Global Indirect Tax News

Your reference for indirect tax and global trade matters

Welcome to the June 2016 edition of GITN, covering updates from the Americas, Asia Pacific and EMEA regions.

Features of this edition include the UK vote to leave the EU, the release of the Model GST law in India, and the delay of the proposed consumption tax increase in Japan.

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

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Italy

Official clarifications have been provided regarding the new VAT reverse charge mechanism for supplies of game consoles, tablet PCs and laptops.

The reduced 10% VAT rate for marina resorts will now apply.

Official guidelines have been issued regarding the MOSS.

There are updates in light of the Union Customs Code and on certain customs penalties.

Netherlands

The CJEU has agreed that analysis by the customs authorities is not always binding for tariff classification.

Malta

Guidelines regarding the VAT treatment of aircraft leasing have been published.

Poland

The CJEU has issued a ruling on VAT treatment on liquidation of a business activity. The CJEU has been asked to rule on the VAT rates applying to certain food products.

The requirement to transfer VAT registers (in the JPK format) on a regular, monthly basis along with the VAT return has now been officially implemented.

Portugal

Simplified measures were announced with an impact on tax matters.

There is a VAT rate change for certain supplies of meals.

Russia

The law on subjecting e-services to VAT has been approved.

There are amendments to the procedure of VAT recovery for operations subject to 0% VAT.

There has been an extension to the application period for the 0% VAT rate for the services of railway suburban passenger transport.

A VAT exemption has been introduced for operations of waste paper supply.

The list of foods prohibited for import into Russia has been amended.

There have been clarifications by the Plenum of the Russian Supreme Court on several questions of the application of customs legislation.

South Africa

Safeguarding measures on frozen potato chips have expired.

Spain

New electronic certificates are being issue for tax purposes.

VAT refunds can be made to SEPA bank accounts, but VAT payments cannot be made from SEPA bank accounts.

United Kingdom

The UK has voted in favor of leaving the European Union.

The CJEU has decided against the taxpayers in the 'payment processing' VAT exemption cases.

The tax authorities have published a consultation document on the meaning of 'taxable disposal' for Landfill Tax purposes.

There are new bank details for payments to the tax authorities.

The Union Customs Code will lead to many practical changes for importers.

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Eurasian Economic Union

Eurasian Economic Union

The list of goods imported with exemption from import customs duty has been amended.

A Resolution has approved the list of goods subject to import customs duties in accordance with the Free Trade Treaty between EEU member countries and Vietnam, and values for those goods.

There are a number of non-tariff regulation issues.

The import customs duty rate for certain goods has been lowered in the framework of Russia's WTO obligations.

Antidumping duty has been introduced on ferrosilicon manganese originating from Ukraine.

Antidumping duty on certain steel tubes originating from Ukraine has been extended until 1 June 2021.

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Americas

Puerto Rico

VAT regime repealed via legislative override of Governor's veto – Current sales and use taxation regime will remain intact

New law (Puerto Rico Act 54-2016) repealed in its entirety Subtitle DD of the 2011 Puerto Rico Internal Revenue Code, which contained the provisions of Puerto Rico's VAT regime that was scheduled take effect beginning on 1 June 2016.

Accordingly, Puerto Rico will no longer be transitioning from its current sales and use taxation (SUT) regime to a VAT regime beginning on 1 June 2016. Instead, Puerto Rico's current SUT regime will remain in place.

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United States

What am I selling? Properly characterizing technology

Technology companies that have developed new and unique products and services need to describe them in ways that customers can understand. Often, the companies describe their products using general terms and phrases, such as software as a service (SaaS), cloud computing solutions, or Internet of things. While these terms and phrases may be more recognizable when marketing, they also may oversimplify the functionality of the electronically delivered products, resulting in many companies misunderstanding their underlying state or local sales and use tax obligations. Technology companies face the challenge of how to characterize their products using antiquated sales and use tax concepts adopted long before the digital revolution.

The changing marketplace has led to a fundamental change in the analysis of the tax consequences concerning sales and use taxation, particularly in the realm of digital products, that does not fit neatly into historical sales and use tax statutes. While many states have directly addressed the taxability of remotely assessed software, most states have not outlined a framework to analyze electronically delivered services that uses software in the provision of those services.

For more information, see this edition of **Inside Deloitte**, which discusses the application of sales and use taxes to emerging technology, arguing that proper characterization is important for vendors analyzing potential obligations and offering approaches for those characterizations.

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California: California Supreme Court denies review of Lucent, BOE addresses refunds

On 20 January 2016, the California Supreme Court denied the California State Board of Equalization's (BOE) petition for review of *Lucent Technologies, Inc. v. Board of Equalization*, a California Court of Appeals ruling involving the sales and use tax treatment of switch-specific software programs.

In response to the California Supreme Court's denial of review, Randy Ferris, Chief Counsel of the California State BOE, issued a Chief Counsel Memorandum (Chief Counsel Memo) discussing the following topics:

1. The BOE's interpretation of the holdings set forth in *Nortel* and *Lucent*, as well as their application under three different scenarios;

2. The BOE Legal Department's recommended approach to implementing the *Lucent* holding; and

3. The BOE's potential approach to addressing the California sales and use tax treatment for embedded and pre-loaded software under *Lucent*.

Moreover, during a BOE meeting held on 30 March 2016, the BOE heard oral testimony from the BOE Legal Department Staff regarding the BOE Legal Department's recommended approach to implementing the *Lucent* holding (BOE Meeting).

For more details, see the **Multistate Tax Alert of 5 May 2016**.

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Asia Pacific

China

Pursuant to Circular 36, which signifies the completion of the China VAT Reform, several new regulations have been released.

New rule on VAT exemption for export of services released

The State Administration of Taxation (SAT) issued the new regulation in Bulletin [2016] No. 29 on 1 May 2016. Bulletin 29 supersedes Bulletin 49.

Highlights of Bulletin 29

Bulletin 29 sets out 20 categories of service scope (which were specified under Circular 36, such as construction services for projects located outside of China and business support services) that are potentially eligible for VAT exemption treatment. As per the previous regulation, generally, the following requirements should be satisfied to support an exemption:

- The Chinese service provider must enter into a written contract with the service recipient; and

- All service fees must be collected from overseas.

It is worth noting that Bulletin 29 elaborated, for certain service categories, on the application of the 'fully consumed' requirement (a new concept first introduced under Circular 36, which restricts the application of exemption and zero rating where the service is actually provided to a domestic recipient but contracts are structured to a service recipient outside of China). For further details we refer to the **March 2016 edition of this newsletter**.

Whilst Bulletin 29 does not materially change the process and procedures to be followed for applying the exempt treatment (i.e. a registration process should be completed before a taxpayer could self-claim the exemption on monthly VAT returns), Bulletin 29 emphasized the taxpayer's responsibility to inform the in-charge tax bureau if the facts and circumstances of the contract previously registered has changed.

