Inside Indirect Tax

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About this Newsletter

Welcome to *Inside Indirect Tax*—a publication from the KPMG U.S. Indirect Tax practice focusing on global indirect tax changes and trends from a U.S. perspective. *Inside Indirect Tax* is produced on a monthly basis as developments occur. We look forward to hearing your feedback to help us in providing you with the most relevant information to your business.

KPMG Publications

KPMG *TaxNewsFlash* Newsletter on COVID-19 Measures

KPMG has set up a dedicated *TaxNewsFlash* newsletter reporting tax measures adopted by countries around the globe in response to the coronavirus (COVID-19) pandemic, including indirect tax measures. We recommend readers subscribe to this newsletter to stay on top of the most recent guidance. The most common indirect tax measures adopted by jurisdictions include delays in VAT return filing and payment deadlines, relief from late payment interest and penalties, accelerating VAT refunds, and other targeted measures such as exempting certain medical equipment.

Developments Summary of the Taxation of the Digitalized Economy

KPMG has prepared a development summary to help multinational companies stay abreast of digital services tax developments around the world. It covers both direct and indirect tax developments and includes a timeline of key upcoming Organization for Economic Cooperation and Development (OECD), European Union (EU), and G20 meetings where discussion of the taxation of the digitalized economy is anticipated.

Global E-invoicing & Digital Reporting Tracker

KPMG has released an Electronic Invoicing (e-invoicing) and Digital Reporting Global Tracker, providing a summary of tax administration developments related to e-invoicing and digital reporting around the world. Tax authorities across the globe are constantly striving for visibility into a taxpayer's end-to-end sales process using technology tools that automate the tax reporting process, such as e-invoicing, digital reporting, and e-accounting. These technologies can be disruptive and require radical changes in the way taxpayers interact internally as well as with their customers, related parties, and the tax authorities.

Overview of Indirect Tax Developments from KPMG International Member Firms

- **KPMG in Australia** published a report discussing the Australian stamp duty rules for 2022. The report notes that there has been a gradual broadening of the stamp tax base to include extending the definition of what is dutiable property and what is a dutiable transaction, often resulting from court decisions or changes of government policy. Recent changes include: (1) introduction of specific dutiable transactions to tax the transfer or nomination of call options in New South Wales (NSW) for valuable consideration; (2) introduction of a foreign purchaser surcharge tax for foreign persons that acquire residential property at rates of up to 8 percent and an annual surcharge land tax of up to 2 percent on land held as of December 31 of each year; and (3) a move from the traditional characterization of chattels versus fixtures to taxing anything fixed to the land in the landholder tax context. Further, the report notes that despite the re-write of the stamp duty legislation in the early 2000s in many jurisdictions, there are no uniform stamp duty rules across Australia, thus creating potential traps for property ownership. Taxpayers should consider stamp tax advice for all prospective property/land transactions.

- **KPMG in Australia** published a report discussing fuel tax credits available for businesses currently facing high fuel costs. The Fuel excise tax regime is currently embedded in fuel cost and imposed at AUD 44.2 cents ($0.33) per liter. The rate is indexed to the consumer price index (CPI), generally increases twice a year in February and August, and is generally only borne by users of light vehicles and partially by trucks with a gross vehicle weight greater than 4.5 tons when those vehicles are used on a public road. The fuel excise cost for all other business use of fuel has an entitlement to a full fuel tax credit equal to the amount of excise paid. The primary purpose of the fuel tax credit is to mitigate some of the added financial strain that arises from the tax on fuel costs. To take the credit, businesses are required to go through some steps to determine their eligibility. These include (1) checking that all fuel being used off-road or in auxiliary equipment is being claimed at the appropriate rate; (2) verifying the claim for the fuel tax credit is at the correct rates; (3) when making bulk fuel purchases and issuing the fuel over time from the taxpayer's pumps, check that fuel pumps are accurately recording how much fuel is being issued. The report notes other considerations for taking the credit include determining that governance and processes are sufficient and that policies are being followed.

- **KPMG in Australia** published a report on the policy framework review for the taxation of digital assets and transactions in Australia. On March 21, 2022, the Australian government tasked its Board of Taxation to conduct a review of the current tax treatment of digital assets and consider whether changes need to be made to the regime. In exercising this responsibility, the Board was tasked to consult with taxpayers, tax representative bodies, industry stakeholders, and academics and report back to the government by the end of 2022.

- **KPMG in Australia** published a report discussing energy-related measures in the 2022 federal budget. The measures include (1) a temporary reduction of the excise duty rates and excise-equivalent customs duty rates for fuels, including petrol and diesel and similar petroleum-based products and oils and grease; and (2) a temporary levy on offshore petroleum production to recover the costs of decommissioning the Laminaria and Corallina oil fields and associated infrastructure. The temporary reduction of the excise duty rates and excise equivalent customs duty rates for fuels received royal assent on March 31, 2022.

- **KPMG in Bahrain** published a report discussing a new proposal that would allow taxpayers the option of paying VAT on imports after selling their products instead of paying VAT at the time of the customs clearance. The report further notes that the Zakat, Tax and Customs Authority (ZATCA) of Saudi Arabia published a bulletin on VAT refund for diplomatic bodies and that the Qatar General Tax Authority (GTA) launched an online service for taxpayers who are licensed by the Qatar Free Zone Authority to register and obtain tax registration certificates.
- **KPMG in Barbados** published a report discussing indirect tax measures proposed in the 2022 budget that was presented on March 14, 2022. They include: (1) an excise tax and VAT waiver for electric vehicles for 24 months from April 1, 2022; (2) a 2-year import duty and VAT waiver for the purchase and installation of generators at residential homes; (3) the zero-rating of VAT on selected personal and critical care items like sanitary products, baby and adult diapers, antiperspirants, vitamins, and multi-minerals effective April 1, 2022; (4) a VAT rate reduction for gasoline and diesel effective March 16, 2022; and (6) a reduction in tariff for fuel cell electric vehicles.
- **KPMG in Belgium** published a report discussing a temporary reduction of the VAT rate for electricity. Effective March 1, 2022, Belgium reduced the VAT rate applicable to residential electricity consumption from 21 percent to 6 percent through June 30, 2022. The reduced VAT rate will be applied automatically by the electricity vendor for consumers with a "residential" or "non-professional" contract. The application of the reduced VAT rate will depend on whether the consumer shared a business number with the seller. If a business number is shared, the reduced VAT rate will not apply and remains at 21 percent. The Belgian tax authorities published a set of FAQs regarding the application of reduced VAT rate.
- **KPMG in Belgium** published a report discussing the introduction of a temporary VAT tolerance for donations to Ukrainian citizens. Businesses that donate goods to Ukrainian citizens that are normally intended for sale will not be required to adjust their VAT deduction related to these goods. However, to prevent abuse, the donations must be made via designated institutions and meet certain other criteria.
- **KPMG in Belgium** published a report discussing a recent tax authority guidance on temporary VAT tolerances for VAT deduction for mixed-use cars. In general, there are three methods available to determine the business use of cars (for VAT purposes) and the right to deduct VAT on expenses incurred regarding this usage. Under the first method, the taxpayer keeps a daily journey or log. Under the second method, the business use is calculated based on a specific formula developed by the tax authorities, and the formula determines the percentage of personal use, from which the percentage of business use can be determined. Under the third method, the business use is determined at a presumptive rate of 35 percent. Due to the exceptional situation created by the COVID-19 pandemic-related lockdown and teleworking by many employees, for the calendar year 2020, the formula under the second method is skewed. Taxpayers that normally use the second method can exercise their right to deduct under the general presumptive rate of 35 percent (method 3). Taxpayers then may combine the second method and the third method, even though this is normally not allowed. The relief for the calendar year 2020 has been extended to 2021.
- **KPMG in Bermuda** published a report discussing tax measures in the Bermudan 2022-2023 budget presented on February 25, 2022. The budget contains several indirect tax measures, including a land tax exemption for registered care homes and registered charities whose funds are primarily from donations, as well as a reduction of vehicle licensing fees.

- **KPMG in Brazil**: published a report discussing changes in the rates of the tax on financial transactions (*Imposto Sobre Operações Financeiras*—IOF). The IOF is a federal tax levied on credit, exchange, insurance, and securities transactions executed through financial institutions—including intercompany loans. The tax further applies to gold transactions. The rates of the IOF can be increased or reduced by Brazil's federal government by decree; such changes are often effective immediately. The rates are scheduled to be reduced as follows : (1) a gradual reduction of the IOF rate, eventually to 0 percent effective January 2, 2028 for credit card transactions made abroad and the acquisition of foreign currency in traveler's checks or prepaid cards; (2) a reduction of the IOF rate to 0 percent effective January 2, 2029 for the settlement of foreign exchange transactions for (i) acquisitions of foreign currency, and (ii) transfers of funds abroad; and (3) a reduction of the IOF rate to 0 percent effective January 2, 2029 for foreign exchange transactions.
- **KPMG in Canada** published a report issuing a reminder that selected listed financial institution entities must file their final returns by June 30, 2022 for their 2021 fiscal year. Financial institutions that qualify as "selected listed financial institutions" must file their annual goods and services tax (GST) / harmonized sales tax (HST) and Quebec sales tax (QST) final returns within six months of their year-end. Selected listed financial institution entities that have a December 31 year-end must file their final returns by June 30, 2022 for their 2021 fiscal year. In general, a financial institution qualifies as a selected listed financial institution if it has a permanent establishment in an HST province and another province for GST/HST purposes, or in Quebec and another province. Selected listed financial institutions must determine which GST/HST rules apply to their specific facts and circumstances to determine whether they have a permanent establishment in a particular province.
- **KPMG in Canada** published a report discussing provincial sales tax (PST) changes in the 2022 provincial budget for Saskatchewan that was delivered on March 23, 2022. These new measures include the introduction of PST on admission and entertainment charges and credit rating agency services as well as introducing a PST exemption for audiobooks and farm equipment and service.
- **KPMG in Canada** published a report discussing tax measures in the 2022 provincial budget for Nova Scotia delivered on March 29, 2022. The budget proposes to introduce a property tax and deed transfer tax for residential properties owned or acquired by nonresidents in Nova Scotia.
- **KPMG in Canada** published a report discussing draft legislation for a new luxury tax regime that would impose new obligations for vendors, importers, and purchasers of subject vehicles, boats, and aircraft, as well as administrative and transition rules effective September 1, 2022. Under the proposed regime, sales agreements related to "subject items" would be subject to the new luxury tax, unless the purchaser agreed to the purchase in writing before April 20, 2021. The draft legislation outlines the criteria to determine whether an aircraft or a boat is subject to the luxury tax. Special rules would apply for improvements to vehicles, aircraft, and boats, and imports of subject items. When a purchaser provides a specific exemption certificate, the vendor would be granted relief from application of the luxury tax (including when the purchaser certifies that it is a registered vendor).

