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Global Indirect Tax News
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Welcome to the March 2016 edition of GITN, covering updates from the Americas, Asia Pacific and EMEA regions.

Highlights of this edition include news from China on the rollout of the VAT reform, further developments on the application of VAT to e-services in Israel and Russia, and the United Kingdom Budget on 16 March.

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

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Finland

The Finnish Supreme Administrative Court has ruled on the right to deduct input VAT on purchases of stolen scrap metal.

The Finnish Central Board of Taxes has issued a ruling concerning the VAT treatment of the leasing of parking places.

The Finnish Central Board of Taxes has issued a ruling concerning the VAT treatment of a transfer of publication rights.

France

The Administrative Court of Appeal has ruled on the VAT treatment of hotel loyalty programs.

Israel

The government is exploring the possibility of imposing VAT on foreign suppliers of digital services.

Italy

The Ministry of Economy and Finance has confirmed that VAT revenues increased by 4.2% (EUR 4,831 million) in 2015.

New measures have been published to tackle VAT fraud.

There has been clarification regarding the new rules on credit notes.

The Constitutional Court has ruled on the VAT rate for accommodation in marina resorts.

A new TR form is available.

A tax authorities have released guidelines regarding the application of the new penalties.

The 'FATCA' IGA between Italy and the U.S. is now publicly available.

There is news regarding excise duties.

Clarification has been issued for duty free shops.

Poland

The CJEU is to decide whether the first occupation's definition established in Polish VAT Law complies with the EU Principal VAT Directive.

There is an update on the introduction of SAF-T/JPK.

Portugal

The main indirect tax changes in the State Budget law for 2016 have been approved by the Parliament and published, including changes to the application of the intermediate and reduced VAT rates, and to a number of excise duties.

Russia

The Russian State Duma has approved in the first reading draft law on subjecting e-services to taxation.

The Ministry of Finance has issued a letter regarding VAT on the disposal of inventory.

A draft law has been submitted to the State Duma stipulating exemption from VAT for operations of waste paper supply.

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

The Commercial Court of Moscow has ruled on the VAT treatment of services related to the organization of clinical trials of foreign medications in Russia.

There have been increases to the excise duty rates on gasoline and diesel oil.

Spain

A resolution has been issued by the Spanish Economic-Administrative Court regarding VAT assessed under a VAT audit procedure.

United Kingdom

In the UK Budget, delivered on 16 March, there were a number of indirect tax announcements.

The Supreme Court has confirmed that corporation tax is payable on VAT repayments.

From 8 April 2016, the tax authorities will start to publish certain information relating to exporters and the goods they export.

The tax authorities have issued an invitation to suggest changes to Union Customs Code regulations.

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Trade Preferences

Italy

The authorities have summarized the procedures to be followed by operators to obtain the status of approved exporter, within the framework of the Free Trade Agreement between the EU and South Korea.

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Eurasian Economic Union

Eurasian Economic Union

The import customs duty rates on certain goods have been amended.

There is a Eurasian Economic Commission Board resolution regarding goods declared as temporary imports with a full conditional exemption from customs duties and taxes.

There are also resolutions regarding specific exemptions from import customs duties, classifiers used to complete customs declarations, anti-dumping duties, and changes to the EEU integrated customs tariff.

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Americas

Panama

VAT withholding agents

The Panama Revenue Office has issued a new regulation, under which companies acting as online payment processors can be designated VAT withholding agents. The appointment is conditional upon the submission and approval of a request to act as such.

In the course of its evaluation, the Revenue Office will review petitioner's corporate documentation, a description of the business from a technical and operative approach, and contractual arrangements with administrators or issuers of credit and debit cards.

When such companies are granted withholding agent status, they must comply with all material and formal obligations set for VAT withholding agents.

Michelle Martinelli, mmartinelli@deloitte.com, Deloitte Panama

United States

Colorado: 10th Circuit upholds Colorado's remote seller reporting requirements

On 22 February 2016, the U.S. Court of Appeals for the Tenth Circuit (the 10th Circuit) issued its latest decision in *Direct Marketing Association v. Brohl*, deciding in favor of the Colorado Department of Revenue (DOR) by reversing the U.S. District Court's determination that Colorado's remote seller reporting requirements violated the Commerce Clause of the U.S. Constitution. In reaching its decision, the 10th Circuit determined that the U.S. Supreme Court's holding in *Quill Corp. v. North Dakota* was limited to sales and use tax collection and

concluded that Colorado's remote seller reporting requirements do not discriminate against or unduly burden interstate commerce.

Reversing the federal district court's decision, the 10th Circuit held that Colorado's remote seller reporting requirements do not violate the dormant Commerce Clause of the U.S. Constitution because they neither discriminate against nor unduly burden interstate commerce. The 10th Circuit opinion may be separated into the following three distinct sections: (1) the scope of the bright-line physical presence rule recognized in *Quill*; (2) whether the remote seller reporting requirements discriminate against interstate commerce; and (3) whether the remote seller reporting requirements unduly burden interstate commerce.

See [Multistate tax alert](#) of 4 March 2016 for more details.

Dwayne Van Wieren, dvanwieren@deloitte.com, Deloitte United States

David Vistica, dvistica@deloitte.com, Deloitte United States

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Asia Pacific

China

VAT reform – the landmark Circular 36, completion of the reform

The Ministry of Finance and the State Administration of Taxation have jointly issued Caishui [2016] No. 36 (Circular 36), which provides the detailed implementation guidance on the further rollout of the VAT reform to sectors such as construction, real estate, financial services and lifestyle services, as well as modifications to the current VAT rules for transportation services, modern services, postal and telecommunication services.

Circular 36 takes effect from 1 May 2016, superseding Caishui [2013] No. 106 (Circular 106).

From 1 May 2016, VAT will replace Business Tax to cover all the sectors that used to fall under the BT regime.

For more information, see the Tax Analysis newsletter **MOF and SAT announced detailed rules for VAT reform rollout to cover all industries**.

Circular 36 is very significant and detailed, and the newsletter is structured to allow the reader to navigate the core issues to implement.

The body of the newsletter includes:

- Introduction of the architecture of Circular 36 and the key new rules;
- Comments on certain industry specific matters; and
- An appendix which is a listing of the taxation of transactions and their applicable VAT rates.

The newsletter is for generic purposes and more industry-focused analysis will follow. See Deloitte China's **Tax Analysis** website for the latest updates.

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

Liqun Gao, ligao@deloitte.com.cn, Deloitte China

Changes to Customs' import declaration

Changes in the China Customs' import declaration form will result in substantive changes for multinationals importing into China.

On 28 March 2016, the General Administration of Customs issued 'Revised Standards for the Fillings of Customs Declaration for Imports and Exports Commodities' with effect from 30 March 2016.

While there are several changes to the declaration form announced in this notice, a number are of particular significance to multinationals – specifically, four new reporting elements on the form:

1. Trading country

The importer is now required to declare the country where the trading company/ vendor in the import transaction is located. While not immediately clear how this reporting element may impact importers in China, it would be expected to provide Customs with insights into transactions through global or regional principals as well as third party invoicing arrangements.

2. Disclosure of special relationship

Importers are now required to report on the declaration whether a special relationship exists between the importer/ buyer and exporter/ seller. A special relationship exists between the parties in the following circumstances:

1. The buyer and seller are the members of the same family; or
2. The buyer and seller are commercial officers or directors of the same entity; or
3. A party, directly or indirectly, under controlled by the other party; or
4. The buyer and seller are, directly or indirectly, under controlled by a third party; or
5. The buyer and seller together, directly or indirectly, control a third party; or
6. A party owns or controls, directly or indirectly, more than 5% (inclusive) public stock or shares with voting rights of the other party; or
7. A party that is an employee, officer or director of the other party; or
8. The buyer and seller are partners of the same partnership.