Regulations issued to clarify technical details

During May 2016, SAT continued to issue regulations to clarify certain industry or technical issues – the new regulations are summarized in the two tables below. Table 1 lists the new regulations that impact the VAT treatment of supplies, whilst table 2 lists changes that will impact on administrative matters.

Table 1

Circulars	Title	Affected sectors	Key content
Caishui [2016] No. 46	Notice to Further Clarify Policies Concerning the Financial Services Industry in the Rollout of the VAT Reform	Financial services	Further clarification on two categories of exempt interest income as stipulated in Circular 36, specifically: • Pledging repo, referring to the short term financial business between the two parties of the transaction by pledging the bond or other financial product. • Holding policy bond. Policy bond refers to the bond issued by development or policy FI.

Caishui [2016] No. 47	Notice to Further Clarify VAT Reform Policies for Labor Dispatch Services and Input VAT Credit of Highway Toll Charges and Others	Human resources	Circular 27 provides guidance on how to calculate the taxable base for the supply of labour dispatching services and human resource outsourcing services. Taxpayers may deduct certain reimbursed payments including salaries, social insurance and housing accumulation fund from the total proceeds as the basis to calculate VAT under a 5% VAT collection rate (meaning this is using the simplified taxing method whereby the supplier is not able to claim input VAT credit but can enjoy a lower rate of VAT). Taxpayers may issue a VAT general invoice for the fee collected from the service recipient for the above-mentioned 'deduction items' but the issuance of a VAT special invoice is prohibited.
Caishui [2016] No. 60	Supplement-ary Notice on Policies and Administration Issues for Construction Fee for Cultural Undertakings after the VAT Reform	Entertain-ment	Circular 60 provides the calculation formula for the Construction Fee for Cultural Undertaking (i.e. a surcharge levied on the indirect tax due for businesses engaged in entertainment and advertising services which was introduced in 1997) after the VAT Reform, i.e. CFCU = (VAT inclusive price + additional fee) *3%
Caishui [2016] 68	Notice to Further Clarify the VAT Reform Policies Concerning Reinsurance, Immovable Property Leasing and Education with Non-academic Qualifications	Financial services Education Business support services	Key updates for Circular 68 include • Reinsurance services provided by Chinese reinsurers which are 'fully consumed outside China' by overseas reinsurers should be exempted from VAT • Circular 36 sets out that a life insurance policy, with a term of more than one year, is exempted. Consequently, reinsurance of a life insurance policy with a term of more than one year should also be exempted from VAT Allow payment of VAT under the simplified taxation method at the 3% collection rate for supply of non-academic education services. • The VAT treatment provision of security and protection services can be determined by reference to labor dispatching services (i.e. Cir 47).

Table 2

Topic	Circulars	Key changes
Amendments to the VAT filing returns	Bulletin [2016] No. 27 Bulletin [2016] No. 30	Amendment to the VAT filing returns and guidance to complete the returns.
New VAT revenue sharing scheme for local/ central government	Guofa [2016] No. 26	The State Council lays out a new revenue sharing scheme (i.e. 50/50) between local and central government to compensate the revenue loss due to the abolishment of Business Tax (previously, the full revenue from Business Tax is retained at the local level. For VAT, the central government is entitled to 75% of the VAT collected whilst the local government receives the remaining 25%).
Improve the functions of the Search Platform of VAT Invoices	SAT Bulletin [2016] No. 32	Improvement to the Golden Tax Machine's system functionality to facilitate the e search of input VAT verification process.

Updates on VAT incentives to promote employment of disabled people

SAT issued Bulletin [2016] No. 33 and Caishui [2016] No. 52 which set out the requirements for qualified taxpayers that employ disabled people to apply for VAT refunds based on the number of disabled people hired.

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India

Model GST law released

The Model Goods and Services Tax Law was placed on the website of the Ministry of Finance on 14 June 2016. The Deloitte India alert on this development is available here: **Good and Services Tax Alert: Be in the know**.

The draft law provides for the broad architecture under the new regime, including provisions related to the definition of supply, levy and collection of Central GST, State GST, Integrated GST, input tax credit, exemptions, refunds, compliance requirements, transitional provisions, etc.

Introduction of Krishi Kalyan Cess (KKC)

With effect from 1 June 2016, the Government has introduced the levy of KKC on services provided. Various notifications and circulars have been issued in this regard.

The salient features of these notifications and circulars are as follows:

- KKC also applies where service tax is required to be paid under the reverse charge mechanism;

- KKC shall not be levied on those services which are exempt from payment of service tax by way of a notification or any special orders. Also, the benefit of abatement on the value of services on which service tax is levied in the case of specified services shall also be available for payment of KKC;

- Rebate has been allowed of KKC paid on input services used in relation to the export of services;

- Refund has been allowed of KKC paid on specified input services used for the authorized operations of Special Economic Zones (SEZ);

- CENVAT credit of KKC paid on input services is available to service providers who can use the same for payment of KKC only.

No service tax on composite contracts for purchase of flats without machinery provisions to ascertain value of services

In a petition before the Delhi High Court challenging the levy of service tax on consideration paid by flat buyers to a builder/promoter/developer for acquiring a flat in a complex which is under construction, the High Court observed that a contract between a buyer and a builder in development and sale of a complex is a composite one. The arrangement is not for procurement of services simplicitor.

Thus, while the Parliament had legislative competence to tax the element of service involved in a composite contract, the levy itself would fail if the legislation does not provide for a mechanism to ascertain the value of the service component which is subject to levy.

Thus, it held that no service tax could be charged in respect of composite contracts in the absence of specific machinery provisions for ascertaining the service component of an agreement.

Payment processing services provided on own account by Indian company to foreign company not 'intermediary' services for purpose of determining place of provision of service

The question before the Authority for Advance Rulings in this case was whether the place of provision of payment processing services by the applicant is outside India as per the provisions of The Place of Provision of Service Rules, 2012.

The applicants had entered into an agreement with a foreign company located in the USA, which was engaged in providing domain name registration and web hosting services. As per the agreement, the applicant is to provide payment processing services to the foreign company in cases where the foreign company is to receive payments from its Indian customers.

The tax authorities contended that the service provided by the applicant is of collecting the money from customers on behalf of the foreign entity, and hence appear to be covered under 'intermediary services' for which the place of provision of services is the location of the service provider.

The Authority for Advance Rulings held that the payment processing services provided by the applicant to the foreign company were on its own account. The applicant was not concerned with the domain name registration and the web hosting services provided by the foreign entity to its customers in India. Besides, the applicant has also charged a fixed percentage of mark-up on the operating costs incurred for providing the services. Thus, the same shall be classified as 'Business Support Service'. Furthermore, the definition of 'intermediary' does not include a person who provides the main service on his own account as in the present case.

Hence, the services shall not be classified as intermediary services for the purpose of determining the place of provision of service.