- **KPMG in Chile** published a report discussing a new VAT refund procedure for nonresident taxpayers registered under the simplified VAT regime for digital services. Under the new procedure, nonresident digital services providers that mistakenly declare and enter an amount of VAT greater than actually due may request a refund or imputation of the excess VAT paid. In addition, nonresident digital services providers may request to modify their tax period and reporting frequency between January 21 and January 31 of each year. If the modification request is accepted, it will take effect on January 1 of that same year.
- **KPMG in the Czech Republic** published a report discussing a decision of the Czech Supreme Administrative Court (SAC) on the adequate proof required in establishing the zero-rating for the sale of goods to EU customers other than those declared on the EC sales list. In this case, the Czech tax authority denied a taxpayer the right to take a VAT deduction on the basis that the documents establishing the sale of goods to a customer in Poland did not include details on the customer's VAT status. The SAC relied on a recent Court of Justice of the European Union (ECJ) judgment in *Kemwater ProChemie*, C-154/20, regarding the denial of a VAT deduction when the actual vendor had not been identified. The ECJ had noted that one of the conditions for claiming the right to deduct VAT is that the recipient must prove, based on objective evidence, that the vendor acted in the capacity of a taxpayer. To deny the claim on the basis that the actual seller was not identified, but was a taxpayer, would be contrary to the EU principle of tax neutrality. The SAC pointed out that by submitting weighing notes, the taxpayer in the case at hand had proved the delivery of rapeseed oil to refineries in Poland in quantities of ten tons or more, which according to the SAC, meant that the receipt of such quantities of oil could only have been carried out by a customer liable to tax. The SAC found that not all relevant facts had been established to deny the company its right to deduct VAT.
- **KPMG in France** published a report discussing a decision of the French Supreme Administrative Court (Conseil d'Etat) nullifying certain paragraphs of the French administrative guidance that deny the benefit of an exception to the application of the digital services tax (DST) for the provision of digital content to multi-player online games. The provisions could be so broadly interpreted that they captured within the scope of the digital services tax, an entire sector of activity that had been expressly excluded by the statutory language. The Conseil d'Etat held that the interpretative guidance exceeded the scope of the law and invalidated this provision in its entirety. The Conseil d'Etat also reestablished the scope of an exclusion for services rendered between companies of the same group (as provided under the law), which was essentially eviscerated by the administrative guidance. With its decision, the Conseil d'Etat gave the administration two months to amend the provisions deemed "illegal."
- **KPMG in Germany** published a report discussing recent indirect tax developments including a Ministry of Finance guidance regarding VAT relief measures in response to the war in Ukraine issued on March 17, 2022. The relief measures apply from February 24, 2022 through December 31, 2022 and include a VAT exemption for goods and services provided free of charge for humanitarian purposes and the right to deduct VAT incurred on goods intended to go solely and directly toward the war-relief effort. The report also covers recent court decisions on the VAT deduction right of a managing holding company and the right to deduct VAT in the case of subcontracted repair services.
- **KPMG in India** published a report discussing an amnesty program introduced in the state of Maharashtra effective April 1, 2022. The program applies to tax debts existing on or before June 30, 2017.

- **KPMG in Ireland** published a report discussing the Spring Finance Bill published on March 4, 2022, which provides a legislative basis for the extended and increased COVID-19 related support measures. These include amendments to the COVID restrictions support scheme (CRSS) and the tax debt warehousing scheme. The bill also addresses a small number of other measures such as the tax-free nature of the pandemic recognition payment and stamp tax (duty) changes to provide for a partial repayment scheme for properties designated as cost-rental dwellings.
- **KPMG in Italy** published a report discussing a tax authority guidance on new rules regarding the recovery of VAT incurred on bad debt in relation to insolvency proceedings. Before the new rules, if a credit note had been issued by the deadline for filing the VAT return for the year when the right to adjust the VAT was triggered, the VAT variation resulting from the bad debt could be included in the annual VAT return for that year. Under the new rules, VAT can be recovered only between the date of issuance of the credit note and the deadline for filing the VAT return for the year in which the credit note is issued.
- **KPMG in Italy** published a report discussing a new decree, published on March 21, 2022, which sets out energy tax measures and tax relief measures related to the war in Ukraine. The decree introduces a tax on producers, importers, and sellers of electricity, gas, and petroleum products that realize "windfall gains" in the energy sector. Further, the decree also introduces tax credits for energy consumption.
- **KPMG in Namibia** published a report discussing tax measures in the budget for 2022-2023 that was presented on February 24, 2022. Among other measures, the budget includes a proposal to introduce a zero-rating for sanitary pads.
- **KPMG in North Macedonia** published a report discussing amendments to the VAT and excise duty laws effective March 12, 2022. According to the amendments, the sale of certain food products for human consumption will be zero-rated (from March 17, 2022 through May 31, 2022), and the sale and import of certain types of fuels will be subject to the preferential VAT rate of 10 percent (from March 12, 2022 through May 31,2022). In addition, the law extends the period of application of the reduced VAT rates for the sale of electricity for households as follows: the preferential VAT rate of 5 percent will apply through December 31, 2022 (extended from June 30, 2022), and the preferential VAT rate of 10 percent will apply from January 1, 2023 through June 30, 2023 (extended from July 1, 2022 through December 31, 2022). Finally, the law introduces a VAT exemption for the import of natural gas and electricity through a transmission system and reduces the excise tax rates for specific types of fuels from March 12, 2022 through May 31, 2022.
- **KPMG in the Philippines** published a report on a recent tax authority guidance clarifying transition provisions under Revenue Regulations No. 21-2021 and certain issues about the VAT treatment of transactions by registered business enterprises, particularly registered export enterprises.
- **KPMG in Poland** published a report on tax relief measures proposed or currently being provided for those affected by the conflict in Ukraine. The measures include introducing a VAT zero-rating for "free-of-charge" sales of goods or services aimed at supporting victims made between February 24, 2022 and June 30, 2022. The preferential treatment can also be applied to contributions made to certain governmental agencies. Further, the zero-rating can be applied, provided that the taxpayer and an identified entity enter into a written agreement stipulating that the donated goods and services will be provided to those affected by the conflict in Ukraine.

- **KPMG in Portugal** published a report discussing a recent judgment of the ECJ concluding that consultations regarding medical procedures are activities closely related to the provision of the medical and healthcare services themselves and, as such, are similarly exempt from VAT.
- **KPMG in Sweden** published a report discussing proposals for increased application fees for licensing of gaming software in a bid to exclude unlicensed games from the Swedish gaming market. The proposal is intended to strengthen a gaming regulation that includes a new licensing requirement for gaming software, under which the licensee (if not a resident or established in the European Economic Area (EEA)) must have a physical representative resident in Sweden. The proposals regarding licensing fees would apply for both initial applications and renewals of gaming licenses. The fee for a license application would be SEK 120,000 ($12,612). The fee for a change to an existing license would be SEK 30,000 ($3,153). The fee for the licensing renewal would increase to SEK 600,000 ($63,061) (from SEK 300,000 ($31,530)). The proposal also includes certain record retention requirements.
- **KPMG in Switzerland** published a report reminding businesses without an establishment or VAT registration in Switzerland who incur Swiss VAT on business expenses that they have until the end of June 2022 to file their refund claim for Swiss VAT incurred in 2021. If a company incurs at least CHF 500 ($535) of VAT during 2021, this amount of VAT can be refunded if a refund claim is filed by June 30, 2022, provided the business' country of residence grants reciprocal rights to Swiss companies. Foreign companies are required to appoint a Switzerland-based fiscal representative to file such a refund request. Further, the report notes that Switzerland has adapted its rules to take into consideration new Austrian VAT rules excluding companies from third countries (including Switzerland) from claiming a refund of VAT when purchasing fuels in Austria for invoices from 2021 and later. Consequently, Austrian companies will no longer be able to claim a refund of Swiss VAT incurred on the purchase of fuels in Switzerland.
- **KPMG in Thailand** published a report discussing tax relief measures to support trading in digital assets and investment in Thai start-ups that were approved on March 8, 2022. The measures to support the trading in digital assets include a VAT exemption from April 1, 2022 to December 31, 2023 for the transfer of cryptocurrencies or digital tokens traded on digital asset exchange platforms approved by the Minister of Finance and the transfer of digital currencies issued by the Bank of Thailand under the Bank of Thailand's digital currency development project.
- **KPMG in the United Kingdom** published a report discussing the launch of the consultation process on the introduction of an Online Sales Tax (OST) regime. The UK tax authority (HMRC) released a consultation running until May 20, 2022 on whether the UK should implement an OST. The report notes that no decision on an OST has yet been made and the government wants to hear business views as these will help shape the outcome. An OST, if adopted, would not be a revenue raiser but would instead rebalance the tax system by funding business rate relief in England for the retail sector and funding the block grants of the devolved administrations in the usual way. The consultation is divided into sections regarding the scope of the tax, its design, and the potential impact.

- **KPMG in the United Kingdom** published a report discussing a recent decision of the UK's First-tier Tribunal (FTT) on when VAT might be recoverable in connection with selling shares in the UK. In the case, Hotel La Tour Ltd (HLTL) was a holding company that owned and provided management services to a subsidiary that owned and operated a hotel in Birmingham. HLTL's management decided it wanted to develop a new hotel in Milton Keynes. To finance the new development, HLTL's management decided to sell the subsidiary that owned the Birmingham hotel and borrow the remainder. In doing so, HLTL incurred just over GBP 76,000 ($99,107) of VAT on various costs connected to the sale, which were mainly the fees of professional advisers. The FTT held that the VAT was recoverable because the costs were incurred in raising finance to develop a new hotel and therefore the costs had a direct and immediate link to the general business activities of HLTL. The fact that the financing was generated by selling shares did not break that link and because HLTL was a fully taxable business (ignoring the exempt share sale as it was incidental to HLTL's main activities) the VAT incurred was recoverable in full.
- **KPMG in Vietnam** published a report discussing a recent tax authority guidance implementing measures regarding the governance and management of e-commerce websites and e-commerce activities accessed using mobile applications used in cellphone devices effective March 8, 2022.

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Global Rate Changes

- **Belgium**:[i] Belgium recently enacted several royal decrees to temporarily reduce or extend the reduced VAT rate applicable to certain goods and services. The decrees extend the 6 percent reduced rates applicable to face masks and hydroalcoholic gels from April 1 through June 30, 2022; introduce a temporary reduced VAT rate of 6 percent for certain solar panels, heaters, and pumps between April 1, 2022 and December 31, 2023 as well as for electricity, gas, and heat sold under residential use contracts through September 30, 2022. Further, Belgium extended the temporarily reduced VAT rate of 6 percent for the demolition and reconstruction of residential buildings until December 31, 2023 for the whole Belgian territory (instead of the initial 32 cities and communes).
- **Brazil**:[ii] Effective February 25, 2022, Brazil reduced the rate of the federal tax on manufactured products (IPI) by 25 percent for most products, and by 18.5 percent for some vehicles.
- **Costa Rica**:[iii] Effective March 23, 2022, Costa Rica introduced a VAT exemption for the acquisition of electricity for distribution.
- **Croatia**:[iv] Effective April 1, 2022, Croatia introduced a reduced VAT rate of 5 percent for food, gas and heat, agriculture, toiletry items and tickets for events.
- **El Salvador**:[v] Effective March 23, 2022, El Salvador temporarily reduced the VAT rates on fuels as follows: 4.75 percent for premium gasoline; 5 percent for regular gasoline; and 1.75 percent for diesel.

- **Guyana**:[vi] Effective February 11, 2022, Guyana introduced a VAT exemption on the import of new motor trucks of any tonnage used in the shipment of goods (new means vehicles less than four years old), new haulers or similar vehicles used for pulling containers, cranes, and safety equipment and oil spill equipment for use in various industries. Guyana further reduced the excise tax rate from 10 percent to 0 percent for new single cab pickups with engine capacities that are less than 3000 cc, new double-cab pickups with engine capacities that are less than 2000 cc, and new motor trucks; and from 110 percent to 75 percent for new double-cab pickups with engine capacities that are from 2000 cc to 3000 cc. Finally, Guyana reduced the excise tax rate on fuel, including gasoline and diesel from 20 percent to 10 percent. The excise tax rate is further reduced to 0 percent for imported fuel.
- **Isle of Man**:[vii] The Isle of Man recently announced a temporary reduction of fuel duty rates effective March 23, 2022 and a VAT relief for energy-saving materials (ESMs) effective April 1, 2022. The rates of fuel duty on petrol and diesel will decrease by GBP 0.05 ($0.065) per liter for 12 months. Where practical, a proportionate reduction will apply to fuel duty rates that are lower than the main rates for petrol and diesel. In addition, the VAT relief applies to the installation of ESMs, meaning that wind and water turbines will be added to the list of ESMs and the complex eligibility conditions will be removed. The relief will increase further by introducing a time-limited zero rate for the installation of ESMs.
- **Italy**:[viii] Italy recently extended the application of the super-reduced VAT rate of 5 percent on sales of natural gas for domestic and industrial purposes for the period April - June 2022. The super-reduced rate was previously provided for October - December 2021, and subsequently extended to January - March 2022.
- **Netherlands**:[ix] The Dutch government recently announced tax measures to help taxpayers with the rising cost of electricity, including a reduction of the VAT rate on electricity from 21 percent to 9 percent effective July 1, 2022 and a reduction of the excise duties on petrol and diesel oil by 21 percent effective April 1, 2022.
- **North Macedonia**:[x] On March 11, 2022, North Macedonia's legislature adopted several amendments to its VAT rates as relief measures, including (1) reducing the VAT rate for basic food products to zero percent between March 17 and May 31, 2022; (2) extending the application of the reduced 5 percent rate of VAT on electricity from June 30, 2022 through December 31, 2022 (the rate will increase to 10 percent from January 1, 2023, and from July 1, 2023 the standard 18 percent rate will apply); and (3) reducing the VAT rate for fuels including unleaded gasoline, gas oil, and liquefied petroleum gas to 10 percent.
- **Turkey**:[xi] Effective April 1, 2022, Turkey amended the VAT rate for certain goods and services effective April 1, 2022. For the following goods and services Turkey reduced the VAT rate from 18 percent to 8 percent: land and parcels, soap, shampoo, and other household items, medical devices covered by the "medical device regulation," the "in vitro full-purpose medical device regulation," food and beverage services provided in the places that have a first-class restaurant license or an operating certificate, restaurants in hotels (three stars and above), holiday villages and similar facilities. In addition, Turkey decreased the VAT rate from 18 percent to 1 percent for seeds and saplings certified by the Ministry of Agriculture and Forestry and increased the VAT rate from 1 percent to 18 percent for used vehicles, yachts, boats, and pleasure ships.
- **Russia**:[xii] Effective April 26, 2022, Russia zero-rates for 5 years the provision of temporary accommodation services in hotels and other accommodation facilities.