A special relationship may also be found where the importer is the agent, exclusive distributor or exclusive assignee of the exporter/ seller.

3. Relationship impact on value

A new form element has been added for the importer to indicate whether the transaction value has been affected by the special relationship of the parties. The importer must be able to prove that the transaction value is not affected by the relationship between the parties by comparison to one of the below test values:

- The transaction value of similar or identical merchandise sold to unrelated parties; or
- The deductive value of the imported merchandise; or

- The computed value of the imported merchandise.

4. Disclosure of royalty payment

The importer must now also disclose whether a royalty payment is made by the importer (either directly or indirectly) to the seller or other relevant parties in connection with the import transaction.

Implications

It is clear that these changes to the declaration form reflect potentially significant changes in customs policy and enforcement with respect to valuation and trade preference claims. These changes will disproportionately impact multinationals, which predominantly trade amongst related entities.

Special care should be taken in setting and monitoring transfer pricing in light of these changes. Transfer pricing adjustments and royalties structured as non-trade payments (i.e., not included in the transaction value of imported merchandise) are likely to pose higher risks to importers. A review of transfer pricing and customs values is recommended, in light of the heightened risks these new requirements present.

Finally, with respect to non-trade royalty payments, an analysis may be prudent in order to evaluate the risks that the royalty may be found to be dutiable.

William Marshall, wmarshall@deloitte.com.hk, Deloitte Hong Kong

Indonesia

List of strategic goods exempt from VAT updated

The Indonesia Ministry of Finance (MoF) has issued a regulation with effect from 8 January 2016 providing the procedures for obtaining VAT exemption facility on import and/ or delivery of certain taxable goods classified as strategic goods and the procedures for repayment of the exempt VAT and penalties.

Strategic goods exempt from VAT are as follows:

- Machinery and factory equipment, excluding spare parts, installed or uninstalled, directly used by a company in producing its taxable (VATable) goods;
- Goods resulting from business activities in the fields of maritime affairs and fisheries, both catching and aquaculture;
- Raw hides and skins, which are not tanned;
- Livestock, as specified by the MoF regulation;
- Seeds and/ or parent stocks of agricultural, plantation, forestry, animal husbandry and fishery products;
- Animal feed, excluding pet food;
- Fish feed;
- Feed material for the manufacture of animal feed and fish feed, but not including feed additives and supplementary feed, as specified by the MoF regulation;
- Raw material of silver in the form of silver granules and/ or in the form of silver bars; and
- Electricity, except for housing with power of above 6,600 watts.

In order to be exempt from VAT, importers would need to obtain a VAT Exemption Certificate before making a purchase or import.

If the VAT on eligible goods has been paid, the VAT amount paid can either be claimed as a tax credit or by a request for a refund, depending on the nature of the company.

Import duty borne by government for certain industry sectors in fiscal year 2016

The MoF has issued a regulation to promote the production of goods and/ or services for the public interest and to increase the competitiveness of certain industry sectors in fiscal year 2016.

The industrial sectors where import duty may be borne by the government are:

- Industries under the Director General for Chemical, Textiles and Miscellaneous Industry (plastic packaging, carpets, resins, stationery, sandpaper, blowing agent, catalysts and neutralizing waste water chemicals manufacturer industry); and
- Industries under the Director General for Metal, Machinery, IT, and Transport Equipment (modes of transport components, medical devices, agricultural equipment, electronics, smart card and the telecommunications manufacturer industry).

The Regulation is effective from 1 January 2016 to 31 December 2016.

Turmanto, tturmanto@deloitte.com, Deloitte Indonesia

Japan

Planned introduction of multiple JCT rate structure

On 16 December 2015, the ruling parties released the 2016 tax reform proposals. The tax reform proposals were enacted as law on 29 March 2016.

One of the highlights of the reforms is the introduction of a reduced rate of Japanese Consumption Tax (JCT) on 1 April 2017, at the same time as the JCT rate is raised from 8% to 10%.

An overview of the changes is as follows.

Scope of supplies eligible for reduced rate

The following supplies will be subject to the reduced rate from 1 April 2017:

- Supply of food and beverages defined under the Food Labelling Act (including the supply of takeaway foods and delivery foods)
- Supply of newspapers issued at least twice a week under subscription contracts.

The relevant bill specifically provides that the following supplies will be excluded from the scope:

- Supply of foods by restaurant service providers at places with eating facilities (e.g., eating-in at restaurants, food courts)
- Supply of foods combined with cooking services performed at places designated by customers (i.e., catering).

Products consisting of a food element and a non-food element are, in principle, out of the scope of food products. However, such products will be within the scope, if the price of the products is JPY 10,000 or less, and the price of the food element accounts for more than two-thirds of the product price.

New invoicing requirements

In order to deal with multiple JCT rates, new invoicing requirements will be implemented in two phases.

An overview of the current and proposed invoicing requirements is as shown below.

	Current (– 31 March 2017)	Phase 1 (1 April 2017 – 31 March 2021) Rate-classified invoice	Phase 2 (1 April 2021 –) EU VAT-type invoice (Qualified Invoice)
Items to be shown on invoice	(1) Name of issuer (2) Date of transaction (3) Description of goods or services supplied (4) Total amount of consideration (including JCT) (5) Name of recipient	(1) Name of issuer (2) Date of transaction (3) Description of goods or services supplied (Statement that the supply is subject to the reduced JCT rate, if applicable) (4) Total amount of consideration according to each rate (including JCT) (5) Name of recipient	(1) Name and registration number of issuer (2) Date of transaction (3) Description of goods or services supplied (Statement that the supply is subject to the reduced JCT rate, if applicable) (4) Total amount of consideration according to each rate (including or excluding JCT) (5) Name of recipient (6) Amount of JCT

Along with the implementation of the Qualified Invoice system, a registration system for JCT taxpayers will be implemented from 1 April 2021, under which only registered enterprises will be allowed to issue Qualified Invoices. Registration applications will be accepted from 1 April 2019.

Requirements for recovering input JCT

Under the current JCT regime, taxpayers need to retain accounting books and invoices to treat input JCT as creditable. From 1 April 2021, the retention of Qualified Invoices will become the requirement for input JCT credit.

Also, currently, customers are able to treat the amount of purchases from JCT exempt enterprises as inclusive of JCT, and claim a credit of input JCT calculated by multiplying the purchase amount by 8/108. When a registration system is implemented from 1 April 2021, JCT exempt enterprises will not be allowed to issue Qualified Invoices, and as a result, customers would no longer be able to treat input JCT on taxable purchases from a JCT exempt enterprise as creditable. However, as a transitional measure, a certain percentage of the amount equivalent to input JCT may be credited for six years from the introduction of the registration system.

Changes in JCT calculation method

For JCT purposes, the amount of output JCT and input JCT is basically calculated by multiplying JCT taxable sales/ purchases by the applicable JCT rate. Given the difficulties that may be faced by businesses in calculating taxable sales/ purchases according to each applicable rate, a transitional measure will be implemented to allow taxpayers to deem a certain percentage of their sales/ purchases as subject to the reduced rate. The scope and eligible period of the transitional measure will vary depending on the size of the business. After the implementation of the Qualified Invoice system on 1 April 2021, taxpayers are required to elect either to keep using the current calculation method or to calculate the amount of output JCT/ input JCT by adding up JCT amounts stated on the Qualified Invoices issued/ received.

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

Kazakhstan

Export customs duties

Minister of National Economy Order № 81 dated 17 February 2016 has approved a list of goods subject to export duties, duty rates and their period of validity, and rules for calculating export customs duties on crude oil and goods manufactured from oil.

Among other things, the Order states that export duties on crude oil are based on the average market price for crude oil on global markets for the previous period ('average market price'). The previous period starts from the 20th two months previously and ends on the 20th of the month preceding the month export customs duties are applied.