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Japan

Consumption tax increase delayed until 2019

On 1 June 2016, Prime Minister Abe announced his decision to delay an increase in Japanese Consumption Tax (JCT) for 30 months to 1 October 2019. The JCT increase to 10% was initially planned on 1 October 2015, as part of the two-stage JCT increase from 5% to 8%, and then to 10%.

After the first increase to 8% on 1 April 2014 resulted in an economic downturn, Prime Minister Abe postponed the second increase for 18 months until 1 April 2017. At the same time, he removed from the law the 'economic conditions' clause stipulating the Government's discretion to delay or cancel a JCT rate rise base on prevailing economic conditions. However, as it turned out, the JCT increase to 10% was postponed for a second time to avoid a further weakening of consumer spending.

The implementation of a reduced JCT rate of 8% as well as the related changes in invoicing requirements, which were set for 1 April 2017, are also likely to be delayed until 1 October 2019.

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Kazakhstan

Natural fur product labelling

Law № 466-V dated 29 February 2016 has ratified an agreement to implement a pilot project in 2015-2016 for control (identification) labels on 'items of clothing, clothing accessories and other items made from natural fur'. The Law was published on 2 March 2016.

The agreement extends to business relations stemming from the turnover of 'items of clothing, clothing accessories and other items made from natural fur' that are not subject to control labelling, and to legal entities and individuals registered as individual entrepreneurs handling and/or using the goods in question in business operations.

Goods in the list that have been imported into the Eurasian Economic Union (EEU) and/or that were manufactured in EEU member countries should be labelled.

Goods included in the list may be labelled outside of the EEU. According to the agreement, goods in the list may not be purchased, stored, used, transported or sold without control (identification) labels.

The full agreement text can be found on the official Eurasian Economic Commission (EEC) website and EEU legal website.

Concessions and preferences for official participants in EXPO-2017

Law № 467-V dated 1 March 2016 has ratified an agreement between the Kazakhstan Government and the International Exhibitions Office on concessions and preferences for official participants in EXPO-2017 in Astana.

The agreement consists of three chapters and provides the following concessions and preferences:

- An exemption from all taxes and charges for section commissar offices and employees;
- An exemption from customs payments for section commissar offices;
- Free annual multi-entry visas for all country section staff, including for their family members;
- Preferences for section commissar member family members and their employees;
- Official participants' driving licenses issued in UN countries will be recognized in Kazakhstan.

According to the agreement, foreign goods used to organize and hold the exhibition and imported by a commissar office for official use are declared exempt from customs duties and taxes, and non-tariff and technical regulation, which means they are registered under special customs procedures.

Imported goods are subject to sanitary, veterinary and phytosanitary inspections, and other related measures in accordance with EEU law.

Goods exempt from import duties and taxes and imported exempt from non-tariff and technical regulation may not be used for commercial activities, sold or otherwise disposed of.

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

The concessions and preferences provided under this agreement are in force from 1 March 2016 until 31 December 2017, except for the customs concessions and preferences referred to in article 12 of the agreement, which are in force from 1 March 2016 until 9 March 2018.

Certificate of origin forms

Order of Acting Minister for Investment and Development № 6 dated 9 January 2015 has approved the following certificate of origin forms:

1. Certificate of origin form 'CT-1'
2. Certificate of origin form 'A' in English
3. Certificate of origin form 'Original'
4. Certificate of origin form 'CT-2'
5. Certificate of origin form 'CT-KZ'.

The full document text can be found in official sources.

The Order enters into force at the end of 10 calendar days from its official publication, which was 17 March 2016.

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Singapore

New procedures for amendments to Non-Preferential Certificate of Origin(s)

With effect from 20 June 2016, any amendments to be made to an approved Non-Preferential Certificate of Origin (CO) shall be made via an online amendment or re-application of the CO in TradeNet®.

Exporters or their Declaring Agent(s) will have to ensure that the correct message type for re-application is declared and that the previous CO number and reason for cancellation is clearly specified under the 'Traders Remarks' field. Endorsements of manual amendments of the CO are accepted by Singapore Customs on a case-by-case basis.

The original CO must be returned to Singapore Customs for cancellation within one week of the online amendment or re-application.

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EMEA

European Union

ECOFIN conclusions and VEG opinion on the EU Commission's VAT Action Plan

At its 25 May 2016 meeting, the EU's Council of Finance Ministers (ECOFIN) adopted conclusions on measures to reduce VAT fraud and to reduce compliance burdens for micro-SMEs, and supported the proposed change from the origin principle to the destination principle and the intention of the Commission to present a proposal for increased flexibility for Member States, so that they could benefit from the existing reduced and zero rates in other Member States; see **Council conclusions on the VAT action plan and on VAT fraud**.

Separately, the Commission's VAT Expert Group has adopted an **Opinion on the VAT Action Plan**. Among other things, the Opinion calls on Member States, the Commission and businesses to make effective use of existing measures to tackle VAT fraud in the short term, and to work together in order to create a robust, fair and efficient destination based definitive system for the Single European VAT Area.

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Denmark

CJEU confirms that reverse charge VAT accounting applied to supply of gold bearing scrap

The Court of Justice of the European Union has delivered its decision in the case of *Envirotec Denmark ApS*. The case arose from an attempt by Envirotec to reclaim input VAT on the purchase of ingots made up of a fusion of scrap gold and other materials. It appears that Envirotec paid VAT to the supplier when it bought the material, but that the supplier went into liquidation before accounting for output tax on the supply. The tax authorities took the view that Envirotec should not have paid the VAT to the supplier but was liable to account for the output tax on the transaction under the reverse charge rules. The Østre Landsret (Eastern Regional Court) referred questions to the CJEU to see if EU law permitted the application of the reverse charge to materials of the type involved in the case.

Advocate General Juliane Kokott suggested that the CJEU should find that EU law allows Member States to apply the reverse charge to scrap of the type involved in the case and this view has been followed by the Court. Accordingly, Envirotec was liable for output VAT under the Danish reverse charge rules, despite having paid the tax (wrongly) to its supplier.

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France

Conseil d'État rules in VAT case on non-utilization or expiry of multiple-usage or 'carnet' cinema tickets

The *Conseil d'État* has delivered its judgment in a VAT case relating to the non-utilization or expiry of multiple-usage or 'carnet' cinema tickets (*MK2*, *Conseil d'État*, n°373591 (15 April 2016)).

The *Conseil d'État* has held that the service received in exchange for the price paid for a carnet (booklet) of cinema tickets, or a card valid for multiple showings, comprised the right for the customer to benefit from the execution of the obligations resulting from the contract concluded with the cinema operator, irrespective of whether the customer took advantage of that right.

As a result, the amounts retained by the cinema operator in the event of the non-utilization or expiry of such tickets must be viewed as the consideration for a supply of services subject to VAT, rather than as compensation falling outside the scope of VAT.

The taxable event arises when the customer, in attending the showings to which he is entitled, benefits from the agreed service, or, if this does not happen, at the time when the tickets or cards expire.

VAT is due when payment is received, provided that all of the elements relevant to the taxable event (in other words, the service), are known at the time of payment.