- **Ukraine**:[xiii] The Ukrainian State Tax Service (STS) issued a notice on the reduction of the VAT rate on fuel and oil during the martial law period. A reduced 7 percent VAT rate applies on imports and sale of gasoline, heavy distillates (heavy fuel oil), liquefied gas, crude oil, and oil products obtained from bituminous minerals. The 7 percent VAT rate applies regardless of when such fuel and oil products were purchased (i.e., before or after the introduction of the 7 percent rate). The notice further explains that if there is an excess VAT credit arising from the application of a higher rate (20 percent) on purchases and sales at 7 percent, the credit will not be refunded, but can be carried forward for offset in future periods. In addition to the reduced VAT rate, the notice also explains the exemption from excise tax on the sale of fuels. This includes that the excise tax rate is set to 0.00 per 1,000 liters during the martial law period for imports and domestic sales of gasoline, heavy distillates (heavy fuel oil), and liquefied gas. Taxpayers may be reimbursed for excise tax paid up to the effective date of the law providing the exemption, March 17, 2022.

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Indirect Tax Developments and News from Around the World

The Americas

United States: New Disclosure Requirements for High Volume Marketplace Sellers in Colorado

Colorado recently enacted legislation that imposes numerous new requirements on online marketplaces regarding the disclosure of information by "high-volume third-party sellers" effective January 1, 2023. Under the new law, online marketplaces must require a "high-volume third-party seller" to disclose certain information to the marketplace, including the seller's bank account number, contact information, and business or individual tax identification number. A "high-volume third-party seller" is defined as a third-party seller that in any continuous twelve-month period during the previous twenty-four months has entered into 200 or more discrete sales or transactions of new or unused consumer products for which the third-party seller has earned aggregate total gross revenues from sales on the marketplace of $5,000 or more. A "third-party seller" means any seller that sells or offers to sell consumer products through an online marketplace, but does not include: (1) a seller that operates the online marketplace's platform; (2) a business entity that has made available to the general public the entity's name, business address, and working contact information; or (3) a business entity that has an ongoing contractual relationship with the online marketplace to provide the marketplace with the manufacture, distribution, wholesale distribution, or fulfillment of shipments of consumer products.

The law includes extensive additional requirements for online marketplaces to follow concerning high-volume third-party sellers, including:

- Verify, within 10 days, the information provided by the seller. Verification may include the use of one or more methods that enable the online marketplace to reliably determine that any information provided by a seller is valid.
- Periodically, but not less than annually, notify any high-volume third-party seller on the platform of the requirement to keep any information collected current.

- Require a high-volume third-party seller with an aggregate total of $20,000 or more in annual gross revenues from sales on the marketplace to provide and disclose (1) the full name of the seller; (2) the physical address of the seller; (3) contact information for the seller; and (4) whether the seller used a different seller to sell the product to the consumer. Such sellers must also disclose this information to consumers in a conspicuous manner in the order confirmation message or other communication.
- Disclose to consumers clearly and conspicuously on the product listing of any high-volume third-party seller a reporting mechanism that allows for the reporting of suspicious marketplace activity to the online marketplace.
- Provide the seller with notice and an opportunity to provide the required information and suspend any future sales activity of such seller if the seller does not comply with the requirements of the law.

Brazil: Uniformity of State VAT Rates on Transactions Involving Fuel

On March 11, 2022, Brazil published Complementary Law 192/2022, which provides that the state VAT (ICMS) will be levied only once (*incidência única*), at uniform rates for all states, on transactions involving diesel, biodiesel, gasoline, anhydrous ethanol, and liquefied petroleum gas. According to the law, producers and importers of fuels are ICMS taxpayers. The taxable event for ICMS purposes will be considered to have occurred at the time of import (if the fuel originates from abroad) and upon the departure of the fuels from the taxpayer's establishment (if the fuel originates from local production). For petroleum-derived fuels, ICMS will be paid to the state in which consumption occurs. For interstate transactions involving non-petroleum-derived fuels, the ICMS collection will be shared between the states of origin and destination. For operations involving non-petroleum-derived fuels intended for non-taxpayers, the tax will be paid to the state of origin. The tax rates will be uniform for all states and will be defined in the National Council of Finance Policy (CONFAZ), which brings together representatives of the states. At least 12 months must be provided between the first setting and the first readjustment of these rates, and 6 months for subsequent readjustments, with 90 days being observed in the case of a new increase. Further, the rates will have the following characteristics: they will be uniform throughout the national territory and may be differentiated by product and they will be specific (*ad rem*) per unit of measure adopted. For diesel, the reference value for establishing the tax will be the average price charged to the final consumer in the 60 months before its establishment. In addition, Brazil also provided that, until December 31, 2022, the rates of the federal social security contributions (PIS/COFINS) are reduced to zero for diesel, biodiesel, liquefied petroleum gas, petroleum derivatives, and natural gas, as well as aviation kerosene.

Source: Brazil - Brazil Establishes Uniformity of State VAT Rates on Transactions Involving Fuels, March 30, 2022, News IBFD

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European Union: Roundup of Recent ECJ Cases

On February 10, 2022, the ECJ published the nonbinding Opinion of its Advocate General (AG) in *DuoDecad*, Case C-596/20, in which the AG opined that for sourcing of services for VAT purposes, the recipient of the services must be determined based on the legal relationship between the provider and the recipient, since that relationship determines the person that must pay for the expense of the services. An allegation of abuse of rights relating only to the recipient of the service and a third party is irrelevant to the determination of the recipient of the service and the sourcing of the transaction. Finally, the AG opined that EU legislation precludes double taxation by several Member States for the same transaction. If such double taxation is based on a different assessment of the facts and, the Member States do not agree on a solution, the national court may or must ask the Court for such a solution.

On March 3, 2022, the ECJ published the nonbinding Opinion of its AG in *Finanzamt R*, Case C-98/21, in which the AG opined that an active holding company is not entitled to deduct VAT incurred on services from third parties that it contributes to subsidiaries in return for the grant of a share in the general profit if the obtained services (1) are not directly and immediately linked to the holding's transactions but instead to the (largely) tax-exempt activities of the subsidiaries, (2) are not included in the price of the taxable transactions (sold to the subsidiaries), and they do not form part of the general cost components of the holding's economic activity. Further, if a managing holding is involved as an "intermediary" in obtaining services for subsidiaries in such a way that it obtains services itself for which the subsidiaries would have no entitlement to deduct VAT if services were obtained directly, contributes these services to the subsidiaries in return for participation in its profit, and then claims full deduction based on the purchases on the grounds of its position as a managing holding, it constitutes a tax advantage, the granting of which runs counter to the objective pursued by the provisions of the VAT Directive on the deduction of VAT incurred on expenditures. This operation constitutes an abuse of rights, even if it can be justified by non-tax reasons, provided it is evident that the main purpose is a tax advantage.

On March 24, 2022, the ECJ published the nonbinding Opinion of its AG in *ARVI ir ko*, Case C-56/21, in which the AG opined that article 137 of the VAT Directive allows EU Member States to approve a seller to waive the VAT exemption on a sale of immovable property, and thus to charge VAT, provided the purchaser is a taxpayer registered for VAT. Adherence to this formal requirement is neither contrary to the principle of neutrality nor disproportionate. The legal consequence of not complying with this requirement, which consists in adjusting the deduction of the seller's initially credited VAT, results from the exemption of the transfer in question provided for in the VAT Directive. The fact that, in the case at hand, the purchaser registered for VAT purposes one month later after the transaction took place, used the goods for taxable purposes, and did not commit fraud does not alter that result.

On March 24, 2022, the ECJ published its decision in *W.G.*, Case C-697/20, in which the ECJ ruled that the VAT Directive should be interpreted as precluding a practice of a Member State which prohibits spouses carrying out an agricultural activity in the same holding, using property forming part of the marital community of property, from being regarded as separate taxpayers for VAT purposes when each spouse carries out an economic activity independently. However, the VAT Directive does not preclude, in circumstances in which spouses carry out that agricultural activity under the flat-rate scheme for farmers, the choice of one spouse to place her activity under the normal VAT arrangements when the other spouse loses her status as a flat-rate farmer, if, after examination of the specific situation, such an effect is necessary to counter the risk of abuse and tax evasion.

Source: European Union; Hungary - ECJ Advocate General Opines on Place of Supply of Cross-Border IT Support Services (DuoDecad (Case C-596/20) (VAT)) – Details, March 1, 2022; European Union; Germany - ECJ Advocate General Opines on Right to Deduct VAT of Holding Company Where Services Obtained Are Linked to Activities of Subsidiaries Exempt from VAT: Finanzamt R (Case C-98/21) (VAT) 3 March 2022; European Union; Lithuania - ECJ Advocate General Opines That Vendor Can Charge VAT Regarding VAT-exempt Immovable Property Only if Property Is Transferred to Registered Taxpayer: ARVI ir ko (Case C-56/21) (VAT), March 24, 2022; European Union; Poland - ECJ Decides on Whether Spouse of Farmer Could be Considered A Separate Taxpayer: Dyrektor Izby Skarbowej w L. (Perte du statut d'agriculteur forfaitaire) (Case C-697/20) (VAT), News IBFD, March 24, 2022

Germany: In-Game Transactions Not Subject to VAT

On March 17, 2022, the German Tax Court (Bundesfinanzhof, or BFH) ruled that a taxpayer's receipts in U.S. currency for renting out virtual land on an online 3D video game platform of a U.S. game operator (referred to as "Inc.") on servers located in the United States were not subject to VAT in Germany for the 2014-2016 tax years. In the case, users of the game can explore and traverse the virtual mirror image of the real world hosted on Inc.'s computers with their game characters (avatars), create content in it, and interact socially with the avatars of other users. Users can create details of the virtual environment (such as buildings, works of art, clothing, or cars) and "sell" or "rent" them to other users within the virtual world against payment of virtual C-dollars. According to Inc.'s terms of use, a C-dollar is a limited license right in the form of a virtual token that makes specific content, applications, services, and user-developed functions of the video game available to the user. The C-dollars may be transferred to other users within Inc. in exchange for the use of content, applications, and other functions. The C-dollars can also be transferred to other users via an exchange managed by Inc. for U.S. dollars. According to the terms of use, a user with a sell order can apply to Inc. to list C-dollars for sale on the exchange at the requested price. With a buy order, a user turns to Inc. to match his application with an open sell order at the requested price and to enable the completion of the sale of the C-dollars. In doing so, Inc. reserves the right to refuse any sell or buy order regardless of the reason. Upon completion of a sale of C-dollars via the exchange managed by Inc., the respective amount of money will be credited to the account held by the user transferring the C-dollars with the help of Inc. A balance on this account can be offset against fee claims from Inc. arising from hosting virtual user landscapes or C-dollar exchanges or transferred to the account of the respective user. The plaintiff acquired virtual land in Inc.'s game for a fee payable to Inc., parceled it out, and "rented" it to other users of Inc.'s game for payment of C-dollars. The plaintiff then sold accumulated C-dollars via Inc.'s stock exchange in return for payment of U.S. dollars.

