehicles and petroleum oils.

Excise duty

Instead, pneumatic tires, ammunition cartridges and petroleum oils have been made subject to excise duty. Whilst for petroleum oils the excise duty rate is the same as it was for the purposes of eco-contribution, the excise duty due on tires and ammunition could, depending on the particular product, be significantly higher (for example, for tires the duty could be up to 525% the amount of eco-contribution previously due on such product).

VAT

VAT registered persons that are entitled to a VAT refund will no longer be paid any such amounts until they have submitted to the local authorities all VAT returns/ declarations that were due by the date of the refund claim. Furthermore, in such case the non-payment of the refund will not cause interest to be paid to the taxpayer (for the period during which the payment of the refund is withheld on account of failure by the taxpayer of submission of the VAT return(s)/ declaration(s)).

This measure was included in the Budget Measures Implementation Act. However, no specific date for its coming into force has yet been announced.

Mark Grech, mgrech@deloitte.com.mt, Deloitte Malta

Back to top

Netherlands

Final judgment in CJEU *Granton Advertising* case

Following the Court of Justice of the European Union's decision in the *Granton Advertising* case, the ('s-Hertogenbosch) Court of Appeal ruled that the sale of discount vouchers does not qualify for a VAT exemption for securities or other negotiable instruments. Consequently, the sale of the discount cards is subject to VAT.

Madeleine Merkx, **mmerkx@deloitte.nl, Deloitte Netherlands**

Back to top

Poland

CJEU judgment on the VAT treatment of supplies associated with property rentals

The Court of Judgment of the European Union has gone straight to judgment in the Polish case of *Wojskowa Agencja Mieszkaniowa w Warszawie,* about the VAT treatment of charges for supplies of electricity, heat, water and refuse disposal that were made by a landlord to its tenants.

The Polish Ministry of Finance took the view that there was a single composite supply of the property that included the supplies of electricity, water, etc., and that the charges for them attracted the same VAT treatment as the rent.

The CJEU decided that "... the letting of immovable property and the provision of water, electricity and heating as well as refuse collection accompanying that letting must, in principle, be regarded as constituting several distinct and independent supplies which need to be assessed separately for VAT purposes, unless the elements of the transaction … are so closely linked that they form, objectively, a single, indivisible economic supply which it would be artificial to split."

As usual, the CJEU left it to the national court to work out the effect of its conclusions with consideration of the given factors such as a tenant's right to choose suppliers or the existence of individual meters for electricity or water.

Standard VAT rate to apply to all restaurant services

Under Polish VAT law restaurant services are in general subject to the 8% VAT rate, except for some products, listed in the Polish VAT provisions, such as tea, coffee, water, etc. which are subject to the standard 23% VAT rate.

Recently, the Ministry of Finance's approach with respect to the VAT treatment of restaurant services has changed significantly and, as a consequence, the tax authorities are now stating that restaurant services including products subject to the standard and reduced VAT rate must be treated as joint services supplied at the standard, 23%, VAT rate. This approach has been confirmed in all newly issued rulings on this issue. Moreover, old rulings that confirmed the application of appropriate VAT rates to particular products have been amended *ex officio*.

Given this represents a fundamental change to the well-established approach, it is expected that there will be appeals from the rulings/ tax authorities' decisions to the administrative courts.

Michał Kłosiński, mklosinski@deloitteCE.com, Deloitte Poland

Joanna Stawowska, jstawowska@deloitteCE.com, Deloitte Poland

Back to top

Portugal

Gambling tax

The new regime for online betting and gambling in Portugal will enter into force on 28 June 2015.

This regime regulates and establishes gambling and betting activities in Portugal, including the requirements for an entity's setup and authorization to operate, and also the relevant aspects of its taxation.

When the regime is in force, games of chance (including blackjack/21, slot, poker, roulette, among others), odds-type sports betting and horse race betting provided online will be subject to gambling tax (and, therefore, VAT exempt).

Afonso Arnaldo, afarnaldo@deloitte.pt, Deloitte Portugal

Back to top

Russia

Amendments to list of technological equipment the import of which is not subject to VAT

Russian Federation Government Resolution No. 329 of 9 April 2015 amends the list of technological equipment (including components and spare parts) without an analogue manufactured in the Russian Federation, the import of which onto the territory of the Russian Federation is not subject to VAT.

In particular, double-deck sanders (classification code 8486 10 000 9) are introduced into the list.

In addition, the Resolution amends the description of pyrolysis ovens and similar goods (classification code 8417 80 700 0), of plant equipment of propan dehydration and similar goods (classification goods 8419 89 989 0), of different kinds of extrusion tooling (classification code 8477 20 000 0), of several kinds of production lines (classification code 8479 82 000 0) and of some kinds of rolling mills for rail production (classification code 8455 21 000 9).