The average market price for crude oil is calculated by the authorized body for tax and customs policy. The average market price for crude oil generated for the previous period is published by the 25th of the month preceding the month export duties are applied on the official website of the authorized body for tax and customs policy.

The full document text can be found in official sources in Kazakhstan.

The Order entered into force from the day of its official publication, which was 25 February 2016, and covers relations arising after 1 February 2016.

Handling of precious metals and precious stones

Law № 444-V 'On Precious Metals and Precious Stones' was signed on 14 January 2016 to regulate public relations arising around the production of precious metals, the circulation of precious metals and precious stones, raw materials containing precious metal, jewellery and other items made from precious metals and precious stones.

Article 7 of the above law establishes the specifics for importing precious metal, precious stones, raw materials containing precious metals, jewellery and other items into Kazakhstan from non-Eurasian Economic Union member countries, and exporting the same to these countries.

Furthermore, Law № 445-V dated 14 January 2016 has updated the Administrative Violations Code with respect to the sale of jewellery and other items made from precious metals and precious stones.

The full document text can be found in official sources in Kazakhstan.

Law № 444-V and Law № 445-V were officially published on 16 January 2016.

Goods eligible for tariff concessions

Minister of National Economy Order № 737 dated 27 November 2015 has updated Order of Acting Minister of National Economy Order № 279 dated 30 March 2015, so that the list of goods eligible for tariff concessions is worded as follows.

The list includes two categories of goods:

1. Goods imported from non-EEU countries as a founder contribution to share capital. These goods include machinery used in the agriculture and catering industries, industrial electric vehicles, aircraft and others;
2. Goods imported from non-EEU countries by sugar producers.

For concession purposes, goods are defined according to FEA CN (Foreign Economic Activity Commodity Nomenclature) codes.

The full document text can be found in official sources in Kazakhstan.

The Order entered into force at the end of 10 calendar days from its first official publication, which was 19 January 2016.

Transfer and accounting treatment of customs payments, taxes and late payment interest

Minister of Finance Order № 635 dated 9 December 2015 has updated the rules for transferring and refunding (offsetting) excess (incorrectly paid) customs duties, taxes, customs fees and late payment interest, and advance payments to or from the budget.

According to the amendments, customs duties, taxes, customs fees and late payment interest should be paid through commercial banks and organizations carrying out specific banking operations.

To refund (offset) excess (incorrectly paid) customs duties, taxes, customs fees or late payment interest, payers should apply to the state revenue authorities in accordance with the procedure and within the deadline established by articles 599, 601 and 602 of the Tax Code.

The tax application to offset and (or) refund taxes, other obligatory payments, customs payments, late payment interest and fines has been approved by Minister of Finance Order № 604 dated 31 December 2014.

The full document text can be found in official sources in Kazakhstan.

The Order entered into force from 1 January 2016.

Issue of permits with respect to export controls

Government Resolution № 1083 dated 28 December 2015 has appointed the Ministry for Investment and Development Committee for Industrial Development and Safety:

- The licensor for the export and import of products subject to export controls
- The body authorized to issue permits to re-export products subject to export controls; permits to process products outside of Kazakhstan; transit permits; opinions on the classification of goods, technology, work, services or information as products; and warranties (end user certificate).

In addition, the state authorities coordinating the issue of licenses to export and import products subject to export controls, permits to re-export products subject to export controls and the state authorities coordinating the issue of transit permits have been determined.

The list of products subject to export controls has been approved by Government Resolution № 104 dated 5 February 2008.

The full document text can be found in official sources in Kazakhstan.

The Resolution entered into force on 20 January 2016.

Rules for issuing re-export permits

Minister for Investment and Development Order № 539 dated 30 April 2015, in accordance with export control legislation, has approved rules for issuing re-export permits. The Ministry of Investment and Development Committee for Industrial Development and Safety has been appointed the authorized body.

The Order entered into force at the end of 21 calendar days from its first official publication, which was 6 January 2016.

Application forms stipulated by customs law

Minister of Finance Order № 659 dated 15 December 2015 has approved the application forms stipulated by the Customs Code, such as:

- To include in customs registers customs representatives, owners of bonded warehouses and other individuals operating in the customs field;
- To adopt preliminary decisions on the classification of goods;
- To issue a decision on the classification of unassembled or dismantled goods, including incomplete goods, due to be imported in separate lots over a specific period of time; and
- Others.

The full document text can be found in official sources in Kazakhstan.

The Order entered into force at the end of 10 calendar days after its first official publication, which was 19 January 2016.

Rules for the authorities to take samples and specimens of goods

Minister of Finance Order № 558 dated 12 November 2015 has approved rules for state officials to take samples and specimens of goods, and norms for samples and specimens.

The rules were introduced in accordance with point 1 of article 234 of the Customs Code.

The Order entered into force on 25 December 2015.

Criteria for treating goods as imported for entrepreneurial purposes

Minister of Finance Order № 717 dated 29 December 2015, in accordance with subpoint 2) of article 276-2 of the Tax Code, has approved the criteria for treating goods as imported for entrepreneurial purposes.

As such, shipping and (or) transferring goods, performing work or providing services to make a sale or a free transfer, and transferring pledged goods to the pledge holder exceeding 12 times the minimum salary for the calendar year (from 1 January 2016 – KZT 22,859) will be treated as the entrepreneurial activities of the individual importing the goods.

In accordance with tax law, individuals importing goods for entrepreneurial purposes are treated as payers of import VAT in accordance with the established procedure.

The Order entered into force at the end of 10 calendar days after its first official publication and covers relations arising after 1 January 2016. The Order was published on 25 January 2016.

Rules for providing guarantees to export (import) processing products

Minister of Finance Order № 683 dated 24 December 2015, in accordance with point 6 of article 276-13 and point 3 of article 282 of the Tax Code, has updated the rules for providing guarantees to export (import) processing products, and the related forms, and changed the wording to:

- Reports on the execution of the export/ import of processing products;
- Forms for the obligation to export/ import processing products.

The Order entered into force from 1 January 2016 and was published on 26 January 2016.

Vladimir Kononenko, vkononenko@deloitte.kz, **Deloitte Kazakhstan**

Sholpan Dossymkhanova, sdossymkhanova@deloitte.kz,
Deloitte Kazakhstan

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Trade Preferences

ASEAN-Australia-New Zealand Free Trade Area

Implementation of revised rules of origin and operational certification procedures under ASEAN-Australia-New Zealand Free Trade Area

With effect from 1 April 2016, AANZFTA revised rules of origin (ROO) and operational certification procedures (OCP) will be implemented for exports to Australia, Brunei Darussalam, Lao PDR, Malaysia, Myanmar, New Zealand, Philippines, Singapore, Thailand and Vietnam.

The changes brought about by the revised ROO and OCP are summarized as follows:

- Removal of the general rule and consolidation of all HS line items into the product specific rule (PSR);
- With the exception of Myanmar, FOB value is no longer required in box 9 of Form AANZ provided the origin criterion is not regional value content (RVC);
- A change to the origin criteria declaration in Form AANZ.

The new requirements do not apply to Indonesia and Cambodia at this stage, and current AANZFTA ROO and OCP shall continue to apply until further notice.

Bob Fletcher, bobfletcher@deloitte.com, **Deloitte Singapore**

EMEA

European Union

European Commission cross-border VAT rulings project

The European Commission's cross-border VAT rulings project started in June 2013 and is now scheduled to continue until 30 September 2018. Italy and Ireland have recently joined the scheme, which allows businesses planning cross-border transactions between two or more of the participating Member States (Belgium, Cyprus, Denmark, Estonia, Finland, France, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Portugal, Slovenia, Spain, Sweden and the United Kingdom) to ask for such a ruling on the VAT treatment of the transactions that they envisage.