The *Conseil d'État* applied the principles recently established by the Court of Justice of the European Union concerning the VAT treatment of unused, non-refundable airline tickets (see *Air France-KLM* and *Hop!-Brit Air*, joined cases C-250/14, C-289/14).

Import VAT and reverse charge mechanism – current legislative evolutions

The bill relating to the *économie bleue*, which aims at boosting French ports, includes one measure concerning VAT. This measure removes the conditions that must be met to benefit from the reverse charge mechanism for the import VAT option for businesses established in France or in the EU.

As from 1 January 2015, the reverse charge procedure for import VAT **is an option** that may be chosen when submitting a declaration to the customs authorities so as to simplify two steps of the former procedure: the customs authorities calculate the import VAT but do not collect it; traders pay the import VAT due on imported goods via their VAT returns.

Until the bill relating to the *économie bleue* enters into force (it has been recently adopted by the French Parliament but not yet published as law), this procedure is open to taxable persons who customs-clear their goods through a single national clearance procedure (PDU – *procédure simplifiée de dédouanement avec domiciliation unique*).

The bill amends the conditions to benefit from this scheme for EU businesses. EU companies and non-EU companies will have two different treatments:

- Companies established in the EU would be able to account for VAT under the reverse charge mechanism by making an option for this regime. (There is no need to meet any particular conditions beyond the making of the option itself. In particular, it will no longer be necessary to use the PDU.)

- For companies not established in the EU, the existing regime will continue to apply, as the law will not make any changes in this respect.

The Government has recently proposed, in a second (new) bill, several changes to the abovementioned regime concerning EU business, notably the re-establishment of conditions to benefit from the optional regime, unless the business has AEO status. As regards non-EU businesses, under the second bill, such businesses will continue to be able to opt for the reverse charge regime. However, in order to do so, they will need to appoint a customs representative with AEO status. This bill is currently being debated by the French Parliament and the final version may well differ from the current provisions.

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Germany

CJEU decides that 'deemed' customs debt does not crystallize VAT liability activity

The Court of Justice of the European Union has delivered its judgment in the joined cases of *Eurogate Distribution GmbH* and *DHL Hub Leipzig GmbH*. The cases concerned claims by the tax authorities that 'technical' failures to comply with customs formalities resulted in a VAT liability as well as a customs debt.

The CJEU decided that, despite the fact that the failures to comply with the terms of the customs regimes that the goods were under meant that customs debts were incurred in relation to them, that did not mean that there was an 'import' for VAT purposes. On the facts of the two cases, it decided that there was no 'import' for VAT purposes and it follows that Eurogate and DHL were not liable for the import VAT claimed by the tax authorities.

CJEU judgment in partial exemption case

The CJEU has delivered its judgment in the partial exemption case of *Wolfgang* und *Dr Wilfried Rey Grundstücksgemeinschaft GbR*, which concerned the calculation of deductible input tax incurred in relation to a 'mixed use' building that was the subject of taxable and exempt supplies. The taxpayer sought to use a values based apportionment while the tax authorities argued that an apportionment based on the areas of the building that were the subject of taxable and exempt letting produced a more accurate attribution.

The CJEU confirmed that Member States are not required to impose a 'direct attribution' step in a partial exemption calculation where it would be 'difficult' to perform such an attribution, albeit the Court seemed to think that it would often be fairly easy to attribute costs to the taxable and exempt use parts of a building. It went on to confirm that, if the calculation method changes during the period that the initial input tax deduction is open for adjustment (e.g. in the context of an annual or capital goods scheme adjustment), the substitute method (and not the one used to calculate the initial deduction) should be used to compute the adjustment. It also confirmed that changes in calculation methods of the sort at the heart of the case do not contravene the EU law principles of legal certainty and legitimate expectation.

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Greece

VAT treatment of services provided between establishments of same legal entity

The VAT department of the Ministry of Finance has issued guidance (Decision ΔΕΕΦΑ 1067167 ΕΞ 2016/25.4.16) which provides that services provided between establishments of the same legal entity, i.e. by a head office to a branch and vice versa, fall outside the scope of VAT. The guidance has its basis in the decision issued by the Court of Justice of the European Union in the *CFE* case (C-210/04).

According to the Court's rationale, the branch must not operate independently; if this was the case no legal relationship would exist with the head office and VAT would apply. Based on the CJEU decision, it is necessary to look at whether the branch bears its own business risks and whether it depends on the head office in determining whether the branch operates as an independent person and thus can have a legal relationship with the head office.

There are some questions as to whether the guidance issued by the Ministry suggests that the tax authorities not impose VAT on every transaction (or only on administrative services) between a head office and a branch. It also needs to be clarified whether a different rule should apply where the head office or the branch is established in a third country, and whether the supplier of the services preserves the right to deduct input VAT.

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Hungary

New VAT rates introduced for internet access, food items and restaurant services and a change in reporting thresholds

Parliament recently accepted an Act that modifies certain VAT rates. Currently, the standard VAT rate is 27%, with reduced rates of 5% and 18%.

The Act introduces an 18% VAT rate for internet access services as of 1 January 2017. The VAT Act will refer to the definition of internet access services set forth in an EU regulation. According to this, internet access services are publicly available, electronic communication services that provide access to the internet, and in principle to all the end-points thereof, irrespective of the network technology and terminal equipment used by end-users.

In addition to the above, based on the Act, a 5% VAT rate will apply to certain essential food items (milk, egg, poultry), and an 18% VAT rate to restaurant services as of 1 January 2017. Subsequently, the VAT rate of restaurant services will be reduced to 5% as of 1 January 2018.

The Act also introduces a new threshold for the purposes of reporting invoices in the Domestic Sales and Purchase Listing (DSPL). As of 1 July 2017, domestic invoices where the VAT charged exceeds HUF 100,000 (approx. EUR 320) will be required to be included in the DSPL. The current threshold for DSPL reporting is HUF 1,000,000 (approx. EUR 3,200). As of this date, a new electronic real-time data reporting obligation is foreseen for invoices exceeding the same threshold. The exact rules for this electronic reporting are yet to be detailed. As an additional change, after 1 January 2017, invoices exceeding this threshold should indicate the VAT number of the customer.

The draft is currently pending the signature of the President, which is required for the changes to become official.

CJEU rules that 'not for profit' companies were carrying on an economic activity

The Court of Justice of the European Union has gone straight to judgment in the case of *Lajvér Meliorációs Nonprofit Kft.* and *Lajvér Csapadékvízrendezési Nonprofit Kft.*, which concerned the recovery of VAT on the cost of the construction and operation of a water disposal system. The project was largely funded by national and EU aid and the two 'not for

profit' companies involved planned to charge only 'modest' fees for the use of the system. The tax authorities decided that the companies were not carrying on an 'economic activity' and rejected the VAT claims made by them.