The BHF held that the renting of virtual land by the plaintiff is not a taxable event under the German VAT Act. According to the STC, an exchange of services only occurred through the exchange of the game currency as a contractual right into a legal currency tender (U.S. dollars) via a stock exchange managed by the gaming operator. Participation in a game ("renting out virtual land to another gamer") is not an identifiable business benefit in the real economy subject to VAT. Otherwise, the plaintiff would in principle be entitled to deduct VAT from purely in-game "input services," such as the virtual "development" of the virtual land by other users. By transferring C-dollars for consideration by way of assignment via the exchange offered by the gaming operator, the plaintiff provided so-called other services to Inc. Unlike the in-game "rental" of virtual land, the transfer of the C-dollars took place on a real market. The transfer of the C-dollars via the exchange operated by Inc. was not limited to the mere participation in a game event. Rather, the plaintiff provided the respective recipient with the C-dollars, a virtual game object for later use in the game and thus a consumable benefit. With the transfer of the C-dollars, the plaintiff took over an aspect of the preparation of the game, as would normally also be done by the organizer of a game, who provides the necessary tools of the game. Inc. acted in its name on behalf of the plaintiff as an intermediary in transferring the C-dollars on its stock exchange. The plaintiff, however, did not carry out the other service provided to the gaming operator in Germany.

Source: Taxnotes, Video Game Transaction Isn't Subject to VAT, German Tax Court Says, March 22, 2022.

Ghana: Nonresident Digital Services Providers Required to Register for VAT

The Ghana Revenue Authority (GRA) launched the Supplies of Electronic Services VAT Payment Portal. The portal includes links for registration and filing for the payment of VAT and other taxes by nonresident persons that provide digital/electronic services to customers in Ghana. The portal includes an FAQ section on the regime. The digital services covered include social networking; online gaming; cloud services; video or audio streaming; and digital marketplace operations. While nonresident digital services providers are required to register for VAT in Ghana since 2014 until the creation of the portal nonresidents could only register for VAT through a legal entity established in Ghana. An unregistered, non-resident person who provides telecommunication services or electronic commerce to persons for use or enjoyment in Ghana other than through a VAT registered agent must register if that person makes sales exceeding the threshold of GHS 200,000 ($26,168) within 12 months (or less) or taxable sales are reasonably expected to exceed GHS 200,000 ($26,168) in the next 12 months (or less). Further, registration is required if taxable sales exceeded GHS 50,000 ($6,542) at the end of any 3 months period and total taxable sales, including those in that 3 months period, are reasonably expected to exceed GHS 200,000($26,168) in the next 9 months. Once taxpayers are registered, they will be required to pay the correct tax amount by the due date; make adequate and accurate disclosures; and maintain proper records. Registered taxpayers also are required to issue a sales receipt which should contain the following: a) name and address; b) either the gross amount of the transaction, including the tax or the amount of the transaction and the tax; and c) the date of the transaction. VAT return compliance is monthly.

Source: Orbitax, Ghana Launches VAT Payment Portal for Non-Resident Supplies of Electronic Services, March 28, 2022.

Ireland: Overview of Recent Indirect Tax Developments

On February 25, 2022, Ireland Revenue issued eBrief No. 043/22 clarifying the VAT treatment of staff secondments from related foreign companies. Generally, the provision of staff, including staff secondments, is taxable at the standard rate of VAT. However, Revenue is prepared to sanction a concessionary treatment for certain secondments. Generally, the concession operates so that no VAT is charged on emoluments paid to the seconded staff, if: (1) the staff are from a company not established in Ireland, (2) they are seconded to an Irish-established company or an Irish branch of the foreign company, and (3) the companies concerned are members of a group of companies. Two companies will be treated as members of a group of companies if one company is a 51 percent subsidiary of the other company, or both companies are 51 percent subsidiaries of a third company. Whether a company is a 51 percent subsidiary of another company will be determined by following corporate tax rules. If the conditions are met, the concession may apply to the extent that during the period of secondment, the company or branch to which the employee is seconded exercises day to day control over the allocation and performance of the employee's duties, or the employee effectively has managerial responsibility for the operation of that company / branch, and the tax liabilities relating to the emoluments paid to the employee for work done are discharged correctly and on a timely basis whether by the employer company, the company or branch to which the employee is seconded or any other person. If the company sending the employee does not charge in excess of the emoluments paid then then no VAT liability will arise. Any excess will be liable to VAT on the VAT self-assessment basis in the hands of the company engaging the employee. The concession does not apply if certain employment tax related liabilities do not arise as a result of the secondment.

On February 25, 2022, Revenue issued eBrief No. 046/22 clarifying the effective date of VAT group applications. A VAT Group is a group of two or more persons, at least one of whom is an accountable person and who are established in Ireland who have been approved by Revenue to operate as a single accountable person for VAT purposes . A VAT group is established when Revenue approves an application to form such a group. Revenue may also direct that specified persons are established as a VAT group if it is satisfied that it is appropriate for the efficient and effective administration of the tax to do so. In either case, a member of the group must be designated as the "group remitter," responsible for making VAT returns on behalf of the group. Each member of a VAT group is jointly and severally liable for the VAT liabilities of the group. When persons apply to Revenue for the creation of a VAT group, the group only comes into existence upon the issuing of a notification in writing by Revenue to each person who is a member of the VAT group. The notification will specify the date from which the VAT group is effective, and this will be a date not earlier than the start of the VAT period in which the application was made.

On February 25, 2022 Revenue further issued eBrief No. 045/22, updating the VAT Tax and Duty Manual on the provisions in Section 56 of the Value-Added Tax Consolidation Act 2010 that provide for a VAT zero rate for the sale of qualifying goods and services to certain authorized persons. A qualifying person is an accountable person whose gross receipts from zero-rated intra-EU sales of goods, export of goods outside the EU, and sales of certain contract work amount to 75 percent or more of their total annual turnover for the 12 months preceding the making of an application for authorization under these provisions. The guide clarifies the rules regarding qualifying persons, imports, and the cancellation of authorizations.

Source: Orbitax, Ireland Provides Updated Guidance on the VAT Treatment of Staff Secondments from Related Foreign Companies, March 3, 2022; Orbitax, Ireland Clarifies Effective Date of VAT Group Applications, March 4, 2022; CCH, Global VAT News & Features, Ireland Clarifies Effective Date For New VAT Groups,(Mar. 7, 2022)

Poland: Overview of Recent Indirect Tax Developments

On March 18, 2022, the Polish Ministry of Finance unveiled a new logical structure of the electronic form of books of account and accounting vouchers regarding the Standard Audit File for VAT invoices – JPK_FA (4), which applies effective April 1, 2022. A detailed list of changes regarding the previous version of the JPK_FA structure can be found in point 13 of the brochure. More information on the new structure can be also found on the Ministry's website. To read a report prepared by the KPMG International member firm in Poland, click here.

On March 30, 2022, the European Commission proposed a decision authorizing Poland to deploy a mandatory electronic invoicing system. Presently, issuing invoices using the new *Krajowy System e-Faktur, KSeF* system is voluntary. Starting from the second quarter of 2023, the use of e-invoices will become mandatory. The key feature of the e-invoices is that they can be issued and sent directly from taxpayers' financial and accounting programs in a structured digital form (based on a uniform logical structure provided by the Ministry of Finance), using the system operated by the Ministry of Finance (i.e., the *KSeF* system). The taxpayer can issue a structured invoice through an individual account in the KSeF system. E-invoices are next sent to the KSeF system, and then to the recipient, via an interface enabling connection and exchange of data between IT systems. Sending invoices to the KSeF system is possible upon the authentication of the taxpayer in the system with the use of a qualified electronic signature (or an electronic seal in the case of legal entities) or a trusted profile. The date of issuing a positively verified structured invoice is the date the issuer transferred it to the system. Importantly, any taxpayer-authorized entity or individual may issue and access structured invoices in the KSeF system. To read a report prepared by the KPMG International member firm in Poland, please click here.

Ukraine: Overview of Recent Indirect Tax Developments

On March 3, 2022, the Ukrainian parliament approved a law suspending tax enforcement proceedings and exempting donations from tax. Existing tax audits are suspended, and no new tax audits will commence during the period of martial law.

On March 16, 2022, the Ukrainian State Tax Service (STS) clarified that during the martial law period, taxpayers are released from liability to comply with payment terms of taxes and levies, reporting, registration of tax invoices in relevant registers as the electronic services of the STS work with certain restrictions and the taxpayers do not have opportunity to register tax invoices and adjustment calculations in the Unified Register of Tax Invoices. The guidance provides further details on how to report unregistered invoices, ongoing reporting obligations, and transitional provisions at the end of the martial law, including uploading invoices, filing returns, and making VAT payments. For instance, the STS clarified that if the registration of VAT invoices in the Unified Register of VAT Invoices was postponed during Martial Law, taxpayers are obliged to register such VAT invoices within six months after the Martial Law ends.

On March 15, 2022, the Ukrainian parliament adopted a law amending the Tax Code and other legislation to introduce tax and other relief measures during the period of martial law. The law provides for a simplified taxation regime whereby for the period from April 1 to the date of the termination or cancellation of martial law in Ukraine, individual entrepreneurs and selected enterprises that switch to the simplified taxation system will be subject to the single tax at a rate of 2 percent of their monthly gross receipts. The law further provides that no penalties for late VAT refunds will be charged if the late refund occurred as a result of force *majeure* caused by the state of martial law. In addition, the law introduces a VAT exemption for imports and sales of personal protection equipment that is destined for the needs of territorial communities' volunteer formations and products to be used in the production of defense-related goods clarifying that VAT does not apply to goods that were destroyed or lost during the hostilities or transferred for the needs of ensuring the defense of Ukraine under martial law.

On March 22, 2022, the Ukrainian Parliament accepted a bill for consideration to amend VAT rules due to the ongoing Russia-Ukraine conflict. The bill includes measures that would extend the tax filing period to six months from three months; exempt VAT and excise taxes on the import of certain vehicles, effective April 1; and exempt taxes on specified real estate for tax years 2021 and 2022.

Source: Ukraine - Ukraine Clarifies Applicability of Reduced VAT Rate on Fuel and Oil During Martial Law, March 28, 2022, News IBFD; Ukraine Parliament Considers Bill to Amend VAT Rules Due to War, Bloomberg Law News March 25, 2022; Orbitax, Ukraine State Tax Service Provides Details on VAT Obligations During Martial Law, March 21, 2022; Taxnotes, Ukraine Clarifies Accounting, Reporting VAT, March 4, 2022; Taxnotes, Ukraine Clarifies VAT Payments After Martial Law, April 1, 2022; CCH, Global VAT News & Features, Ukraine Enacts Emergency Tax Bill,(Mar. 8, 2022); Taxnotes, Ukraine Adopts Measures to Support Taxpayers During Martial Law, March 18, 2022; CCH, Global VAT News & Features, Ukrainian Federal Tax Agency Unable To Answer Taxpayer Queries,(Mar. 22, 2022); Taxnotes, Ukraine Notes VAT Changes, March 18, 2022

United Kingdom: Overview of Recent Indirect Tax Developments

The UK recently announced that following its exit from the European Union, it intends to reintroduce VAT relief measures for the installation of energy-saving materials. The UK initially applied a reduced VAT rate to "energy-saving materials" that are installed in housing or that are sold for installation in housing. However, the relief measures were repealed while the UK was an EU Member State, after being successfully challenged by the European Commission before the ECJ in 2015.

On March 1, 2022, the UK tax authority (HMRC) published Revenue & Customs Brief 4/2022 concerning the position of customers in the European Union who have been charged the wrong amount of VAT. HMRC's policy is that since January 1, 2021, when the United Kingdom left the European Union, the right to take action against HMRC to recover incorrectly charged VAT, when it is impossible or excessively difficult to recover it from the seller, no longer exists.