The [rulings given under the scheme are published online](#).

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

Upcoming changes with regard to the suspension of GSP tariff preferences

On 8 March 2016, the European Commission adopted a list of product categories originating in certain Generalized System of Preferences (GSP) beneficiary countries for which GSP tariff preferences will be suspended from 1 January 2017 until 31 December 2019. This new list was published in the Official Journal of the European Union of 9 March 2016 and will replace the current list, which is valid until 31 December 2016.

Generalized System of Preferences

To allow developing countries access to the European market, the European Union has adopted rules that provide for reduced or zero percent duty rates for products originating in these countries when imported into the EU, the GSP.

The GSP consists of a layered system of three categories which each give increasing advantages. These categories are:

- A general arrangement (GSP beneficiary countries);
- A special incentive arrangement for sustainable development and good governance (GSP+ beneficiary countries);
- A special arrangement for the least-developed countries (EBA/ Everything But Arms beneficiary countries).

GSP general arrangement and preferential treatment

Countries that are eligible for GSP but are not classified as GSP+ beneficiary countries or EBA beneficiary countries, are considered as GSP beneficiary countries. These countries can benefit from the GSP general arrangement and are listed in Annex II of Regulation (EU) No 978/2012. As regards the GSP general arrangement, there is a differentiation between the preferential customs duty rates for so-called non-sensitive products (total suspension) and the preferential customs duty rates for so-called sensitive products (duty reduction).

Suspension of preferential treatment

One of the main purposes of the GSP is to accelerate developing countries' growth and to promote their industrialization by increasing their exports. Notwithstanding this purpose, a suspension of the preferential customs duty rates can be applied within the GSP for some products under certain circumstances. With Implementing Regulation (EU) No 1213/2012, the European Commission has already established a list of product categories originating in certain GSP beneficiary countries for which the aforementioned preferential treatment is suspended from 1 January 2014 until 31 December 2016. The European Commission should, however, review that list every three years through an implementing act to suspend or re-establish the tariff preferences.

Implementing Regulation (EU) No 2016/330

The reviewed list of product categories for which the tariff preferences are suspended from 1 January 2017 until 31 December 2019 in respect of the GSP beneficiary countries concerned is established in the Annex to Implementing Regulation (EU) No 2016/330. Some of the targeted

countries and product categories in this 'new' list have been changed compared to those in the 'current' list (Annex to Implementing Regulation (EU) No 1213/2012).

As from 1 January 2017, a suspension of tariff preferences will be installed for the following product categories from these GSP beneficiary countries:

- India: Mineral products, inorganic and organic chemicals, textiles, pearls and precious metals, iron, steel and articles of iron and steel, base metals (excluding iron and steel), articles of base metals (excluding articles of iron and steel), motor vehicles, bicycles, aircraft and spacecraft, ships and boats;
- Indonesia: Live animals and animal products excluding fish and animal or vegetable oils, fats and waxes;
- Kenya: Live plants and floricultural products;
- Ukraine: Railway and tramway vehicles and products, animal or vegetable oils, fats and waxes.

When importing any of the aforementioned product categories from the GSP beneficiary countries as mentioned on the 'new' list (Annex to Implementing Regulation (EU) No 2016/330) into the EU, the future changes may increase the customs duty burden as from 1 January 2017.

Fernand Rutten, frutten@deloitte.com, Deloitte Belgium

Klaas Winters, klwinters@deloitte.nl, Deloitte Netherlands

Johan Hollebeek, jhollebeek@deloitte.nl, Deloitte Netherlands

Finland

VAT input tax deductions on purchases of stolen scrap metal

On 8 March 2016, the Finnish Supreme Administrative Court (SAC) issued a ruling KHO:2016:24 concerning Company A engaged in the sale, purchasing and processing of scrap metal.

Company A had purchased scrap metal from a VAT registered individual proprietorship X. The price of scrap metal charged to Company A included VAT, and Company A had deducted the VAT. It turned out later that an individual B who had presented himself as the individual proprietorship X was not the holder of the individual proprietorship in accordance with the trade register and that the scrap metal was stolen. The individual B and the real holder of the individual proprietorship X, an individual C, had been sentenced to imprisonment for a grand larceny.

It was indisputable that the transactions relating to the payments from Company A to individual proprietorship X were real, i.e., Company A had received the scrap metal and used it in its business. Further, Company A had not participated in the seller's crimes and did not benefit from them.

As the Finnish Tax Administration was not considered to be able to demonstrate that Company A had known or should have known about the seller's crimes, the SAC decided that Company A did not have to repay the VAT deducted.

Company A had also purchased scrap metal from a VAT registered individual proprietorship D. The price of scrap metal charged to Company A included VAT, and Company A deducted the VAT. An individual D had presented himself as the individual proprietorship D, and Company A had at first paid for the scrap metal by a cheque named to individual D, and later Company A had paid for the scrap metal by a cheque named to individual E. Further, Company A knew that the individual E owned another business engaged in scrap dealing. It turned out later that the individual proprietorship D was not the supplier of the scrap metal, but the individual D had acted as an ostensible partner of the individual E or a company owned by the individual E. The individual E had been later sentenced to imprisonment for a concealment crime.

The SAC stated that Company A should have known that the individual proprietorship D was not the real supplier of the scrap metal when the purchases were paid by cheques named to the individual E. Therefore, Company A was not able to deduct the VAT.

VAT treatment of leasing of parking places

On 11 December 2015, the Finnish Central Board of Taxes (CBT) issued a ruling KVL:048/2015 concerning the VAT treatment of the leasing of parking places.

The company concerned was planning to build an underground parking garage and commence leasing of parking places. The parking places were not assigned in particular to anyone, but all customers of the parking garage were allowed to use any free parking place. Further, the company was not obliged to arrange residential parking for the residents of the area, but the residents might use the free parking places in the parking garage. The parking places were not leased based on a building plan provision and the company was not obliged to lease the parking places to residents or their tenants based on its rental agreement.

The CBT considered that the leasing of the parking places carried out by the company does not relate to VAT exempt leasing of premises located in the same area. Further, the parking places and the premises used for other purposes do not form a whole. Thus, the company is engaged in the taxable leasing of parking places within the meaning of article 29 of the Finnish VAT Act.

VAT treatment of transfer of publication rights

On 5 January 2016, the CBT issued a ruling KVL:001/2016 concerning the VAT treatment of the transfer of publication rights. The company concerned was engaged in the sale of services relating to the manufacturing of magazines. The services supplied by the company included chief editor services, editorial work, planning of layout, services relating to the data provided by the publisher and printing. Each service was priced separately and the customer (i.e., the publisher of the magazine) chose the purchased services in accordance with his needs.

Services relating to the manufacturing of magazines subject to VAT formed a major part of the services supplied by the company. However, the company also received remuneration for transfers of publication rights outside the scope of VAT.

The CBT considered that the company supplied several independent services none of which could be considered as a main service. Therefore, the VAT treatment of each service was determined separately and the company was not liable to pay VAT on the transfer of the right of publication.

The ruling has been appealed to the Finnish Supreme Administrative Court.

Harri Huikuri, harri.huikuri@deloitte.fi, Deloitte Finland

France

Court rules on VAT and loyalty programs

The U.S. company Marriott Rewards LLC, which managed the customer loyalty program for the Marriott hotel group, requested reimbursement of the VAT that had been invoiced to it by the group hotels, for the nights provided to customers under the terms of the loyalty program.

The Administrative Court of Appeal considered that the services supplied by hotels to the customers using their loyalty points were provided in application of the rewards program agreement. The company therefore incurred the cost of those services for the purposes of its business of managing the rewards program. Therefore, the company had the right to deduct the corresponding VAT.

The decision has been appealed to the Conseil d'Etat.