This Resolution came into effect on 21 April 2015.

Obligatory insurance for risk of damage to third parties for inclusion of objects of intellectual property in customs register

Federal Law of 6 April 2015 No. 73-FZ introduces a requirement for a rights holder to provide an insurance agreement (insurance policy) to the customs authority to include objects of intellectual property in the customs register of intellectual properties.

The insurance should cover the risk of damage to the declarant, owner, recipient of goods or other parties due to suspension of release of goods. The amount of the insurance should be not less than RUR 300,000.

The Federal Law was effective from 8 May 2015.

Andrey Silantiev, asilantiev@deloitte.ru, Deloitte Russia

Back to top

Sweden

VAT exemption for public postal services

The Court of Justice of the European Union has found that Sweden, by failing to exempt from VAT the supply by the public postal services of services and the supply at face value of postage stamps valid for use for postal services within the national territory, has failed to fulfil its obligations under the VAT Directive.

Under Articles 132(1)(a) and 135(1)(h), the Member States shall exempt from VAT the supply by the public postal services of services other than passenger transport and telecommunications services, and the supply of goods incidental thereto, and the supply at face value of postage stamps valid for use for postal services within their respective territory.

The CJEU has in a previous ruling (*TNT Post UK* (Case C-357/07)) held that the VAT exemption applies to operators, whether they are public or private, who undertake to supply postal services which meet the essential needs of the population and therefore, in practice, provide all or part of the universal postal service in a Member State. Sweden has, however, considered that no public postal service is available after the liberalization of the postal market and that the VAT exemption therefore does not apply. Under the Swedish VAT Act, all suppliers of postal services are therefore liable to account for VAT on their services.

The European Commission warned Sweden back in 2007 in a reasoned opinion, calling on Sweden to comply with its obligations under the VAT Directive. In its opinion, the Commission considered that Posten AB is a universal service provider whose supplies of services falls within the definition of “the supply by the public postal services of services”. Since the Commission was not satisfied with the Swedish reply, it decided to bring Sweden before the Court.

In its ruling, dated 21 April 2015, the CJEU found that since Posten AB provides all or part of the ‘universal postal service’, it must be classified as a ‘public postal service’ within the meaning of Article 132(1)(a), and consequently that supplies of services made by Posten AB as a universal service provider, as well as the supply at face value of postage stamps valid for use for postal services within national territory, must be exempted from VAT.

The ruling means that that the Swedish VAT Act incorrectly made Posten AB charge VAT on their services. This in turn means that customers that are not able to recover input VAT have incorrectly suffered from increased costs. One of the major Swedish banks has

previously filed a claim for damages against the Swedish Government. The claim has not yet been ruled on. In addition, a Swedish insurance company has asked the Swedish Government for damages, it disapproved of the claim referring, a.o., to arguments to the fact that the VAT Directive, in this respect, does not confer rights to a taxable person that conducts a VAT exempt business.

Emil Frennberg, efrennberg@deloitte.se, Deloitte Sweden

Back to top

Turkey

VAT on electronically supplied services delivered to consumers in Turkey

The Ministry of Finance is considering whether to bring electronically supplied services supplied by non-resident businesses to Turkish consumers within the scope of Turkish VAT. In principle, such supplies are already taxable in Turkey but, as there is no registration mechanism for non-resident entities and no self-accounting mechanism for consumers, it is not possible to account for the VAT due. The tax authorities are now considering how they can collect the VAT due on such supplies, for example by passing the obligation to withhold tax on payments made by consumers to the banks processing the transfers.

Discussions are continuing and there is no timetable for the introduction of any new legislation or guidance. It is unlikely that any announcements will be made until after the Turkish general election in June, and the rate of progress will then depend on the priorities of the new government.

Erdal Dincturk, edincturk@deloitte.com, Deloitte Turkey

Back to top

Ukraine

Special duties on imports of cars halved

With effect from 14 April 2015, special duties on the importation of new petrol engine cars were reduced as previously scheduled. The special duties are now applied at the following rates:

- For motor cars with engine capacity exceeding 1,000 cc but not exceeding 1,500 cc – 2.15% (instead of 4.31%);

- For motor cars with engine capacity exceeding 1,500 cc but not exceeding 2,200 cc – 4.32% (instead of 8.63%).

The rates have been changed on the grounds of the Decision of the Interdepartmental Commission for International Trade on the liberalization of special measures in relation to the importation of motor cars into Ukraine irrespective of the country of their origin and the country of their exportation, adopted in 2014. According to the Decision, the rates of special duties should be gradually lowered after the first year of their application.