On March 2, 2022, HMRC published Revenue and Customs Brief 5 (2022) updating earlier guidance to businesses on filing their VAT returns while waiting for a decision on their VAT grouping application. The updated guidance provides that taxpayers waiting for a response to their VAT grouping application should treat the application as provisionally accepted on the date the application was submitted online or the date it should be received by HMRC if submitted by post and account for VAT accordingly. While waiting to receive the VAT grouping registration number, taxpayers may receive an automated assessment letter, letters asking for payment of any automated assessments, and notification of a default surcharge for having not filed their tax return. Taxpayers will not need to take any action in response to these notices. HMRC will automatically cancel the notices once the taxpayer's group application is fully processed. HMRC will not take recovery action for any debts listed in this guidance that come about because taxpayers followed it. Other VAT debts may still be subject to recovery actions. Taxpayers who submitted VAT returns to HMRC using previous registration numbers do not need to take any steps to change it. In all instances, unless HMRC refuses the application, the date taxpayers become registered will be the date that HMRC received their application or another agreed date. HMRC has also updated its guidance in VAT Notice 700/2 - Group and divisional registration, which sets out what applicants for VAT group registration need to do while waiting for a response from HMRC.

On April 8, 2022, HMRC revised its interest rates on late tax payments. The decision follows the March 16 decision of the Bank of England's Monetary Policy Committee to approve a 0.25 percentage point hike in the Bank Rate, to 0.75 percent. HMRC interest rates are linked to the Bank of England base rate. The late payment interest rate, applied to the main taxes and duties that HMRC currently charges, increased to 3.25 percent effective April 5, 2022, up from three percent. The repayment interest rate remains at 0.5 percent, as established on September 29, 2009.

On March 7, 2022, the UK government published the Value Added Tax (Enforcement Related to Distance Selling and Miscellaneous Amendments) Regulations 2022 amending the VAT rules applicable to Northern Ireland in response to the EU's e-commerce VAT package that took effect in July 2021. While the VAT transitional rules relating to the UK leaving the EU ended on December 31, 2020, transactions relating to goods from and to Northern Ireland still fall within the framework of the EU VAT rules under the Northern Ireland Protocol (NI Protocol). This instrument corrects several minor and consequential errors identified in legislation which provides for two VAT simplified accounting schemes (the One-Stop Shop (OSS) and the Import One Stop Shop (IOSS)). These schemes form part of the European Union (EU) e-commerce package that the UK implemented under the NI Protocol. This instrument also amends legislation to remove the potential for double taxation of certain goods that move from a place outside the UK to Northern Ireland via Great Britain or the Isle of Man. It also provides legal certainty for businesses and individuals in the UK for claiming a repayment of overpaid import VAT.

Source: CCH, Global VAT News & Features, UK To Cut VAT On Energy-Saving Materials,(Mar. 24, 2022); Taxnotes, U.K. Issues VAT Grouping Registration Guidance, March 2, 2022; United Kingdom - United Kingdom Addresses Delays in VAT Group Registration Process, March 7,2022, News IBFD; United Kingdom - End Customers Can No Longer Address Claims for Overcharged VAT to HMRC, United Kingdom Says, March 7, 2022, News IBFD; CCH, Global VAT News & Features, UK To Hike Interest Rate On Late Tax Payments,(Mar. 21, 2022); CCH, Global VAT News & Features, UK To Amend VAT Rules Affecting Northern Ireland Trade,(Mar. 15, 2022)

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China: VAT Refund Policy Expanded

On March 21, 2022, China announced a newly expanded VAT refund effective April 1, 2022. Under the expanded policy, small and low-profit enterprises, medium-sized enterprises (including sole traders), manufacturing enterprises, and several other sectors may claim a refund of VAT incurred on expenditures that has not been offset against VAT collected on sales at the end of the VAT filing period if the enterprise meets the following requirements: (1) its tax compliance credit is rated A or B (the compliance rating system includes ratings of A, B, C, D, and M for certain newly established enterprises); (2) in the 36 months before the application for a refund, there have been no instances of fraud involving VAT refund claims, export tax refund claims, or falsely issuing special VAT invoices; (3) in the 36 months before the application for a refund, the tax authority has penalized the taxpayer no more than once; and (4) since April 1, 2019, the taxpayer has not enjoyed the VAT policies of immediate collection and immediate refund or first collection and then refund.

Source: China Implements Expanded VAT Refund Policy, March 29, 2022; China (People's Rep.) - China Further Expands Scope of Full Refund of Input Value Added Tax, March 24, 2022, News IBFD; Orbitax, China Implements Expanded VAT Refund Policy, March 29, 2022

New Zealand: Amendments to GST Law

On March 29, 2022, New Zealand adopted the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022, which, among other things, provides new GST rules for crypto-assets and changes to GST documentation rules. The Act explicitly excludes crypto-assets from GST and certain financial arrangement rules effective January 1, 2009. The Act defines a "crypto-asset" as a digital representation of value that exists in a distributed ledger (such as a blockchain) and is secured cryptographically to record the ownership and transactions involving crypto-assets. To meet the definition of crypto-asset, the asset in question must also be "fungible." The fungibility requirement has been included to exclude non-fungible asset classes, such as nonfungible tokens (NFTs). NFTs certify a digital asset to be unique and are not interchangeable and are generally used to represent items such as photos or videos and can be owned or traded using a blockchain.

The Act further seeks to modernize the rules for GST invoices. Before the amendments, registered persons were required to create and retain tax invoices for taxable sales. To be valid, tax invoices must contain specific information about the transaction, and the parties involved, in a prescribed form. For example, the invoice must clearly state that it is a tax invoice. The Act simplified some of these requirements. For example, it would replace the terms "invoice" and "tax invoice" with "supply information" and "taxable supply information." Sales records that meet these simplified requirements would be valid tax records, regardless of the form. The Act provides for simpler information requirements when transactions involve values of less than NZD1,000 ($680). In addition, the Act introduces a requirement that a seller record a recipient's details in the taxable transaction information effective April 1, 2023.

New Zealand: Proposed Amendments to GST Law

On March 8, 2022, the New Zealand Inland Revenue Department (IRD) launched a consultation on proposed changes to the GST apportionment and adjustment rules. These rules apply when a GST registered person uses an asset in their business and for private purposes or to make exempt transactions (e.g., financial services or residential accommodation). In general, a GST-registered person can deduct the GST incurred (e.g., on buildings and vehicles) that they use in their business. However, where an asset is used for both business use and non-taxable use, the person can only deduct a percentage of the GST incurred. The deductible percentage is based on the person's estimate of the percentage of taxable use. Consequently, GST is collected on the non-taxable use of an asset by denying a portion of the GST deduction – known as "apportionment." Once a taxpayer has apportioned their GST deduction based on their estimated taxable use, they are required to monitor their actual use of the asset over time. If the actual use differs from the estimated use, the taxpayer must account for this difference annually in their GST return – known as an "adjustment" or "change in use." The consultation notes that the current rules are complex and have high compliance costs. They require the registered person to monitor whether they use any of their business assets for non-taxable use and to make annual adjustments if there has been any change of use. Further, unexpected liabilities and compliance costs can arise because GST applies to private assets that have some business use and are owned by a GST-registered person.

The main reform options proposed in the paper are intended to substantially reduce the number of registered persons who are required to apportion GST on their business or private assets. The consultation seeks feedback on issues with the rules and on policy options for reforming and simplifying these rules. The consultation further discusses an option that would enable registered persons to elect to exclude certain capital assets from their taxable activity. These excluded assets would not be subject to GST. It also proposes two potential integrity measures that would apply to assets included in a registered person's taxable activity at the time of acquisition. According to the IRD, these measures are intended to better ensure GST is properly accounted for when the taxable activity ceases or the assets are sold. In addition, the consultation discusses rounding-based options for removing most assets from the apportionment and adjustment rules. Finally, the consultation discusses potential changes to the definitions of "dwelling" and "commercial dwelling," in response to GST apportionment issues that can arise when the same premises are used to make a combination of sales of commercial guest accommodation and private use or residential rental. In this respect, the consultation considers a new set of special rules for house rules for sales, applying GST to land that is developed and sold by property developers, and a range of minor or incremental ways to reduce compliance costs in those cases where apportionment would still be required.

On March 10, 2022, the IRD launched a consultation paper titled "The role of digital platforms in the taxation of the gig and sharing economy." The paper contains proposals aimed at making it easier for people who earn income through digital platforms in the gig and sharing economy to comply with their tax obligations in New Zealand. It also seeks feedback on how GST should apply to gig and sharing economy activities, and whether there are other opportunities to reduce compliance costs in the tax system for people who earn income in the gig and sharing economy. The consultation responds to the release of a range of reports and guidance in this space from the OECD, including model rules for reporting by platforms concerning sellers in the gig and sharing economy (OECD model rules). The consultation notes that while the

OECD model rules were developed with direct taxes such as income tax in mind, they can also be used for GST purposes.

Moreover, the consultation discusses options for the application of GST in the sharing economy, including the introduction of an obligation on digital platforms to collect any GST due on behalf of sellers. Alternatively, the digital platform could be made jointly and severally liable for any GST undeclared by sellers on the platform. The consultation looks also at other options, such as pre-filling the returns of platform users based on the information provided by platforms and delves in great depth into the specific settings for GST rules catered to the gig and sharing economy, including the potential scope of the rules, filing requirements, the treatment of facilitation services, and the GST treatment of sellers' costs, among other matters. Finally, the consultation also includes specific chapters on introducing the information exchange provisions in New Zealand and reducing the administrative burden on taxpayers.

On March 28, 2022, the IRD launched a consultation on Exposure Draft Nos. PUB00438, PUB00439, and PUB00440 on the GST rules for importers. The Exposure Drafts explain when an importer who accounts for GST on an invoice basis can claim a deduction on GST collected by the New Zealand Customs Service (Customs). It also explains what documentation importers can use as an invoice to support the VAT deduction and associated record-keeping requirements. The Exposure Drafts further clarify how customs brokers should treat the GST they pay to Customs on behalf of their importer clients and when importers can claim GST deductions where they have overpaid GST to the New Zealand Customs.

Source: CCH, Global VAT News & Features, NZ Lawmakers Sign Off On GST Law Amendments,(Mar. 31, 2022); CCH, Global VAT News & Features, New Zealand To Tweak GST Law Amendment Plans,(Mar. 7, 2022); CCH, Global VAT News & Features, NZ To Reform GST Apportionment Rules,(Mar. 9, 2022); CCH, Global VAT News & Features, New Zealand Mulling Tax Regime For Gig And Sharing Economy,(Mar. 11, 2022); New Zealand Tax Agency Seeks Comments on GST for Importers, March 31, 2022, Bloomberg Law News

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In Brief

- **Armenia**:[xiv] Effective March 31, 2022, Armenia amended its custom duty exemption threshold for online purchases to AMD 200,000 ($406) and/or 30 kg.
- **Aruba**:[xv] Aruba recently announced several tax reform measures, including introduction of a new VAT regime. The VAT would apply at a rate of 18 percent and would replace current indirect taxes including the business gross receipts tax (BBO) and the health tax (BAZV). The new VAT would also include certain exceptions such as a reduced rate of 5 percent on food and non-alcoholic beverages, zero-rating exports, and a VAT exemption for hotel room revenue (subject to tourist levy), education, the medical and bank sectors, and utilities. The government aims to start implementing the tax reform starting January 1, 2023.

- **Australia**:[xvi] On March 24, 2022, the Australian Tax Office (ATO) launched a consultation on a decision impact statement explaining the GST impact on cosmetic treatments and injectables. In the statement, a taxpayer sold and administered cosmetic treatments and injectables, and accounted for sales being either fully taxable or zero-rated. The taxpayer incorrectly assumed that the transactions were fully taxable and accounted for GST on that basis. The ATO explained that the taxpayer passed on excess GST to its customers; and that excess GST is refundable only in exceptional circumstances under the concepts of fairness, reasonableness, or harshness of the outcome.

- **Belarus**:[xvii] Belarus recently issued a decree introducing certain tax measures including a VAT exemption for specified precious metals. The decree further authorizes the Belarusian government to (1) establish requirements for payments of VAT and excise duties in transactions involving sales of Belarusian oil and oil products among domestic legal entities for resale outside Belarus; (2) defer payment deadlines or establish installment payment plans for taxes, fees, and penalties; (3) introduce fees and penalties for early termination of loans and other similar agreements and lease agreements initiated by foreign legal entities from "unfriendly" countries; and (4) allow the Ministry of Finance, resident banks, and other legal entities to make payments in Belarusian rubles on external government loans and government securities traded on foreign financial markets.