Michel Guichard, mguichard@taj.fr, Taj

Israel

Government exploring possibility of imposing VAT on foreign suppliers of digital services

Israel's Ministry of Finance published a legislative memorandum on 13 March 2016 requesting public comments on the potential application of Israeli VAT to foreign suppliers of digital products and services to Israeli residents.

The memorandum draws on some of the OECD's recommendations on action 1 of the base erosion and profit shifting (BEPS) project (i.e. addressing the challenges of the digital economy), specifically relating to the difficulties of collecting VAT from individuals. It also follows the issuance of a draft circular by the Israel Tax Authority (ITA) in April 2015 concerning the internet-based activities of foreign companies in Israel.

Under the current VAT rules, foreign providers of digital services that operate in Israel are required to register for VAT purposes in Israel. However, a reverse charge mechanism may apply in certain cases, under which Israeli-resident dealers or individual purchasers of imported goods and services are required to pay VAT on the goods/services imported. According to the memorandum, the government is considering shifting the burden of paying the VAT from the recipient to the supplier in certain situations.

The memorandum focuses on the types of business activities it considers to be 'digital services', regardless of where the services are provided or whether they are provided to Israeli residents directly from the supplier or via an online store.

The following activities would be considered as a supply of digital services:

- **Electronic services:** The supply of software, entertainment products, books, music, gambling, games, television shows, movies, internet broadcasting and e-learning services;
- **Communication services:** Telephone services, telephone services via the internet (VoIP), fax services, internet access services and other similar services; and
- **Broadcasting:** Radio and television broadcasting services.

If the measures outlined in the memorandum are enacted, foreign suppliers and operators of online stores that currently are not obligated to register for VAT in Israel would be required to register and pay the output VAT on digital services they provide to Israeli individual customers. The reverse charge would apply to digital services provided to an Israeli-registered trader, a nonprofit organization, or a financial institution. Each foreign supplier or operator of online stores providing

digital services to Israeli residents would have to specifically consider whether registration would be required or whether the reverse charge would apply.

Where registration would be required, the registration requirement would be imposed on the foreign supplier of digital services to Israeli residents, or on the operator of the online shop through which the digital services are supplied. According to the memorandum, a foreign resident that provides digital services would be required to register in a dedicated registry in Israel that would be determined by the Minister of Finance. The foreign supplier also would be subject to compliance requirements, such as filing a periodic VAT return accounting for the relevant transactions and the related VAT recorded, with the reporting period to be determined by the minister.

A foreign supplier would be exempt from the registration requirement if its annual turnover from the supply of digital services to Israeli residents does not exceed the annual turnover of an exempt dealer (approximately USD 25,000).

Comments on the memorandum were due by 4 April 2016. Draft legislation is expected to be introduced after the comment period, but the timeline for legislation is unclear.

Yitzchak Chikorel, ychikorel@deloitte.co.il, Deloitte Israel

Nisim Pahima, npahima@deloitte.co.il, Deloitte Israel

Italy

2015 VAT trends

In press release n° 41, dated 8 March 2016, the Ministry of Economy and Finance (following the annual report published by Istat (the National Institute of Statistics)) confirmed that VAT revenues increased by 4.2% (EUR 4,831 million) in 2015, and several VAT fraud schemes were successfully minimized, especially due to the implementation of the split payment mechanism and the wide application of the reverse charge to further supplies of goods/ services.

New measures to tackle VAT fraud

Legislative Decree n° 24 dated 11 February 2016 has entered into force, through publication in the Official Gazette n° 52 dated 3 March 2016. Based on the new decree, the following anti-fraud measures will apply after 60 days from the above publication:

- **Reverse charge for supplies of game consoles, tablet PCs and laptops, and integrated circuit devices until 31 December 2018** (implementing article 199a of the Principal VAT Directive);
- **‘Quick Reaction Mechanism’** (implementing article 199b of the Principal VAT Directive): Italy will designate the recipient as the person liable to pay VAT on specific supplies of goods and services by derogation from Article 193, as a Quick Reaction Mechanism (QRM) special measure to combat sudden and massive fraud liable to lead to considerable and irreparable financial losses. The QRM special measure shall be for a period not exceeding nine months.

Also, because it was not authorized by the EU, the new decree has abolished the application of the reverse charge to:

- Supplies of components and accessories of phone mobiles;
- Supplies of personal computers, and components and accessories;
- Supplies of goods to hypermarkets (activity code 47.11.1), supermarkets (activity code 47.11.2) and food markets (activity code 47.11.3).

New rules on credit notes

In circular letter n° 5/2016, Assonime (the Italian Association of Joint Stock Companies) has provided some clarification regarding the following amendments, which were recently introduced by the Stability Law 2016:

- Timing for the issuance of credit notes in the case of insolvency proceedings after 31 December 2016, as the amended VAT rules now provide that the credit notes can be issued starting from the beginning of the insolvency proceedings, without waiting for their finalization, as was previously the case;

- Proof of lack of success of individual enforcement proceedings, as in this case it is still necessary to wait for the formal conclusion of the procedure;
- The possibility to issue credit notes in the case of the resolution of contracts for supplies of goods or services to be performed permanently or recurrently, on the grounds of a breach by one of the parties.

Constitutional Court judgment on VAT rate for accommodation in marina resorts

The Constitutional Court has declared unconstitutional the Italian law provision which compares marina resorts to open-air accommodation facilities (decision n° 21 dated 11 February 2016). As a consequence, the reduced 10% VAT rate does not apply to overnight stays in marina resorts.

As ruled by the Constitutional Court, the law breaches the principle of 'sincere cooperation' between central and regional authorities, as the regions are basically excluded from the competent institutions able to set conditions for the qualification of marina resorts as open-air accommodation facilities. On the contrary, in the area of tourism, as in case of marina resorts, the power to legislate should be reserved to the regions.

There has been considerable reaction to the judgment in the Campania region (which raised the objection of unconstitutionality before the Constitutional Court), especially by the Regional Confederation of Industry (Confindustria Campania), which favors the application of the reduced 10% VAT rate to overnight stays in marina resorts.

New TR form

The new TR form has been approved via Act n° 42623, dated 21 March 2016, issued by the Director of the Italian tax authorities.

Amongst the changes, the new form now includes a specific box called 'amendment of the previous TR form', by means of which it is possible to amend/ rectify previous quarterly VAT refund claims, especially in light of the ability to benefit from the bank guarantee exoneration which

applies provided certain conditions are met, as recently recognized by the tax authorities in circular letter n° 35/E, dated 27 October 2015.

The new TR form (already available on the official website of the tax authorities) will be used for the next first quarter 2016 VAT refund, to be submitted by 30 April 2016.

Guidelines on new penalties system

After the changes introduced by Legislative Decree n° 158 dated 24 September 2015, the Italian tax authorities have released the first official guidelines regarding the application of the new penalties, effective as of 1 January 2016 (circular letter n° 4/2016 dated 4 March 2016).

In particular, with reference to the transitional period when the new penalties take effect, the authorities have recognized the wide application of the *favor rei* principle, according to which, where one penalty follows another in time, the later penalty, if more lenient, overrides the earlier.

In the circular letter, the authorities have clarified that the new penalties can apply also to the pending challenges levied before 1 January 2016 with the application of the earlier and more severe penalties. In this case, taxpayers can submit a special petition to ask for the recalculation of penalties in compliance with the *favor rei* principle, provided the challenges are not yet definitive (i.e., they are still subject to appeal before the courts).

'FATCA' IGA between Italy and U.S. now publicly available

As announced by press release dated 18 February 2016, the Italy/U.S. inter-governmental agreement (IGA) to facilitate compliance with the US Foreign Account Tax Compliance Act (FATCA) between Italy and the U.S. is now publicly available on the official website of the Italian tax authorities.