The special duty on imported new petrol engine cars with engine capacity ranging from 1,000 to 2,200 cc has been applied in addition to already existing import duty for the past two years, and will be effective until April 2016.

Rough timber export banned

On 9 April 2015, the Ukrainian Parliament adopted Draft Law No. 1362 dated 10 December 2014 that temporarily prohibits the exportation of rough timber from Ukraine. The ban will be effective from 1 November 2015 and will apply to all non-processed timber products falling under heading 4403 of the Ukrainian Harmonized System (UHS) except pine timber products, which will be banned for export from 1 January 2017. Both types of non-processed timber will be banned for export for ten years.

The restriction was imposed in order to prevent the uncontrolled exportation of rough timber from Ukraine, on the basis that it negatively affected the Ukrainian economy and environment. It is also expected that this measure will contribute to the growth of the national wood processing industry.

Furthermore, the ban on the exportation of rare and primary timber and lumber (in particular, acacia, rowan, cherry, pear, nut, chestnut, yew, maple, cade) from Ukraine remains effective for an unlimited period.

Changes in timeframes of inward and outward processing of certain goods

Formerly, the Cabinet of Ministers of Ukraine had the right to adopt resolutions that extended the terms for processing of certain goods under customs control. These resolutions were adopted during the period of validity of previous versions of the Customs Code of Ukraine.

According to the new Customs Code of Ukraine (which is effective from 1 June 2012), the standard timeframes of the inward and outward processing customs procedures may be changed by the adoption of relevant laws. Thus, the formerly applied procedure of

establishing new terms for processing of goods under customs control was in conflict with effective legislation and was cancelled.

In particular, on 15 April 2015, the Cabinet of Ministers of Ukraine cancelled a number of resolutions, which extended the terms for processing of certain goods under customs control. They covered the issues related to inward and outward processing customs procedures, in particular, the timeframes for application of the above procedures to such operations as yacht and vessel building, production of hydro turbines, alloys, repair of certain machine-tools, aircraft, energy saving equipment and equipment designed for military and space use. Consequently, the general term of 365 days for processing of goods under customs control will apply to all types of processing operations. However, the timeframes set by the said Resolutions still apply to the processing operations specified in the resolutions, which have been already started, but not completed before 15 April 2015.

Yevgen Zanoza, yzanoza@deloitte.ua, Deloitte Ukraine

Back to top

United Kingdom

Indirect Tax survey results

The results of **Deloitte UK's third survey of indirect tax professionals are now available**. The survey was undertaken to gauge indirect tax professionals' views on their priorities and the current indirect tax environment. As with previous surveys, indirect tax professionals rate compliance and improving systems as their top priorities. The relationship with the UK tax authorities (HMRC) is also an important measure of success for respondents, and encouragingly 80% have said they have a good or excellent relationship with HMRC.

Compound interest judgment

On 21 May 2015, the Court of Appeal released its decision in *Littlewoods Limited and others*, the lead case on whether compound interest should be paid on VAT repayments by HMRC. This is the latest chapter in the various compound interest cases that started in 2006, and is potentially significant for all taxpayers with VAT repayments paid or due from HMRC. The High Court in 2014 ruled in favor of Littlewoods, and this judgment is the Court of Appeal's decision on HMRC's appeal (and Littlewoods' cross-appeal) against the High Court's judgment. The Court of Appeal has agreed with the High Court's 2014 decision that compound interest was due. Whilst this is a positive outcome for taxpayers, the compound interest saga looks very likely to continue to the Supreme Court. Therefore businesses should continue to maintain claims and appeals, and protect their appeals whenever appropriate with new claims and appeals.

Donna Huggard, dohuggard@deloitte.co.uk, Deloitte United Kingdom

Back to top

Contacts

Deloitte Global & Regional Indirect Tax Contacts

David Raistrick, Deloitte Global, Indirect Tax Global Leader
draistrick@deloitte.co.uk

Robert Tsang, Deloitte Global, Indirect Tax Asia Pacific Regional Leader
robtsang@deloitte.com

Rogier Vanhorick, Deloitte Global, Indirect Tax EMEA Regional Leader
rvanhorick@deloitte.nl

Fernand Rutten, Deloitte Global, Customs & Global Trade Global Leader
frutten@deloitte.com

Janice Roper, Deloitte Canada, Indirect Tax Leader
jroper@deloitte.ca

Benno Tamminga, Deloitte U.S., Indirect Tax and GST Leader
btamminga@deloitte.com

Dwayne van Wieren, Deloitte U.S., Sales & Use Tax Leader
dvanwieren@deloitte.com

Indirect Tax homepage | **Add Deloitte as a safe sender**

Deloitte Touche Tohmatsu Limited
30 Rockefeller Plaza
New York, NY 10112-0015
United States