- **Belgium**:[xviii] In a recent meeting, Belgium, the Netherlands, and Luxembourg (collectively the "Benelux" countries) have agreed to collaborate more closely on closing their respective VAT gaps. According to a 2021 report by the European Commission, the Benelux countries lost an estimated EUR 7.4 billion ($8 billion) in VAT revenue in 2019. The countries have agreed to share best practices and knowledge and to enable their authorities to take more decisive and targeted action to detect fraud.

- **Belgium**:[xix] Belgium published a draft royal decree in November expanding the scope of the existing e-invoicing mandate for certain business to government (B2G) transactions to require e-invoicing for all transactions with public administrations in Belgium. This obligation was already in place for vendors of the centralized public entities of certain regions (Brussels, Flanders, Wallonia). However, going forward, it will include all public entities in all Belgian regions. More specifically, mandatory e-invoicing requirements by the taxpayers of public institutions in Belgium will be carried out in the following phased approach: (1) effective September 2022 for public contracts more than EUR 214,000 ($232,470); (2) effective March 2023 for public contracts equal to or greater than EUR 30,000; and (3) effective September 2023 for public contracts less than EUR 30,000 ($32,589). Contracts with a value of less than EUR 3,000 ($3,258) will remain exempt from this obligation. As a result of the transposition of the EU directive on e-invoicing for public procurement, all Belgian government bodies are already obliged to be able to receive and process e-invoices within public procurement. This new national legislation expands the directive's scope and mandates the issuance of e-invoices by all vendors to the federal government.

- **Bolivia**:[xx] Effective March 1, 2022, Bolivia expanded its mandatory e-invoicing requirement- to 47,698 smaller taxpayers, which were already required to use electronic payment options effective December 1, 2021. A further group of 2,491 taxpayers was required to implement electronic invoicing from April 1, 2022.

- **Bulgaria**:[xxi] On March 4, 2022, Bulgaria extended the of the deadline for applying the VAT self-assessment mechanism for local sales of cereals and industrial crops from June 30, 2022 to December 31, 2025.

- **China**:[xxii] On March 4, 2022, the Chinese Ministry of Finance announced VAT support measures for struggling service industry companies. The announcement includes an extension to December 31, 2022 for implementing the additional tax deduction policy; the suspension of VAT advance payments for specific aviation and railroad companies, effective January 1 through December 31, 2022; and the refund of VAT advances for the February 2022 tax period.
- **China**:[xxiii] On March 24, 2022, the Chinese Ministry of Finance issued Announcement No. 15 on VAT measures for small and medium enterprises (SMEs), effective April 1 through December 31, 2022. The announcement provides for the VAT exemption for small-scale taxpayers. As a consequence, small-scale taxpayers that are normally subject to a 3 percent VAT rate are exempted from VAT for the period April 1, 2022 to December 31, 2022. Further, the announcement also extends to March 2022 the 1 percent VAT rate for small-scale taxpayers that was originally introduced in 2020 and subsequently extended to December 31, 2022.
- **China**:[xxiv] On March 30, 2022, the Chinese government reminded Chinese internet platforms of their obligation to report semiannually, the identities, income, and profits of live streaming personalities who use their platform, following several high-profile tax evasion cases involving social media personalities.
- **Colombia**:[xxv] Colombia's Ministry of Health recently extended the health emergency declaration for COVID-19 until April 30, 2022. This which effectively extends several emergency tax measures, including (1) the temporary VAT exemption on hotel and tourism services and services provided by establishments selling food and beverages in the framework of a franchise agreement; (2) the temporary VAT exemption on raw materials for the production of medicines and the temporary VAT zero rate on the import and sale of specified medical supplies and devices; and (3) the accelerated procedures for the automatic refund VAT balances (15 days, instead of 50 days).
- **Costa Rica**:[xxvi] On March 18, 2022, Costa Rica launched a public consultation on a draft resolution covering the taxation of virtual assets. The draft resolution proposes to clarify that virtual assets are categorized as intangible assets for tax purposes. The draft resolution would further establish that individuals and legal entities that provide custodial services of private keys or virtual assets, exchanges for fiat currency or other virtual assets, transfers, and intermediation services are subject to all formal tax obligations established under the law, including the issuance of electronic invoices. In addition, these taxpayers would not be covered by bank secrecy laws and would thus be obliged to provide any information requested by the tax administration concerning their clients. Finally, the draft resolution would establish that VAT applies to the acquisition of virtual assets and the provision of goods and services paid for with virtual assets.
- **Czech Republic**:[xxvii] The Czech Republic will no longer proceed with the introduction of the compulsory electronic sales reporting due to the current economic situation and the increasing use of non-cash payment methods by customers. The system was set to resume next year after being suspended in early 2020 because of the Covid-19 pandemic.
- **Estonia**:[xxviii] On March 24, 2022, Estonia's Parliament accepted a bill for consideration which, if approved, would reduce the excise duty rates on certain fuels, including petrol, diesel, gas, and specific fuel oils, to the minimum rates in the EU; reduce the preferential VAT rate from 9 percent to 5 percent; and add fuels subject to excise taxes to the list of goods subject to VAT at a preferential rate.

- **European Union**:[xxix] The EU recently extended the feedback period for the public consultation on the VAT in the Digital Age from April 15 to May 5, 2022 due to the relevance of the initiative. The public consultation was launched ahead of a new legislative proposal for 2022, to collect data from stakeholders on whether the current VAT rules are adapted to the digital age and how technology can be used to help Member States fight VAT fraud and benefit businesses.
- **European Union**:[xxx] On March 15, 2022, the European Commission released preliminary figures on the VAT e-commerce rules that became effective July 1, 2021. By December 31, 2021, Member States had collected around EUR 1.9 billion ($2 billion) in VAT revenues, a figure that extrapolates to EUR 3.8 billion ($4.1 billion) annually. The EU Commission clarified that these figures relate only to the application of the rules associated with imported online shopping parcels valued at less than EUR 150 ($163). More than 8,000 traders are registered and use the "Import One-Stop Shop" (IOSS) portal for their online sales into the EU. Further statistics and figures on the additional VAT revenues collected and related to online platforms are expected.
- **European Union**:[xxxi] On March 15, the EU's Economic and Financial Affairs Council (ECOFIN) reached an agreement on the Carbon Border Adjustment Mechanism (CBAM) regulation. The mechanism will impose a carbon price on imports that corresponds to what would have been paid had the goods been produced in the EU and will apply to iron and steel, cement, fertilizers, electric energy production, aluminum produced in countries with "lower" environmental standards. The measure is intended to reduce the risk of carbon leakage by encouraging producers in non-EU countries to make their production processes more environmentally friendly, as well as encouraging other states to implement similarly ambitious environmental tax policies. The CBAM would prevent the emissions reduction efforts of the Union from being offset by increasing emissions outside the Union due to the relocation of production to non-EU countries or increased imports of carbon-intensive products. The CBAM is designed to function in parallel with the EU's Emissions Trading System (EU ETS), to mirror and complement its functioning on imported goods. It will gradually replace the existing European Union mechanisms to address the risk of carbon leakage, in particular the free allowances of EU ETS. In addition, the EU Council foresees a minimum threshold to exempt from the CBAM obligations consignments with a value of less than EUR150 ($163). As part of the planned agreement, Member States agreed to back the commission's proposal of a transition period of up to three years before the full entry into force of the mechanism in January 2026. Obligations of importers during that period would be limited to reporting. Then they would have to buy special certificates at a price linked to the EU ETS. The price will be calculated by the commission as the average of the closing prices at government auctions for each calendar week.
- **European Union**:[xxxii] On March 15, 2022, the ECOFIN adopted an amendment to the VAT and/or excise duty exemption certificate for Member States to apply the new exemptions related to the COVID-19 pandemic and defense efforts in a uniform way. The certificate is set out in Annex II of the VAT Implementing Regulation 282/2011 and serves to confirm if a transaction qualifies for the exemption from VAT and/or excise duty. The certificate amendment includes as an eligible body the European Commission or any other agency established under the EU laws where the tasks are executed in response to the sanitary emergency and the armed forces of a Member State taking part in an EU activity under the common security and defense policy (CSDP). The amendment was adopted by Implementing Regulation 2022/432 which indicates that the certificate will be adapted first, regarding the VAT exemptions related to the COVID-19 pandemic to apply until June 30,

2022 and, second, regarding the defense efforts to apply from July 1, 2022. The regulation further indicates that in the cases where the exempted transactions have already been processed using the current version of the certificate, it will not apply retroactively to avoid unnecessary administrative burden. The VAT exemptions on importations and on certain sales in response to the COVID-19 pandemic were introduced by the "Buy and Donate" Directive 2021/1159 and the VAT exemptions related to defense efforts introduced by Directive 2019/2235.

- **European Union**:[xxxiii] On March 14, 2022, the European Commission explained the VAT and administrative cooperation between EU Member States based on Council Regulation (EU) No 904/2010, including (1) spontaneous exchange of information; (2) exchange of information on request; (3) automatic exchange of information; and (4) simultaneous controls.
- **Fiji**:[xxxiv] On March 25, 2022, Fiji enacted the 2021/22 revised Budget amendment bills, which (1) increases the standard VAT rate to 15 percent from 9 percent for companies with annual income exceeding FJD 100,000 ($47,848); (2) zero-rates the sale and import of 21 essential items, including sugar, salt, flour, and rice; increases the VAT rate on the sale and import of certain nonessential items to 15 percent; (3) abolishes the Environment and Climate Adaptation Levy (ECAL) effective April 1, 2022 and replaces it with VAT at 15 percent; and (4) introduces of a plastic bag levy under the Income Tax Act on plastic bags distributed by businesses.
- **France**:[xxxv] On March 23, 2022, the French General Directorate of Public Finance issued an administrative doctrine clarifying that the 5.5 percent reduced VAT rate applies to subscription-based distribution networks of electricity, combustible natural gas, and heat energy.
- **Ghana**:[xxxvi] On March 30, 2022, the Ghanaian Revenue Authority announced the introduction of mandatory electronic tax return filing requirement effective April 1, 2022 for (1) taxpayers registered with the large taxpayer officer (LTO); (2) taxpayers whose annual income exceeds GHC 5 million ($664,365); and (3) excise taxpayers. The announcement includes information on filing procedures through the new online portal. Selected medium-sized enterprises and all high-net-worth Individuals will be required to file taxes electronically beginning June 1, 2022.
- **Greece**:[xxxvii] On March 10, 2022, the European Commission announced the launch of an in-depth investigation to assess whether Greece's postal operator Hellenic Post (ELTA) received unlawful state aid, including a VAT exemption for its services. In May 2020, the Commission received a complaint alleging that several measures benefitting ELTA amount to incompatible state aid in favor of the company. The Greek VAT code provides an exemption for services provided by ELTA and the accompanying delivery of goods by ELTA. The exemption applies only to services provided by ELTA and not by other postal services providers. According to the European Commission, insofar as the VAT exemption applies to all postal services provided by ELTA, there are concerns that the measure could qualify as aid. While the measure would be considered existing aid for the period before August 2010, it would constitute new aid for the period starting in August 2010. The Commission has doubts about the compatibility of such new aid. The Commission will now investigate further to determine whether its initial concerns are confirmed. The opening of an in-depth investigation gives Greece, the complainant, and other interested third parties an opportunity to submit comments. It does not prejudge the outcome of the investigation.