Basically, the IGA develops a financial information exchange methodology, which allows for the automatic exchange of data between tax authorities regarding accounts held in the U.S. by persons resident in Italy and those held in Italy by U.S. citizens and residents.

Under the terms of the IGA, Italian foreign financial institutions will be required to report their information to the Italian tax authorities, which will then automatically exchange the information with the U.S. Internal Revenue Service. There is also provision for the exchange of information to be reciprocal.

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

Excise duties

Based on Italian law, the Customs and Monopoly Agency advised on 12 January 2016 that, for determining the quantity of fuel for which, in case of combined production of electricity and heat, the excise duty rates provided for the production of electricity can apply, the specific criteria which were valid until 31 December 2015 will apply until 31 December 2016.

Furthermore, on 26 February 2016, the authorities issued Note No 24497/RU, regarding the possibility to use the excise credits from the electricity and natural gas annual returns. In particular, guidelines have been provided for allowing operators to offset the credit positions accrued with reference to one or more Italian provinces in order to cover the excise debt accrued with reference to other provinces.

Clarification for duty free shops

On 9 March 2016, the Customs and Monopoly Agency issued Note 22583, which aimed to clarify (also in the light of the EU customs rules applying from 1 May 2016) the requirements allowing duty free shops located within Italian airports to sell goods tax-exempt.

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

Poland

CJEU to decide whether first occupation's definition established in Polish VAT Law complies with VAT Directive

On 23 March 2016, the Polish Supreme Administrative Court applied for a preliminary ruling in which the Court of Justice of the European Union is to confirm whether the definition of first occupation provided in Polish VAT Law is in compliance with the EU Principal VAT Directive.

In particular, according to the Polish VAT Act, VAT exemption applies to supplies of buildings provided that either the supply is not performed within the building's first occupation or the first occupation took place earlier than two years from such supply. Accordingly, first occupation should be understood as the supply of the building or its usage in order to provide services to the first buyer after the building was built or modernized if the cost of such modernization exceeded 30% of the building's value before modernization.

The CJEU's ruling in this respect may have a significant impact on the VAT treatment of immovable property sales (excluding land) in Poland, and, as such, may affect a large number of Polish VAT payers.

SAF-T/JPK

As discussed in previous editions of this newsletter, Single Audit File (SAF-T) is to be implemented in Poland from as early as July 2016 for, so called, 'big' companies.

In brief, taxpayers will be obliged to provide the tax authorities upon their demand (e.g., for audit/ verification purposes) all of the books in a specifically determined electronic format, i.e., via structured XML files named JPK – 'Jednolity Plik Kontrolny'.

The Polish Minister of Finance has recently published the final schemas of the files to be provided. Furthermore, it has been confirmed that JPK will apply to foreign taxpayers registered for VAT purposes in Poland, even if they do not have a fixed place of business in Poland.

The criteria to be taken into account when assessing the 'size' of the taxpayer were not yet fully confirmed, i.e. whether only the turnover generated in Poland will be considered or global amounts. Further updates in this respect are expected.

Michal Klosinski, mklosinski@deloittece.com, Deloitte Poland

Portugal

State budget law proposal approved by Parliament

Following the presentation of the State budget law proposal to Parliament for approval on 5 February 2016 (as discussed in the February 2016 edition of this newsletter), the main indirect tax changes

in the State Budget law for 2016 were approved by the Parliament on 16 March 2016 and were published on 30 March 2016, applicable as of 31 March 2016.

Changes in the VAT rates

From 1 July 2016, the intermediate VAT rate (13% in the Mainland, 12% in Madeira and 9% in Azores) will apply to the following supplies, instead of the standard VAT rate currently applicable (23%, 22% and 18% respectively):

- Meals ready to eat, take away with or without home delivery;
- The supply of services of meals and beverages, except for alcoholic drinks, soft drinks, juices, nectars and sparkling waters or added with carbon dioxide or other substances.

Bread substitutes and similar products will be excluded from the reduced rate and will be subject to the standard VAT rate (only bread will remain subject to the VAT reduced rate – 6% in the Mainland, 5% in Madeira and 4% in Azores).

The following products will be subject to the reduced VAT rate (6% in the Mainland, 5% in Madeira and 4% in Azores):

- Live, dried or fresh 'algae' (seaweed) (food products);
- Juices and nectars of algae, and cereal, almond, cashew and hazelnut drinks (without alcohol);
- Menstrual cups;
- Tofu, tempeh and texturized soybean;
- Services typically related to aquaculture activities that are listed in item 4. of List I annexed to the Portuguese VAT Code.

The following products and services will no longer be subject to the reduced rate:

- Canned meat;
- Supplies of goods and services related to the breeding of song-birds and ornamental birds;
- Supplies of goods and services related to an activity in which animals are kept and reared for the production of fur or leather.

Option to tax medical services (private entities)

Private entities may opt to tax (waive the VAT exemption) on healthcare services as well as closely related transactions, provided they do not result from agreements entered into with the Portuguese State (within the national health system). This intends to clarify the option that already exists in this area, which did not restrict it to entities that did not have agreements with the State.

Authorizations for the Government to establish or amend rules regarding:

- The deadline to file a declaration of the beginning of an activity, so that a unique deadline applies to entities subject to commercial registration and entities which are not so subject.
- The procedures for the VAT payment due for intra-Community acquisitions of new means of transportation which are subject to vehicle tax.
- The implementation of electronic procedures to verify if all the conditions to apply the VAT exemption on the transport of goods outside the European Union territory by non-Union residents are met.

Change in general provisions of excise duty code

The minimum amounts for charging excise duty will be EUR 10, instead of EUR 25.

Tax on petroleum and energy products

The application of the exemption to products with combined Nomenclature code 2711 (petroleum gas and other hydrocarbons gaseous) will cease to apply to all public transport, and will be limited to passenger transportation.

With respect to fuel oil, the maximum tax limit will increase by about 30%. For the Autonomous Regions of Madeira and the Azores, the minimum and maximum excise duty limits for fuel oil will be equal to the limits that apply to the Mainland.

Tax on alcohol and alcoholic drinks

The budget law increases the tax on alcohol and alcoholic drinks, applicable to beer, intermediate products and white spirits drinks, generally about 3%.

Tobacco tax

According to a new definition, rolls of tobacco will qualify as cigarillos or cigars where the weight is equal to or less than 3 grams or above 3 grams, respectively.

The tax rate applicable to cigarettes will increase from EUR 88.20/thousand units to EUR 90.85/thousand units, which represents an increase of 3%. Other changes were approved also, including an increase of about 13% to the tax rate applicable to cigarettes produced in Azores.

The tax rate applicable to smoking tobacco, snuff, chewing tobacco and heated tobacco increases 4%, from EUR 0.075/gram to EUR 0.078/gram.

The minimum amount of tax on fine-cut tobacco increases from EUR 0.135/gram to EUR 0.169/gram, which corresponds to an increase of approximately 25%.

The minimum amount of tax on cigarettes corresponds to the minimum total tax of reference subtracted from the VAT amount applicable to the public sales price.

Other changes concerning the tax rate applicable to cigarettes produced in Azores were approved.

According to the 2016 Budget law, all tobacco products which are to be released into consumption after the date of entry into force of the Budget law must use a new special stamp, as specified in separate legislation.

Vehicle tax

Applicable tax rates will increase between 3% and 20% (except for less polluting vehicles, for which there is a tax reduction).

Protection and rescue vehicles acquired by humanitarian associations or municipalities to equip firefighters will be exempt from vehicle tax.

Incentive for vehicle renovation

The incentive for vehicle renovation is to be maintained until 31 December 2017, specific conditions apply.