The CJEU disagreed. It decided that the construction and operation of the works amounted to 'economic activity'. It also commented that "... the fact that the price paid for an economic transaction is higher or lower than the cost price, and, therefore, higher or lower than the open market value, is irrelevant for the purpose of establishing whether it was a transaction effected for consideration ...". It was left to the Kúria (the Supreme Court) to determine whether there were any factors that broke the link between the charges made and the use of the system, and whether the transaction at issue in the case is a wholly artificial arrangement which does not reflect economic reality and was set up with the sole aim of obtaining a tax advantage.

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Iceland

Amendments to VAT legislation

Changes to VAT turnover thresholds take effect on 1 January 2017. Various other changes to VAT legislation have been proposed but not yet approved.

On 1 June 2016, Parliament approved the following changes to the VAT legislation that are to take effect on 1 January 2017:

- The turnover threshold for taxable sales was increased from ISK 1,000,000 to ISK 2,000,000. This means that those who sell taxable goods or services to the value of ISK 2,000,000 or less in each 12 month period are exempt from VAT tax liability.

- The turnover threshold for settlement periods exceeding two months was increased from ISK 3,000,000 to ISK 4,000,000.

On 25 May 2016, the Minister of Finance and Economic Affairs presented a draft bill to Parliament that contains measures to combat tax evasion with respect to ownership of entities in low-tax jurisdictions. The draft bill, which was prepared in response to the so-called 'Panama Papers', would introduce substantial restrictions on the ability of Iceland residents to engage in transactions with parties in low-tax jurisdictions and expand the powers of the tax authorities to obtain information on such transactions.

The bill would introduce the following changes to Iceland's VAT legislation:

- Extension of the period in which the tax authorities can issue a reassessment of tax on income or assets located in a low-tax jurisdiction from six to ten years;

- Extension of the statute of limitations from six to ten years for the tax authorities to impose penalties on persons for incorrect or misleading information on any significant issues relating to VAT or withholding tax with regards to assets in low-tax jurisdictions.

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Italy

Clarifications regarding new VAT reverse charge for supplies of game consoles, tablet PCs and laptops

In Circular letter n° 21/E, dated 25 May 2016, the tax authorities provided some further clarifications regarding the new reverse charge mechanism (applicable from 2 May 2016 until 31 December 2016), including the following:

- For suppliers, it has been clarified that the new reverse charge does not apply to supplies of game consoles, tablet PCs, laptops and integrated circuit devices carried out by 'retail traders' (and generally made to final users);

- For customers, it has been clarified that, for supplies to foreign companies (not established in Italy and without a permanent establishment in Italy), customers must apply for VAT registration in Italy;

- With respect to goods, it has been clarified that the specific commodity codes (9504 50 50 for game consoles and 8471 30 00 for tablet PCs and laptops) together with the technical features and commercial quality shall be taken into account for a proper identification of the goods subject to reverse charge.

Reduced 10% VAT rate for marina resorts

The central and regional authorities (during a conference held on 9 June 2016) have jointly agreed the conditions that must be met for marina resorts to qualify as open-air accommodation facilities. Therefore, the reduced 10% VAT rate now applies to marina resorts in all the regions of Italy.

This cooperation between the central and the regional authorities successfully overcomes the challenges of the Constitutional Court, which declared as unconstitutional the recent law provision (applying the 10% VAT rate to marina resorts) because of the breach of the principle of 'sincere cooperation' between the central and regional authorities. (For further information, please refer to decision n° 21/2016, discussed in the **March 2016 edition of this Newsletter**.

MOSS

In Circular Letter n° 22/E, dated 26 May 2016, the tax authorities focused on the MOSS regime, to provide some official guidelines regarding the territoriality rules that apply to supplies of telecommunications and broadcasting services.

Furthermore, the tax authorities provided some significant clarifications regarding:

- Invoicing obligations in terms of possible exonerations;
- Penalties for MOSS non-compliance (failure to register and late registration, incomplete and incorrect MOSS VAT returns, non-compliance with invoicing and accounting obligations).

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UCC news

News has been published by the Customs and Monopoly Agency in the light of the Union Customs Code (UCC).

On 16 May 2016, the Agency issued specific drafting guidelines relating to customs declarations for transactions that are based on processing under customs authorizations granted before 1 May 2016 (i.e. before the entering into force of all the UCC provisions and relevant acts).

On 20 May 2016, the Agency published the Italian version of the AEO self-assessment questionnaire (i.e., which complies with the new customs provisions).

On 1 June 2016, the Agency published the format for the request for authorization to provide a comprehensive guarantee to cover the amount of import or export duty corresponding to the customs debt in respect of two or more operations, declarations or customs procedures (i.e., provided by art. 89, par. 5, of UCC).

Penalties update

A legislative decree entered into force on 6 February 2016 with reference to certain criminal penalties for customs violations that are now classified as administrative.

In this respect, some clarifications, further to those issued on 3 May 2016, were published by the Customs and Monopoly Agency on 24 May, mainly relating to the relevant procedural aspects.

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Netherlands

Analysis by customs authorities not always binding for tariff classification

The Court of Justice of the European Union agreed in the case *Oniors Bio* (case C-233/15) of 28 April 2016 that, notwithstanding contradicting indications in the samples taken by the customs authorities, the tariff classification of a mixture of oils as 'inedible' could be justified.

Indication of (in)edibility

In this case, the CJEU notes that, in order to categorize the mixture of oils as 'inedible' and to classify it under CN subheading 1518 00 31, it is not essential that it has been irreversibly rendered unfit for use in food by targeted action during its production process. It suffices that it comes within the notion of inedible mixtures by reason of its objective characteristics and properties, as well as by reason of the intended use which results therefrom.

Information such as that provided by the producer according to which the presence in the mixture of substances harmful to human health could not be excluded, is a factor which could show that the mixture in question cannot be categorized as 'edible'. That information is not automatically called into question by the results of an analysis of samples taken by the customs authorities which did not show the presence of noxious substances, in so far as such a presence, in the mixture of vegetable oils in question, is not certain, but only possible.

When an analysis of the customs authorities may cast doubt on the information provided by the producer, these authorities can carry out additional research and require the declarant to present other documentary evidence to confirm or disprove the accuracy of the producer's information. In absence of such factors and additional evidence which might call into question the accuracy of the information provided by the producer, the customs authority cannot rely merely on the absence of noxious substances in the samples in order to classify the mixture in question under a CN heading covering food products.

Consequences

As a result of this case, when imported goods could possibly be classified in different (sub)headings of the CN, the intended use of the goods could be a relevant criterion for the tariff classification. Deviating results of an analysis of samples taken by the customs authorities do not necessary exclude the relevance of the intended use. It instead gives rise to further research on the accuracy of the information.

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Malta

Guidelines on VAT treatment of aircraft leasing published

In April 2016, the Malta VAT authority published guidelines regarding the VAT treatment of aircraft leasing between a lessor and a lessee, where both are established in Malta and the latter is not eligible to claim input VAT in respect of the lease.