- **India**:[xxxviii] Effective April 1, 2022, India expanded the requirement for businesses to issue e-invoices for their business-to-business sales to those businesses whose annual gross receipts are INR 200 million ($2.6 million) or more. E-invoicing was introduced in January 2021 for businesses whose annual gross receipts exceeded INR 1 billion ($13 million) and was expanded effective April 1, 2021 to those businesses with annual gross receipts exceeding INR 500 million ($ 6.5 million) or more.
- **Indonesia**:[xxxix] On February 23, 2022, the Indonesian Directorate General of Taxation (DGT) published Notice No SP -12/2022, which lists a new batch of global companies that meet the criteria for collecting VAT on digital goods and services sold to consumers in Indonesia. There are 98 business entities appointed as VAT collectors to date.
- **Israel**:[xl] Israel's federal tax authority recently announced that the same principles that apply to the taxation of cryptocurrency transactions apply to transfers of non-fungible tokens (NFTs). As a consequence, the sale of an NFT, like the sale of cryptocurrencies, will give rise to a taxable event for VAT purposes.
- **Italy**:[xli] On March 22, 2022, the Italian Tax Authority (ITA) issued Letter No.149/2022, in which it clarified the treatment of digital targeted advertising services for digital services tax (DST) purposes. In the case at hand, the taxpayer sold online advertising space using a targeted advertising approach through digital platforms. The taxpayer sought clarification as to the application of the DST to revenues derived from targeted marketing, where the taxpayer did not always control the targeting criteria used in the sale of advertising space. The ITA clarified that revenue earned by a taxpayer through the sale of advertising space, in which supply, and demand meet through providers, is subject to DST.
- **Kazakhstan**:[xlii] On January 31, 2022, the State Revenue Committee (SRC) of Kazakhstan published a guidance clarifying that, effective January 1, 2022, the VAT registration threshold has been reduced from 30,000 MCI to 20,000 MCI (Monthly Calculation Index). The guidance also provides that the MCI value for 2022 has been set at KZT 3,063 ($6.70), meaning the VAT registration threshold has been reduced from KZT 87,510,000 ($193,235) for 2021 to KZT 61,260,000 ($135,271) for 2022. For individual entrepreneurs whose gross receipts were generated using the three-component integrated system for noncash payments (TIS), the VAT registration threshold for 2022 is KZT 380,375,592 ($839,926).
- **Kazakhstan**:[xliii] On February 28, 2022, the SRC published a guidance on income tax and VAT benefits for small enterprises in the manufacturing industry effective January 1, 2022. The guidance defines small enterprises as individual entrepreneurs and legal entities that employ, on average, no more than 100 employees and have an annual income that does not exceed 300,000 MCI (about $2 million). Within two years from the date of their state registration, small enterprises can offset their VAT liabilities against the VAT they pay in connection with the production or manufacturing of goods destined for sale. This VAT benefit applies retroactively from July 1, 2021. However, small enterprises that manufacture alcoholic beverages and tobacco products and those operating in the metallurgical industry are not eligible for the benefit.
- **Kazakhstan**:[xliv] On January 28, 2022, the SRC announced that the beneficial VAT regime for imports of specific goods has been extended through December 31, 2024. The regime provides that registered VAT taxpayers that import eligible goods for domestic consumption under the customs procedure declare the import VAT in the VAT returns rather than paying import VAT during customs clearance and claiming a VAT deduction through their VAT return. Effective January 1, 2022, this regime applies to imports of items that are not produced

in Kazakhstan, are not intended for sale within three years from the importation date; are intended to be transferred in financial leasing (except international financial leasing); and for spare parts used in the production of government-approved agricultural machinery.

- **Kazakhstan**:[xlv] On March 1, 2022, the SRC announced a new simplified VAT refund procedure for exporters of raw materials. Exporters who convert at least 50 percent of foreign exchange earnings from the export of raw materials into Kazakhstan tenge and who overpaid VAT in a tax period in which its sales were zero-rated may request a refund under the following conditions: (1) the taxpayer continually (i.e., within three consecutive tax periods, at least once in each quarter) makes zero-rated sales of goods, works, or services; and (2) the zero-rated sales account for at least 70 percent of the taxpayer's total taxable sales in a tax period. These taxpayers may request and receive, within 15 business days and without a tax audit, up to 80 percent of the VAT overpaid in that tax period.
- **Latvia**:[xlvi] Latvia recently proposed to reduce the VAT rate on specific food products from 21 percent to 5 percent. If approved, the reduced rate will apply from July 1, 2022 through June 30, 2024
- **Lesotho**:[xlvii] Lesotho recently published the 2022/23 budget, which, if approved, would introduce new requirements on retailers to adopt electronic fiscal devices; remove the application of the zero percent VAT rate for an unspecified list of goods and services; introduce a new tobacco and alcoholic products levy; seek to enforce the export sales tax; and increase the oil levy by 15 percent per liter from April 2022.
- **Mexico**:[xlviii] On March 9, 2022, Mexico published an updated list of nonresident digital services providers that are compliant with its registration requirements. As of February 28, 2022, 141 entities are registered.
- **Moldova**:[xlix] Moldova recently proposed to introduce a VAT zero-rating for gasoline and diesel and a VAT exemption for e-books and periodicals. Moldova further proposed to reduce by 50 percent the excise duties on gasoline and diesel fuel and to reduce from 8 percent to 4 percent the VAT rate on natural and liquefied gases.
- **Netherlands**:[l] The Dutch parliament is currently considering the implementation of the directive on the exchange of information on income generated through digital platforms (DAC7), which requires digital platform operators to report the income earned by sellers on their platforms and for EU Member States to automatically exchange this information. The new rules cover digital platforms located both inside and outside the EU and will apply from January 1, 2023 onwards.
- **New Zealand**:[li] On February 25, 2022, the IRD published Technical Decision Summary No. 22/03 regarding deemed consideration for taxable sales. In the case at hand, the taxpayer was a GST-registered company that brought a negligence claim against its former legal counsel, which had an indemnity policy with an insurance company. The insurance company paid the taxpayer's legal damages. The premiums paid under the contract of insurance between the Taxpayer's former solicitors and the insurance company were charged with GST. The taxpayer claimed a GST tax deduction for its legal costs incurred pursuing the negligence claims. The issue was whether the taxpayer received the payment under an insurance contract, and whether the sale was zero-rated or not. The IRD clarified that the payment received by the Taxpayer is deemed to be consideration for a taxable sale. The Taxpayer is therefore liable for GST on the payment at the standard rate of 15 percent.

- **North Macedonia**:[lii] On March 11, the North Macedonian Assembly accepted a bill for consideration that includes several VAT measures. The bill proposes to (1) define gross receipts for specific services; (2) regulate the treatment of value vouchers; (3) determine the application of the joint and several liability for unpaid VAT amounts; (4) establish registration obligations for tax representatives; (5) amend the VAT sourcing rules; (6) amend provisions on the tax base for income from the sale of specific imported cars; (7) exempt VAT on natural gas and electricity; (8) implement the preferential VAT rate of 5 percent on electronic textbooks; (9) exclude nonresident taxpayers from the right of tax refunds; (10) increase the mandatory VAT registration threshold to from MCD 2 million (US$36,095) to MCD 3 million ($54,140); and (11) extend the deadline for the implementation of e-invoicing to December 31, 2022.
- **OECD**:[liii] On March 10, 2022, the OECD released a new VAT Digital Toolkit for Asia-Pacific (APAC) nations. The Toolkit has been designed to assist in the implementation of effective collection mechanisms of VAT on e-commerce activities, considering the specific circumstances and challenges of the region.
- **OECD**:[liv] On March 29, 2022, the OECD released an IT format (XML Schema), which aims to facilitate the electronic reporting and automatic exchange of information collected under the Model Reporting Rules for Digital Platforms. The model rules require digital platforms to report on the income realized by those offering accommodation, transportation, and personal services, as well as those selling goods, through platforms and to report the information to tax authorities. The newly released Digital Platform Information (DPI) XML Schema is intended to minimize burdens on digital platform operators, which might otherwise arise were jurisdictions to apply multiple different requirements. The DPI XML Schema was developed in close coordination with the European Union, to ensure that the schema can also be relied upon for the reporting and exchange of information under the seventh EU Directive on Administrative Cooperation (DAC7). For KPMG's previous discussion of the model rules, please click here.
- **Poland**:[lv] The Polish Ministry of Finance announced plans to postpone by 30 months the introduction of a new requirement for retailers to ensure a digital link between online cash registers and portable payment terminals. Poland began enforcing a requirement to use digital cash registers, to automatically send data to the tax authority, starting with fuel retailers from January 1, 2020. Catering services providers, providers of short-term accommodation, and companies selling coal were obligated to do so from July 1, 2020, and various other services businesses were obligated to do so from January 1, 2021. Businesses that sell goods and services to consumers must do so using a cash register unless their gross receipts during the year were not more than PLN 20,000 ($4,679). In response to requests from taxpayers and businesses, it will delay enforcing the requirement to link these to the devices used to take payment, until January 1, 2025. Until the end of 2024, taxpayers will not face a PLN 5,000 ($1,170) penalty for failure to comply.
- **Poland**:[lvi] On March 30, 2022, the EU authorized Poland to implement its mandatory e-invoicing. The obligation will only apply to taxpayers that are established in Poland and will build on an already established voluntary scheme that offers the routing of business-to-business (B2B) invoices via a central clearinghouse, where they are scrutinized for signs of tax fraud.
- **Russia**:[lvii] On March 4, 2022, Russia published Law No. 80334-8, which exempts from VAT sales of precious metals in bullion (in the form of bars, ingots, etc.) to individuals effective March 1, 2022.

- **Russia**:[lviii] The Russian Ministry of Finance recently published guidance letter 03-07-07/943 clarifying the scope of the VAT exemption for catering services provided by a Russian entity that was established by a foreign company. The letter clarifies that the Russian Tax Code does not restrict the application of the VAT exemption concerning catering services provided by Russian entities established by foreign companies. As such, a Russian entity established by a foreign company that provides catering services and meets the prescribed conditions is entitled to the VAT exemption. The VAT exemption applies from January 1, 2022 to the provision of public catering services through public catering facilities (e.g., restaurants), as well as public catering services outside facilities at the place chosen by the customer (field service). The exemption is subject to the following conditions: (1) the total annual income did not exceed RUB 2 billion ($24 million) in the year preceding the year the exemption is applied; (2) the share of income from catering services was at least 70 percent of the total annual income in the year preceding the year the exemption is applied; and (3) the average monthly amount of payments and other remunerations paid in favor of individuals (employees) is not lower than the average monthly wage in the relevant Russian region in the previous year (this condition applies from January 1, 2024).
- **Russia**:[lix] On March 9, 2022, Russia announced the introduction of a VAT zero rate for companies investing in the tourism sector. The rate is valid for five years from the date of commencement of a new business and until June 30, 2027, for existing hotel owners in Russia.
- **Russia**:[lx] On April 16, 2022, Russia published Law No. 97-FZ, which introduces a VAT exemption for the sale and transfer of exclusive rights for certain intellectual property effective July 1, 2022. The VAT exemption will cover inventions, utility models, industrial designs, computer programs, databases, integrated circuit topographies, and trade secrets (know-how), as well as rights to use the results of such intellectual property under a franchise agreement.
- **Rwanda**:[lxi] On March 11, 2022, the Rwandan Revenue Authority (RRA) issued a public notice to remind all taxpayers to use electronic billing machines/systems (EBMs) irrespective of whether they are registered for VAT or not. Noncompliant taxpayers risk a range of penalties including criminal prosecution. The RRA further urged customers to always request EBM receipts for every purchase they make and verify whether the amount they are paying was correctly recorded on the EBM receipt.
- **Rwanda**:[lxii] On March 11, 2022, the Deputy Commissioner General of the RRA announced that the RRA is considering introducing a VAT obligation on nonresident digital services providers.
- **Rwanda**:[lxiii] On March 21, 2022, the RRA issued a public tax ruling on the requirements for claiming VAT credit. According to the RRA, a taxpayer is allowed to claim VAT credits only when such VAT has been declared in the VAT period to which it relates, such as quarterly or monthly, depending on the category of the taxpayer. In addition, the taxpayer must provide relevant supporting documents. The ruling further sets out three conditions for processing VAT refunds: (1) an electronic billing invoice approved by the tax administration; (2) the declared VAT credit should be on the prescribed form; and (3) the VAT declared by the taxpayer must have been paid by the vendor to the public treasury. Finally, the ruling states that when the VAT credits placing the taxpayer in the refund position have been declared, or declared but not remitted by the vendor, the taxpayer is allowed to declare such VAT as a credit amount, but such refund VAT amount would only be refunded to the taxpayer after it was remitted by the vendor to the public treasury.