Afonso Arnaldo, afarnaldo@deloitte.pt, Deloitte Portugal

Russia

Further consideration of draft law on subjecting e-services to taxation

The Russian State Duma has approved in the first reading Draft Law No. 962487-6, which introduces amendments to parts one and two of the Russian Tax Code related to the taxation of online transactions, and stipulates rules for applying VAT on electronic services rendered in Russia by foreign organizations.

VAT on disposal of inventory

Letter of the Russian Ministry of Finance No. 03-03-06/1/1997 of 21 January 2016 reports that in the case of the disposal of goods due to reasons not related to the supply of goods or the free-of-charge transfer of goods, e.g. due to the writing-off of obsolete goods, VAT input tax previously claimed must be reversed, as the disposal is not subject to VAT.

Submission to State Duma of draft law stipulating exemption from VAT for operations of waste paper supply

It is reported that the Draft Law No. 999422-6 "On introduction of changes to art. 149 of Part Two of the Russian Tax Code" was submitted for the Russian State Duma consideration. In particular, it is suggested that operations related to the supply of waste paper on the territory of Russia should be exempt from VAT. According to the Draft Law the concept of 'waste paper' includes paper and carton waste from manufacturing and consumption, defective and worn-out paper, carton, printing items, and business papers including documents with an expired storage period.

Amendments to list of technological equipment the import of which into the territory of the Russian Federation is not subject to VAT

Russian Federation Government Resolution No. 156 of 1 March 2016 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. The Resolution came into effect on 11 March 2016.

In particular, equipment for gas turbine plants with a capacity of 32 MW (classification code 8411 99 001 9) and iron ore transport line (classification code 8428 39 900 9) are introduced into the list. The import of gas turbine plant with a capacity of 32 MW (classification code 8411 99 001 9) is exempt from VAT until 31 December 2021.

In addition, the Resolution amends the description of pyrolysis ovens and similar goods (classification code 8417 80 700 0), of calender lines (classification code 8420 10 800 0), of different kinds of extrusion tooling (classification code 8477 20 000 0), and of several kinds of production lines (classification code 8479 89 970 8).

Court rules on VAT treatment of services related to organization of clinical trials of foreign medications in Russia

The ruling of the Commercial Court of Moscow of 11 February 2016 on case No A40-194412/2015 has been published. The ruling settles the dispute between Parexel International Rus LLC and the tax authorities on additional charges of VAT on services rendered in 2011-2012 to foreign affiliated companies that are members of the Parexel group of companies.

The services were related to the organization of clinical trials of foreign medications in Russia. The taxpayer argued that relevant agreements between the parties covered consultancy and data processing services, which are taxed at the location of the buyer and are therefore not subject to VAT in Russia.

The court, however, supported the tax authorities and classified the disputed services as related to the organization and conducting of clinical studies, which are taxable at the location of the seller.

Increase in rates of excise duty on gasoline and diesel oil

Federal Law No. 34-FZ of 29 February 2016, which introduces amendments to art. 193 of the Russian Tax Code relating to the indexation of excise duty rates, has been published. The Law increases excise duty rates on gasoline, diesel fuel, straight-run gasoline and medium distillates. The Law will enter into force on 1 April 2016.

Andrey Silantiev, asilantiev@deloitte.ru, Deloitte Russia

Spain

Resolution regarding VAT assessed under VAT audit procedure

A resolution has been recently issued by the Spanish Economic-Administrative Court (TEAC) regarding VAT assessed under a VAT audit procedure.

The resolution states that if, as a result of a tax inspection, a taxpayer is assessed for VAT on its sales on the basis that it has a permanent establishment in Spain, the taxpayer would be able to charge the Spanish VAT to its customers.

According to the resolution, taxpayers are able to charge the VAT to their customers, even if the VAT assessment is subject to court proceedings. Prior to this resolution, taxpayers had to await a final decision from the courts before being able to charge the assessed VAT to their customers.

The fact that a taxpayer decides to charge the VAT, which is due as a result of the inspection, to its customers does not mean that it accepts the arguments/ decision issued by the Chief Inspector or the arguments presented in court proceedings.

This means that taxpayers do not have to suffer a financial cost as a consequence of having to await the final decision of a case following an inspector procedure.

Maria Jose Garcia Vega, mgarciavega@deloitte.es, Deloitte Spain

United Kingdom

UK Budget

The UK Budget was delivered on Wednesday, 16 March. Below is a summary of the main indirect tax announcements.

On-line marketplaces and overseas sellers

The government has announced a package of measures aimed at tackling rapidly growing online VAT evasion. Two key areas that are being targeted are overseas businesses and online marketplaces. The UK tax authorities (HMRC) are strengthening existing VAT legislation for directing overseas businesses that should be registered for VAT in the UK to appoint a UK-established VAT representative and giving HMRC greater flexibility in relation to when HMRC can require some form of security to cover the VAT likely to be payable.

In addition to this, HMRC will also be given new powers to make online marketplaces jointly and severally liable for the unpaid VAT of overseas businesses that are non-compliant with UK VAT rules.

In parallel with these changes, HMRC are **consulting about a new 'due diligence' scheme to be applied by fulfilment houses**. The scheme will set out 'fit and proper' standards that fulfilment houses will need to meet in order to operate. Fulfilment houses will have an obligation to register and maintain accurate records. They will also have to evidence the due diligence they have undertaken to ensure that their overseas client is a *bona fide* supplier.

Soft drinks industry levy

The government plans to introduce a new soft drinks industry levy to be paid by producers and importers of soft drinks that contain added sugar.

The levy will be charged on volumes according to total sugar content, with a main rate charge for drink above 5 grams of sugar per 100 millilitres and a higher rate for drinks with more than 8 grams of sugar per 100 millilitres. There will be exclusions for pure fruit juices and milk based drinks and small operators will be excluded. A consultation on the details is planned to take place over the summer, and the legislation

to implement the levy is expected to be in Finance Bill 2017, with implementation from April 2018 onwards.

Increase in the Insurance Premium Tax rate

The standard rate of Insurance Premium Tax, which is payable on most 'non-life' insurance – e.g. car insurance, buildings and contents cover, pet insurance, etc. – is to be increased by 0.5%, to 10%.

The new rate comes into effect from 1 October 2016, except where insurers use the IPT special accounting scheme.

Revalorisation of the VAT registration and deregistration thresholds

As usual, the Budget included an announcement of an increase in the VAT registration and deregistration thresholds. From 1 April 2016, the relevant thresholds increase in line with inflation, by GBP 1,000, to GBP 83,000 for registration and GBP 81,000 for deregistration.

Excise duty on fuel, alcohol and tobacco

Rates of fuel duty, and the duty on spirits, beer and still and lower strength sparkling cider have been frozen. The duty on wine and higher strength sparkling cider increased in line with inflation, with effect from 21 March. Tobacco duty increased by 3% over inflation (5% over inflation for hand rolling tobacco), from 6pm on 16 March.

Other indirect taxes

As previously announced, the rates of landfill tax will be increasing (to £84.40/tonne for standard-rated waste and £2.65/tonne for lower-rated waste) with effect from 1 April 2016, with further increases planned for 2017 and 2018. Air passenger duty on flights of over 2000 miles will increase from 1 April 2017 to £75 for the lowest class of travel and £150 for any other class. Detailed changes are planned for climate change levy and gambling taxes, and there are to be small increases in the rates of vehicle excise duty on cars, vans and motorcycles.

Supreme Court confirms corporation tax payable on VAT repayments

The Supreme Court has handed down its judgment in the *Shop Direct* case concerning the corporation tax implications of VAT repayments. The taxpayers had previously lost in all lower courts, including the

Court of Appeal in 2014. The only remaining issue was whether certain repayments of VAT were taxable post-cessation receipts within the meaning of sections 103 to 106 of ICTA 1988.

The Supreme Court held that they were, agreeing with the Court of Appeal that section 103 had a broader application than that contended for by the taxpayers.