According to the guidelines, the standard VAT rate of 18% is to be applied on a specific percentage of the consideration according to the aircraft's range, representing the estimated use of the aircraft in EU airspace. The longer the range of the aircraft, the less percentage of the aircraft's use is deemed to be in EU airspace, and thus VAT is to be charged on a smaller part of the consideration. Such approach has been developed following expert technical studies.

Application of the guidelines is subject to prior approval by the VAT authority on a case-by-case basis. The guidelines are applicable to lease agreements not exceeding 60 months, where instalments are payable on a monthly basis. Further conditions may be imposed where deemed appropriate by the VAT authority.

The guidelines supersede previous aircraft leasing guidelines published in October 2012.

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Poland

CJEU rulings in Polish cases

VAT treatment on liquidation

The Court of Justice of the European Union has recently issued a ruling in the Polish case of *Jan Mateusiak* concerning the VAT treatment of goods used for the purpose of a business activity (run in a certain form) that, as a result of the liquidation of the taxpayer's business activity, were transferred into private inventory.

Under Polish VAT law, such a transfer requires that all goods that are part of the enterprise and on which input VAT has been recovered, are subject to VAT upon liquidation. An issue arose as whether this treatment is correct if the deadline for any adjustments of input VAT (five years) has lapsed.

The CJEU concluded that the provisions imposing the said obligation are correct, and the fact that corrections of input VAT can no longer be made does not affect the conclusion.

VAT rates applicable to food products

Also, the CJEU is to rule on the Polish VAT provisions concerning VAT rates applicable to certain food products that align the VAT rate applicable to the products with the minimum durability date.

In particular, Polish VAT law allows for application of the reduced VAT rate to certain types of products, provided their minimum durability date is less than a certain number of days, whereas similar products do not enjoy the preferential VAT rate (only on the grounds of the said durability date). This issue will now be subject to CJEU jurisprudence on whether VAT rates on similar products may be differentiated in such a way.

The ruling, should it conclude that such VAT treatment distorts competition, may open VAT overpayment proceedings. Further developments will be reported in future editions of this newsletter.

Update on JPK (Polish SAF-T) regulations

The amendment to the tax law imposing the obligation to transfer VAT registers (in the JPK format) **on a regular, monthly basis along with the VAT return** has now been officially implemented – the bill was signed by the President.

As a result, all 'large' companies will be required to report VAT registers (in JPK format) starting from the VAT return for July 2016 within the deadline of 25 August 2016. 'Large' companies are those with more than 250 employees (regardless of the financial conditions) or with more than EUR 50 million of net turnover and EUR 43 million of assets (if employing less than 250 people) in at least one of the previous two fiscal years.

A similar requirement is to be implemented with respect to medium-small taxpayers as of 1 January 2017.

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Portugal

Simplified measures announced with impact on tax matters

On 19 May 2016, the Government presented the SIMPLEX+2016 program, which provides 255 measures that intend to simplify administrative procedures, reduce bureaucracy, and make life easier for citizens and businesses.

Below is a summary of the main proposed measures related to indirect tax legislation, as well as the expected implementation date (still to be legislated):

Expected implement-ation date	Proposed measures	Objectives
2nd Quarter 2016	Permanent inventory system	Replaces the obligation of permanent inventory by the permanent provision of accounting documentation which support stocks (such as invoices, credit and debit notes relating to purchases, sales, consignments and others).
4th Quarter 2016	Online scheduling of meetings with PTA	Makes possible the online scheduling of in-person meetings with the Portuguese Tax Authorities (PTA), avoiding the need to wait on local tax offices and allowing for more specialized assistance.
	Tax payments	Intends to implement the direct debit mechanism for the payment of taxes.
	Tax e-password in real time	The password to access the PTA's website shall be generated/provided when the tax number is created.
	Online approved exporter status	Creates an electronic form with the application intended to be filled by companies wishing to apply for the status of approved exporter for the issuance of proofs of origin, replacing the current paper form.
	Debt certificates	Simplifies the process of obtaining tax status certificates for companies that have debts which have been guaranteed.
	Tax free	Creates a simplified certification system for tax free goods that are carried by travellers who will apply for a VAT refund.

1st Quarter 2017	Electronic tax notifications for non-residents	Creates a system of electronic notifications for non-resident taxpayers, through the PTA's website, eliminating the requirement to appoint a fiscal representative.
	Current account offsets	Possible offset between taxpayers and the State, where the State is a debtor. At first, only to situations related to judicial processes in which the State has been sentenced to pay certain amounts and which do not allow any appeals.
2nd Quarter 2017	Annual Tax Return (IES)	Simplifies the filling of Annexes A and I of the Annual Tax Return (IES), by eliminating about half the boxes to fill and pre-filling a significant part of the remaining boxes with information extracted from the SAF-T PT (Standard Audit File for Tax Purposes) previously communicated to the PTA. In a second phase, the remaining Annexes will be simplified.
	VAT refunds for taxable persons established outside the territory of the Community	Enables the electronic submission of VAT refund requests and implements automatic control validation procedures.
	Vehicle tax	Simplifies the fulfilment of obligations related to vehicle tax.
4th Quarter 2017	Online tax – audit procedures	Introduces the de-materialization of audit procedures. Taxpayers subject to tax audits will have access on the PTA's website to i) the information of all phases of audit procedures to which they may be subject, ii) the history of past audit procedures, as well as, iii) the relevant documentation related to these procedures.
	Customs' payments	Implement the payment system (Single Document Collection for tax) in the customs area.
	Limit the foreclosure of bank account balances	Limit the foreclosure of bank account balances to the amount actually due, creating an electronic mechanism that prevents the foreclosure of the full bank account balance.

VAT rate change for certain supplies of meals

As discussed in the **March 2016 edition of this newsletter**, under the State Budget for 2016, the intermediate VAT rate (13% in the Mainland, 12% in Madeira and 9% in Azores) will apply, as of 1 July to meals ready to eat, takeaway with or without home delivery, and to supplies 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. This will replace the application of the standard VAT rate of 23%, 22% and 18% respectively.

Further to this, the PTA has issued a ruling with its understanding of the goods and services that fall within this provision, which can be summarized as follows:

- Meals ready to eat and takeaway (with or without home delivery)

  According to the PTA, this includes recently prepared dishes, ready for immediate consumption, with or without home delivery (takeaway, drive in or similar).

  Food products sold in supermarkets, grocery stores and similar that are sold canned or frozen will not be considered ready to eat and, as such, they are not covered by the intermediate VAT rate. The PTA also considers that deliveries of foods made through vending machines are not covered by the intermediate VAT rate.

  Furthermore, the PTA considers that beverages (water, juices, wine, etc.) shall not be considered under the scope of the referred meals and takeaways, meaning that they will be subject to the correspondent VAT rate applicable to the goods in question (e.g., mineral water not sparkling and wine are to be taxed at the intermediate VAT rate, other alcoholic drinks are to be taxed at the standard VAT rate, etc.).