- **Singapore**:[lxiv] On March 18, 2022, the Singaporean High Court issued a decision explaining the GST zero-rated sale of electronic goods. In the case at hand, a taxpayer exported electronic goods to Malaysia and claimed zero-rated GST on the sales. After an audit, the Inland Revenue Authority of Singapore (IRAS) found that the taxpayer did not comply with the tax rules and guidance and imposed a 7 percent GST on the transaction. The High Court rejected the IRAS' assessment and held that the GST guidance does not override the tax agency's directives, which found the disputed export evidence as tax-compliant earlier. The High Court further held that the tax rules require prior approval to claim zero-rated GST, which was granted in the present case.
- **Slovenia**:[lxv] On March 9, 2022, The Slovenian government published a proposal for consideration, a bill to impose a new tax on digital currency. The draft bill includes measures that would: (1) define digital currency, and the taxpayers subject to the tax; (2) establish a 10 percent tax rate on the redeemed amount from digital currency transactions; (3) provide a tax exemption for individuals with gains of up to EUR 10,000 ($11,061) per year; (4) provide tax calculation and tax return filing procedures; and (5) impose fines of between EUR 250 ($276) and EUR 5,000 ($5,528) for noncompliance.
- **Slovenia**:[lxvi] On March 21, 2022, the EU authorized Slovenia to continue to apply a VAT registration threshold of EUR 50,000 ($54,315) until December 31, 2024.
- **South Korea**:[lxvii] South Korea recently published presidential decrees implementing tax measures approved by the National Assembly in December 2021. Some of the key measures include the introduction of requirements for foreign e-service vendors registered under the simplified regime to maintain records of e-service transactions for five years from the date of filing the relevant VAT return for sales made from July 1, 2022 and submit transactions statements within 60 days of request.
- **Sweden**:[lxviii] On February 25, 2022, the Swedish Tax Agency clarified the VAT deduction rules for the provision of utilities such as electricity, gas, water, and heat for rental properties. The agency explained that property rentals are VAT-exempt and generally include the provision of utilities. In cases where utilities are provided separately from the property rental, they constitute a taxable transaction. Landlords are entitled to deduct the VAT incurred for the purchase of utilities to the extent they are resold as a separate taxable item. Moreover, landlords may deduct VAT incurred on related measuring equipment and subscription costs and may deduct VAT incurred on the purchase of electricity for charging vehicles that they resell as a taxable item.
- **Switzerland**:[lxix] On March 18, 2022, the Swiss Federal Tax Administration announced that it approved an increase in the VAT registration threshold for non-profit sports and cultural associations, as well as non-profit institutions (charities). Effective January 1, 2023, the gross receipts threshold for VAT registration for these entities will increase from CHF 150,000 ($ 159,918) to CHF 250,000 ($266,530). VAT-registered associations and institutions with gross receipts below the increased threshold who wish to deregister are required to submit a written request to deregister, within 60 days of the end of the tax period. Otherwise, they will remain subject to VAT.
- **Tunisia**:[lxx] On March 24, 2022, the Tunisian Ministry of Finance posted General Note No. 10/2022, explaining the VAT treatment of retail sales of alcoholic beverages, wines, and beers effective January 1, 2022. The General Note includes the imposition of VAT on alcoholic beverage retailers, irrespective of their annual income; an expansion of the scope of the VAT and limitations on tax exemptions; and the requirement to file inventory reports and statements by March 31 to claim tax benefits.

- **Venezuela**:[lxxi] Effective March 27, 2022, Venezuela introduced a new financial transactions tax locally known as IGTF or Tax on Large Financial Transactions. The tax applies at a rate of 3 percent for transactions using foreign currencies and cryptocurrencies and 2 percent for transactions in local currency (Bolivares). Various transactions will be considered exempt, based on the parties carrying out the transaction or its purpose. In line with that, foreign exchange transactions carried out by state-authorized foreign currency dealers, the central bank of Venezuela, and not-for-profit organizations, among others, are considered exempt. Transactions using the Venezuelan state's cryptocurrency, the Petro, are exempt. The IGFT will be levied through Venezuelan banks and with so-called "special taxpayers" (high-income individuals and businesses). A compliance manual with the instructions to declare and pay the new tax has been published by the tax administration.
- **Vietnam**:[lxxii] On March 21, 2022, the Vietnamese tax authority launched a portal for nonresident vendors providing e-commerce, digital platform-based business, and other services to local customers. The portal is available in both English and Vietnamese and may be used for tax registration, compliance, and payment of the applicable VAT and Corporate Income Tax. The tax authority further issued a letter reminding nonresident businesses carrying out e-commerce, digital platform-based business, and other services with organizations and individuals in Vietnam to perform tax registration, tax declaration, and tax payment in Vietnam or authorize organizations and tax agents operating under Vietnamese law to fulfill their obligations on their behalf.

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[v] El Salvador MOF Announces Temporary VAT Reduction on Fuels, Bloomberg Law News, March 25, 2022

[vi] Orbitax, Guyana Announces VAT and Excise Reductions on Vehicle Imports and Fuel, April 3, 2022

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[xiv] Armenia; Eurasian Economic Union - Armenia Amends Customs Duty Exemption Threshold for Online Purchases (March 23, 2022) News IBFD

[xv] Orbitax - Update - Aruba Initiates Fiscal Reforms Process Including for VAT System, March 3, 2022

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[xviii] CCH, Global VAT News & Features, Benelux Countries To Build On VAT Collaboration,(Mar. 21, 2022)

[xix] Belgium Expands B2G Mandatory E-Invoicing March 22, 2022

[xx] Global VAT News & Features, Bolivia Continues To Expand Scope Of E-Invoicing Rules,(Mar. 4, 2022)

[xxi] Bulgaria - Bulgaria Extends Application of VAT self assessement for Local Supplies of Cereals and Industrial Crops, News IBFD, (March 11, 2022)

[xxii] China MOF Announces VAT Support Measures for Struggling Service Industry Companies, Bloomberg Law News March 9, 2022

[xxiii] Orbitax, China Provides Temporary VAT Exemption for Small-Scale Taxpayers, April 3, 2022

[xxiv] Taxnotes, China Tells Internet Platforms to Report Livestreamers' Profits, March 31, 2022

[xxv] Orbitax, Colombia Extends Health Emergency Declaration and Related Tax Measures for COVID-19, March 9, 2022

[xxvi] Costa Rica - Tax Authority Launches Public Consultation on Taxation of Virtual Assets, 24 March 2022, News IBFD

[xxvii] Czechia to Scrap Electronic Sales Reporting, Confront Fuel Costs, Bloomberg Law News March 9, 2021

[xxviii] Estonia Parliament Considers Bill Reducing Excise, VAT Rates, March 29, 2022, Bloomberg Law News

[xxix] European Union - European Commission Extends Feedback Period on the VAT in the Digital Era Public Consultation, March 14, 2022, IBFD News

[xxx] European Union- ECOFIN Adopts Amendment to VAT and/or Excise Duty Exemption Certificate Set Out in VAT Implementing Regulation, March 16, 2022, News IBFD

[xxxi] CCH, Global VAT News & Features,EU Finance Ministers Agree Carbon Border Adjustment Mechanism,(Mar. 16, 2022)

[xxxii] European Union

[xxxiii] European Commission Explains Rules on VAT Administration, Bloomberg Law News March 17, 2022

[xxxiv] Fiji - Fiji Proposes VAT and Customs Duty Relief for Essential Goods in Revised Budget, March 28, 2022, News IBFD

[xxxv] France Tax Agency Issues Administrative Doctrine Clarifying Application of Reduced VAT on Electricity, Energy Products, Bloomberg Law News March 29, 2022

[xxxvi] Ghana Tax Agency Announces Mandatory Electronic Tax Return Filing for Certain Taxpayer Categories, Bloomberg Law News April 1, 2022

[xxxvii] CCH, Global VAT News & Features,EU Probing Greece's VAT Exemption For Hellenic Post,(Mar. 11, 2022)

[xxxviii] CCH, Global VAT News & Features,India To Expand E-Invoicing Requirements To More Businesses,(Mar. 24, 2022)

[xxxix] Indonesia Tax Agency Announces Appointment of VAT Collection Entities for Digital Goods, Services, Bloomberg Law News March 2, 2022

[xl] CCH, Global VAT News & Features, Israel Says, Like Cryptocurrencies, NFTs Are Property For Tax Purposes,(Mar. 18, 2022)

[xli] Italy Tax Agency Clarifies Taxation of Digital Targeted Advertising Services, Bloomberg Law News March 25, 2022

[xlii] Taxnotes, Kazakhstan Outlines New Tax Code Provisions, March 1, 2022

[xliii] Orbitax, Kazakhstan Notes Tax Benefits for Manufacturing Industry and Exporters, March 10, 2022

[xliv] Taxnotes, Kazakhstan Issues VAT Guidance for Importers, Exporters, March 10, 2022

[xlv] Taxnotes, Kazakhstan Issues VAT Guidance for Importers, Exporters, March 10, 2022

[xlvi] Latvia Parliament Considers Bill to Reduce VAT Rate on Specific Food Products, Bloomberg Law News, March 15, 2022

[xlvii] CCH, Global VAT News & Features,Lesotho Announces Tax Hikes In Delayed 2022-23 Budget,(Mar. 15, 2022)

[xlviii] Orbitax, Mexico Publishes Updated List of Registered Non-Resident Digital Service Providers (March 24, 2022)

[xlix] Orbitax, Moldova Considering VAT Zero-Rate for Gasoline and Diesel, March 29, 2022, Moldova - Moldova Proposes that Electronic Books and Periodicals Be VAT Exempt, March 21, 2022, News IBFD

[l] Orbitax, Draft Bill Submitted in Dutch House or Representatives to Implement Directive on Exchange of Information on Income Generated through Digital Platforms (DAC7), March 29, 2022

[li] New Zealand Tax Agency Posts Decision Clarifying GST Input, Deduction Rules, March 2, 2022, Bloomberg Law News.

[lii] North Macedonia Assembly Considers Bill to Amend Various VAT Provisions 2022-04-01 Bloomberg Law News

[liii] OECD - OECD Publishes VAT Digital Toolkit for Asia-Pacific, March 10, 2022, News IBFD

[liv] CCH, Global VAT News & Features,OECD Releases XML Schema For Digital Platform Reporting Rules,(Mar. 31, 2022)

[lv] CCH, Global VAT News & Features,Poland Delays Upcoming Electronic Sales Reporting Rules,(Mar. 29, 2022)

[lvi] Poland to Launch Mandatory E-Invoicing After Final EU Approval, Bloomberg Law News, March 30, 2022

[lvii] Russia - Russia Exempts Sales of Precious Metals From VAT 9 March 2022, News IBFD

[lviii] Russia Clarifies the VAT Exemption for Catering Services Applies for Caterer Established by a Foreign Company, March 3, 2022

[lix] Russia Announces Zero-Rate VAT for Companies Investing in Tourism Sector, March 14, 2022 Bloomberg Law News

[lx] Orbitax, Russian Parliament Considering VAT Exemption on Intellectual Property Sales, April 13, 2022; Russia - Russia Provides VAT Exemption for Transfer of Intellectual Property (Apr. 19, 2022), News IBFD.

[lxi] Tax Authority Reminds All Taxpayers to Use Electronic Billing Machines, March 15, 2022, News IBFD

[lxii] Rwanda - Rwanda Plans to Introduce VAT on Digital Services and Products, March 16, 2022, News IBFD

[lxiii] Rwanda - Rwanda Revenue Authority Issues Public Ruling on Requirements for Allowing Input VAT and VAT Refunds, March 30, 2022, News IBFD

[lxiv] Singapore High Court Issues Decision Explaining GST Zero- Rated Supply of Electronic Goods, Bloomberg Law News, March 23, 2022

[lxv] Slovenia Parliament Considers Bill on Digital Currency Taxation, March 14, 2022 Bloomberg Law News

[lxvi] European Union; Slovenia - European Council: Slovenia May Continue Applying VAT Exemption Threshold to Small Businesses, March 23, 2022

[lxvii] Orbitax, South Korea 2022 Tax Measures Implemented, March 15, 2022

[lxviii] Sweden Tax Agency Clarifies Input VAT Deductions for Rental Property Utilities, Bloomberg Law News March 2, 2022

[lxix] Orbitax, Switzerland Increasing VAT Registration Threshold for Non-Profit Sports and Cultural Associations and Charities, April 13, 2022

[lxx] Tunisia MOF Issues Note Explaining VAT Treatment of Retail Sales of Alcoholic Beverages, Wines, Beers, March 30, 2022, News IBFD

[lxxi] CCH, Global Daily Tax News,Venezuela To Introduce New Financial Transactions Tax,(Mar. 22, 2022)

[lxxii] CCH, Global VAT News & Features,Vietnam Launches B2C VAT Portal For Overseas Digital Firms, (Mar. 30, 2022)

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