This represents the end of the road for this litigation and should now mean that the points of law are settled. Any taxpayers in a similar position or who have made claims should now consider their position.

Release of exporter information

HMRC have confirmed that, from 8 April 2016, they will start to publish certain information relating to exporters and the goods they export. This is intended to facilitate trade, boost UK growth and help exporters to find new markets. Businesses can 'opt-out' from having their information published. This opt-out will also now extend to the importer information already published.

HMRC invitation to suggest changes to Union Customs Code regulations

HMRC have issued an invitation to economic operators to identify aspects of the Delegated and Implementing Regulations which support the Union Customs Code (which comes into force from 1 May 2016), where it is felt further amendment would be beneficial to the UK.

HMRC report that the EU Commission has recognized that there are some areas where Member States feel opportunities for further modernization have been missed. To address this, the Commission has indicated that it is willing to consider some amendments to the legislation, if they offer clear benefits. Although no area of the legislation is outside the scope of this exercise, expectations of success must be realistic and HMRC will need to be pragmatic with the proposals to be taken forward.

Businesses wishing to contribute to this exercise are invited to submit suggestions for change by email to ucc-masp.implementation@hmrc.gsi.gov.uk by Friday, 29 April 2016. HMRC asks that suggestions are marked 'UCC Revision'.

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

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Trade Preferences

Italy

EU-South Korea Free Trade Agreement

On 4 March 2016, the Customs and Monopoly Agency summarized the procedures to be followed by operators to obtain from the Authority the status of approved exporter, within the framework of the Free Trade Agreement between the EU and South Korea.

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

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Eurasian Economic Union

Eurasian Economic Union

Amendment of import customs duty rates on certain goods

Eurasian Economic Commission Collegium Resolution No. 21 of 1 March 2016 extends application of the import customs duty rate of 0% in relation to parts of gas turbines of capacity more than 5 000 kilowatt but not more than 50 000 kilowatt classified under classification code 8411 99 001 9. The 0% import customs duty rate is effective from 2 September 2016 to 31 December 2021 inclusive. This Resolution came into effect on 2 April 2016.

Eurasian Economic Commission Collegium Resolution No. 20 of 1 March 2016 extends application of the import customs duty rate of 0% in relation to several types of sawn wood of some tropical species classified under classification code 4408 39 850 9. The 0% import customs duty rate is effective from 1 June 2016 to 31 May 2019 inclusive. This Resolution comes into effect on 1 June 2016.

Eurasian Economic Commission Collegium Resolution No. 13 of 2 February 2016 decreases import customs duty rates in relation to several goods used in polygraphy. In particular, import customs duty rate on pigments classified under classification codes 3212 10 000 0 and 3212 90 000 0 is decreased from 5% to 0% from 4 March 2016 to 31 August 2017. Import customs duty rates on several types of uncoated paper and cardboard classified under subheading 4802 is decreased from 7.5% to 5% from 4 March 2016. The import customs duty rate on several types of coated paper and cardboard classified under subheading 4810 is decreased from 15% and 10% to 5% from 4 March 2016 to 31 August 2017. This Resolution came into effect on 4 March 2016.

Goods declared as temporary imports with full conditional exemption from customs duties and taxes

Eurasian Economic Commission Board Resolution № 88 dated 2 December 2015 states that the civil aircraft referred to in points 26 and 32-35 of the list of goods temporarily imported with a full exemption from customs duties and taxes (approved by Resolution of the Customs Union Commission (CUC) № 331 dated 18 June 2010), registered under the temporary import (release) procedure with a full conditional exemption from customs duties and taxes, **may be used in the EEU member country** whose customs authority registered them under the temporary import (release) procedure, **and transported between EEU member countries and (or) internationally.**

The Resolution entered into force on 26 January 2016.

Specific exemptions from import customs duties

EEC Board Resolution № 89 dated 2 December 2015 has introduced new wording to point 7.1.13 of CUC Resolution № 130 dated 27 November 2009:

7.1.13. Civil passenger aircraft in CU FEA CN subpositions 8802 40 003 5 and 8802 40 003 6, imported before 31 December 2023 into the EEU for use in the EEU member country into which the goods were imported, and for transportation among member countries and (or) for international transportation;.

EEC Board Resolution № 4 dated 12 February 2016 has introduced new wording to point 7.1.10 of CUC Resolution № 130 dated 27 November 2009:

7.1.10. Fishing boats, depot ships and other marine vessels used to process and pack fish products (CU FEA CN 8902 00 100 0 code), registered in the EEU ships' register, sailing under the flag of an EEU member country, imported into the EEU and registered under the release for domestic use customs procedures before 1 January 2018, inclusive, provided documents are filed during the declaration procedure confirming registration in the ships' register of an EEU member country;.

Resolution № 89 entered into force on 26 January 2016. Resolution № 4 entered into force on 17 March 2016.

Classifiers used to complete customs declarations

EEC Council Resolution № 168 dated 22 December 2015 has amended the following classifiers used to complete customs declarations (approved by CUC Resolution № 378 dated 20 September 2010):

- The characteristics of the transportation of goods (Appendix 2)
- Customs charge concessions (Appendix 7)
- Documents and data used during customs declaration (Appendix 8)
- Taxes, charges and other payments collected by the customs authorities (Appendix 9)

- Measures to ensure compliance with customs transit (Appendix 18).

The full document text can be found on the official EEC website and EEU legal portal.

The Resolution entered into force on 22 January 2016.

Protective measures in relation to specific types of goods

EEC Council Resolutions № 170 dated 22 December 2015 and № 6 dated 26 January 2016 have introduced anti-dumping duties on the following imports into the EEU:

- Steel wrought wheels from Ukraine, and registered under EEU FEA CN 8607 19 100 9 code, for 5 years
- Seamless stainless steel pipes from Ukraine, registered under EEU FEA CN 7304 41 000 1, 7304 41 000 5, 7304 41 000 8, 7304 49 100 0, 7304 49 930 1, 7304 49 930 9, 7304 49 950 1, 7304 49 950 9, 7304 49 990 0, 7304 90 000 1 and 7304 90 000 9 codes, for 5 years.

The full document text can be found on the official EEC website and EEU legal portal.

Resolution № 170 entered into force on 22 January 2016. Resolution № 6 entered into force on 26 February 2016.

Changes to EEU integrated customs tariff

EEC Council Resolution № 13 dated 2 February 2016 has set rates on specific goods used in the printing industry. The resolution entered into force on 4 March 2016.

The full document text can be found on the official EEC website and EEU legal portal.

Vladimir Kononenko, vkononenko@deloitte.kz, Deloitte Kazakhstan

Andrey Silantiev, asilantiev@deloitte.ru, Deloitte Russia

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Contacts

Deloitte Global & Regional Indirect Tax Contacts

David Raistrick, Global Indirect Tax Global leader

[**draistrick@deloitte.co.uk**](mailto:draistrick@deloitte.co.uk)

Fernand Rutten, Global Customs & Global Trade leader

[**frutten@deloitte.com**](mailto:frutten@deloitte.com)

Jon Graham, Asia Pacific Indirect Tax leader

[**JonGraham@deloitte.com.au**](mailto:JonGraham@deloitte.com.au)

Rogier Vanhorick, EMEA Indirect Tax Leader

[**rvanhorick@deloitte.nl**](mailto:rvanhorick@deloitte.nl)

Carlos Iannucci, Latin America Indirect Tax leader

[**ciannucci@deloitte.com**](mailto:ciannucci@deloitte.com)

Dwayne Van Wieren, North America Indirect Tax leader

[**dvanwieren@deloitte.com**](mailto:dvanwieren@deloitte.com)

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[Deloitte Touche Tohmatsu Limited](#)

30 Rockefeller Plaza
New York, NY 10112-0015
United States

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