- The supply of services of meals and beverages, excluding alcoholic beverages, soft drinks, juices, nectars and carbonated water or water added of other substances/catering services

The PTA considers that the concept of services of meals and beverages should follow the definition established in EU Implementing Regulation No 282/2011 (of 15 March 2011) and accordingly, the services included under the scope of this provision are "services consisting of the supply of prepared or unprepared food or beverages or both, for human consumption, accompanied by sufficient support services allowing for the immediate consumption thereof. The provision of food or beverages or both is only one component of the whole in which services shall predominate. Restaurant services are the supply of such services on the premises of the supplier, and catering services are the supply of such services off the premises of the supplier". The tax authorities reiterates that the mere "supply of prepared or unprepared food or beverages or both, whether or not including transport but without any other support services" is excluded from the concept of "services of meals and beverages and catering".

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Russia

Law on subjecting e-services to VAT approved

It is reported that the President of Russia signed Federal Law No. 244-FZ of 3 July 2016 establishing the rules for VAT assessment on services provided electronically by foreign companies.

The law requires foreign businesses supplying electronic services (e-services) to private customers (i.e. business-to-consumer or B2C supplies) in Russia to register for VAT purposes and charge VAT at a rate of 15.25% (applied to VAT-inclusive service fees). E-services are defined as services delivered over the internet or similar electronic networks that are automated and that rely on information technologies. The list of e-services that fall within the scope of the introduced rules is extensive and includes among others the provision of the right to use software, including online games and databases, in particular, by providing remote access, as well as updates and additional functions; the provision of advertising services on the internet, including the use of web-based software and databases and the provision of advertising space on the internet; the provision of services for placing offers for the acquisition (sale) of goods, work and services and property rights on the internet.

The law establishes rules for registration and communications with the tax authorities via the taxpayer portal.

The law is to become effective on 1 January 2017, and affected foreign suppliers of e-services would be required to submit their registration applications within 30 days from the effective date.

Amendments to VAT recovery procedure for operations subject to 0% VAT

It is reported that the President of Russia signed the Federal Law No. 150-FZ of 30 May 2016 "On making amendments to Chapter 21 of Part Two of the Tax Code of the Russian Federation" according to which the general procedure of input VAT recovery will be applied to export operations (excluding the export of raw goods), i.e. the input VAT related to export operations may be claimed for recovery in the tax period when the general conditions for the recovery are met (i.e. acquired goods/work/services are taken in accounting records, the VAT invoice is received).

The list of raw goods includes mineral products, products of chemical industry and related industries, timber and goods from timber, charcoal, pearls, precious metals, non-precious metals and goods from these metals. The list of classification codes of these raw goods according to the Commodity Nomenclature of Foreign Economic Activity of Eurasian Economic Union will be determined by the Government.

The amendments will come into force on 1 July 2016 and will cover the goods/work/services booked in accounting records after 1 July 2016.

Extension of period of application of 0% VAT rate for services of railway suburban transportation of passengers

It is reported that the President of Russia signed Federal Law No. 173-FZ of 2 June 2016, according to which the period of application of the 0% VAT rate with respect to the services of the transportation of passengers by railway suburban transport has been extended until 31 December 2017.

Introduction of exemption from VAT for operations of waste paper supply

It is reported that the President of Russia signed Federal Law No. 174-FZ of 2 June 2016 "On introduction of changes to art. 149 of Part Two of the Russian Tax Code" according to which operations related to the supply of waste paper on the territory of Russia are exempt from VAT. According to the Federal Law, the concept of 'waste paper' includes paper and carton waste from manufacturing and consumption, defective and worn-out paper, carton, printing items, business papers including documents with expired storage period.

Amendment of list of foods prohibited for import into Russia

Since August 2014, certain foods are prohibited for import from the EU, the USA and several other countries. The Russian Government Resolution of 27 May 2016 No. 472 allows the import of goods for the nutrition of children from the said countries with proof of intended use of the imported goods issued by the Russian Ministry of Agriculture.

The Resolution came into effect on 9 June 2016.

Clarifications of the Plenum of the Russian Supreme Court on several questions of application of customs legislation

The Resolution of the Plenum of the Russian Supreme Court of 12 May 2016 No. 18 clarifies several questions related to the determination and control of the customs value of imported goods, the inclusion of royalties in the customs value of imported goods, the order of appeal of the acts of the customs authorities and the return of overpaid customs payments.

The clarifications of the Russian Supreme Court may significantly impact the application of the effective customs legislation as they contain an innovative approach to several issues, e.g., customs valuation. For instance, if the price of imported goods is significantly lower than the price of identical/similar goods, the importer should beforehand collect the proofs of the decreased customs value. In court disputes on customs valuation the courts should not allow the importer and the customs authority to provide new evidence where the possibility to disclose such documents existed at the stage of additional verification of the customs value, but the parties did not use it.

It is recommended that importers check their import practices according to the new approach of the Russian Supreme Court.

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South Africa

Expiration of safeguarding measures on frozen potato chips

In response to a significant increase in the import of frozen potato chips from 2008 resulting in the Southern African Customs Union (SACU) experiencing serious injury, the International Trade and Administration Commission (ITAC), after an investigation, made a decision to impose definitive safeguard measures for a period of 2 years and 11 months.

The safeguarded item, implemented in July 2013 at a rate of 61.42%, was reduced to 40.92% in July 2014, to 20.45% in July 2015, and expired on 4 June 2016.

The safeguard duty applied to frozen potato chips originating from the following countries:

- Argentina
- Belgium
- France
- Germany
- Netherlands
- USA.

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Spain

New electronic certificates for tax purposes

From 6 June 2016, the Spanish Royal Mint (*Fábrica Nacional de Moneda y Timbre*) has started to issue new user certificates, with new specifications, (for relevant electronic dealings with the tax authorities) in line with the technical specifications set out in Regulation (EU) 910/2014 of the European Parliament and the Council of 23 July 2014, related to electronic identification and reliable services, which will be applicable from 1 July 2016.

Although the 'old' user certificates are longer being issued, it will be possible to continue using them until their expiry or revocation.

Therefore, when an entity has to renew a current user certificate, it must obtain a new one from Spanish Royal Mint; it will not be possible to renew it automatically, as has been done so far by electronic means.

The Spanish Royal Mint provides two types of user certificates: for legal representatives of a company (registered as such in the Commercial Register) and for other types of representatives.

To obtain a new certificate, the legal representative should provide the tax authorities with the original Power of Attorney by which the entity gives power to its legal representative to act on its behalf and a certificate from the Commercial Registry in regards to the incorporation of the company and to the appointment of the legal representative.

VAT refunds can be made to SEPA bank accounts, but VAT payments cannot be made from SEPA bank accounts

Recently, the tax authorities have allowed taxpayers to request a VAT refund by means of a SEPA (Single Euro Payments Area) bank account via the periodical VAT return, in accordance with the requirements for payment services within the EU, as set forth by EU Directive 2007/64/CE.

At present, VAT payments to the tax authorities cannot be made by means of a SEPA bank account via the VAT return. Accordingly, VAT payments should continue to be made from Spanish bank accounts. However, it is understood that the intention is that in the near future VAT payments will be able to be made via credit card, which would entitle taxpayers to obtain the relevant NRC (for making the payment) through a foreign credit card. (The NRC is the code generated by the bank to enable taxpayers to file VAT returns with a payable VAT position.)

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United Kingdom

Brexit and Indirect Tax

The vote in favor of the UK exiting the EU means that there will be significant changes to the UK's indirect taxes – albeit in the short term, changes are likely to be limited. The UK's current relationship with the EU is likely to remain in place for a time, but changes to the treatment of trade with EU Member States are verging on certain, the way that UK law interacts with its EU counterparts will be altered, and it is also clear that the UK will have greater ability to tune its VAT system, without the constraints imposed by EU law – all matters that are likely to prompt changes to accounting systems and practices. The Deloitte UK **Briefing Paper on the Direct and Indirect Tax Implications of the UK leaving the EU** considers some of the tax issues.

CJEU decides against taxpayers in 'payment processing' VAT exemption cases

The Court of Justice of the European Union has delivered its judgments in the 'payment processing' cases of *National Exhibition Centre Limited* and *Bookit Limited*. The cases concerned the VAT treatment of fees charged by the NEC and Bookit and whether they were exempt from VAT as payments for handling debit and credit card payments.

In both cases, the CJEU has decided that the fees charged fell outside the scope of the EU law exemption for "…transactions … concerning … payments, transfers …" and it follows that they were subject to VAT at the standard rate. For further information, please see the Deloitte UK **Indirect Tax Alert**.

Consultation on Landfill Tax 'taxable disposal'

The tax authorities (HMRC) have published a **consultation document** focusing on the meaning of 'taxable disposal' for Landfill Tax purposes. The consultation seeks views on proposals to amend the definition of a taxable disposal of waste at a landfill site, with the aim of clarifying the scope of the tax. It also calls for information and views on the limited circumstances where hazardous waste falls within the scope of the lower rate of Landfill Tax.

The consultation seeks views from operators of landfill sites and other waste sector interests in England, Wales and Northern Ireland (recognizing that Landfill Tax in Scotland is a devolved matter), other producers of waste including energy generators, and representative bodies. Responses are sought by 18 August 2016.

HMRC's new bank details

From February 2016, HMRC moved their bank accounts to Barclays. Most taxpayers who pay bills electronically did not need to take any action, as their payments switched over automatically, but from February 2016 businesses using HMRC's International Bank Account Number (IBAN) and Bank Identifier Code (BIC) details (typically, those making payments from overseas) needed to use a new IBAN and BIC when making payments through their bank. The new IBAN and BIC have been published on-line, but it seems that HMRC's attempts to notify customers about the changes to the Department's bank accounts have not been completely successful and not all businesses affected appear to have been aware of the change. Where payments made to HMRC rely on HMRC's IBAN and BIC information, it would be wise to check that payments since February quoted **the updated IBAN and BIC** and that future payments quote the revised codes.

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Forthcoming changes to customs guarantees

The Union Customs Code is new customs legislation that has been in force since 1 May 2016, albeit with some transitional arrangements. The legislation will lead to many practical changes for importers, particularly for the approximately 10,000 UK holders of customs approvals. One major change is around the need for additional guarantees and the possibility of reducing some existing ones. Holders of approvals such as Simplified Import VAT Accounting, inward processing and customs warehousing will face increased scrutiny and guarantees in order to retain approvals. Guarantee levels will depend upon processes and procedures in place, as well as levels of technical competence in customs matters. Authorized Economic Operators will qualify for reduced amounts of guarantees and can now apply to HMRC for a reduced deferment.

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Eurasian Economic Union

Eurasian Economic Union

Import customs duty exemptions for certain goods

The list of goods that were imported with exemption from customs duty established according to CUC Resolution № 130 dated 27 November 2009 was amended by Eurasian Economic Commission (EEC) Board Resolution № 9 on 12 February 2016. The updated edition provides the following:

> "7.1.14. Civil passenger aircraft in EEU CN FEA subpositions 8802 40 003 5 and 8802 40 003 6, imported into the EEU with the concessions referred to in subpoint 7.1.13 of CUC Resolution No. 130 dated 27 November 2009, and imported for operations in the EEU after repair or technical maintenance outside the EEU."

The Resolution entered into force on 28 March 2016.

Free trade zone with Vietnam

EEC Council Resolution № 36 dated 19 April 2016 has approved a list of goods subject to import customs duties in accordance with the Free Trade Treaty between EEU member countries, as one party, and Vietnam, as the other, dated 29 May 2015, and values for those goods. Import customs duties on goods originating from Vietnam and imported into the EEU will be 0%, except for specific goods, including goods subject to trigger safeguard measures in accordance with article 2.10 of the Treaty.

The Treaty will enter into force when the parties complete domestic ratification procedures.

The Resolution was published on 22 April 2016.

Non-tariff regulation issues

EEC Council Resolution № 34 dated 19 April 2016 has approved a procedure to suspend or terminate export and/ or import licenses, and license execution certificates.

Changes have also been made to application instructions for export and/or import licenses and for drawing up licenses.

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

The Resolution entered into force at the end of 30 calendar days after its official publication, which was 22 April 2016.

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Import customs duty rate lowered on certain goods in the framework of Russia's WTO obligations

EEC Resolution No. 40 of 16 May 2016 lowered the import customs duty rate on certain goods in the framework of Russia's WTO obligations. The import customs duty rates are decreased with regard to certain types of paper, shoes, sweets, fish, black metals, cars, industry refrigerating machinery and construction materials.

The Resolution comes into effect on 1 September 2016, with the exception of several provisions which come into effect on 31 December 2016.

Introduction of antidumping duty to ferrosilicon manganese originating from Ukraine

EEC Collegium Resolution No. 58 of 2 June 2016 introduces antidumping duty with regard to ferrosilicon manganese originating from Ukraine and imported into the EEU. The antidumping duty applies to ferrosilicon manganese classified under the classification code 7202 30 000 0 from 3 July 2016 to 3 July 2021. The antidumping duty rate is 26.35% of the customs value, nondependent of the producer of ferrosilicon manganese.

The EEC also decided to provide producers of ferrosilicon manganese in the EEU with a price range, which the producers should follow. If the price range is breached, the EEC will reconsider the antidumping measure.

The Resolution came into effect on 3 July 2016.

Extension of antidumping duty to certain steel tubes originating from Ukraine to 1 June 2021

EEC Collegium Resolution No. 48 of 2 June 2016 extends antidumping duty with regard to certain steel tubes originating from Ukraine until 1 June 2021. Currently the antidumping duty is established at 18.9% to 37.8% of the customs value of imported steel tubes depending on the type of the tubes and the manufacturer.

The Resolution came into effect on 3 July 2016.

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