# 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 as jurisdictions adopt or amend their measures at a frantic pace. The most common indirect tax measures adopted by jurisdictions so far 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 relating 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 when used by tax authorities 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 Bahrain** published a report noting that the Bahraini government has extended the due date for the economic substance information returns and the introduction of a digital stamp regime for tobacco products. The due date has been extended from March 31, 2022, to mid-August 2022 for entities that did not have their financial statements for FY 2021 audited by March 31, 2022. Entities that have submitted their economic substance returns based on unaudited financial statements may be required to resubmit their economic substance returns based on their audited financial statements. In addition, Bahrain has introduced a digital stamp regime for tobacco and tobacco products with the following implementation dates: cigarette products imported at customs must have digital stamps starting May 15, 2022, and cigarettes sold in stores must have digital stamps starting August 14, 2022.
- **KPMG Bahrain** published a report discussing a new requirement for taxpayers to complete a survey regarding invoicing. The survey includes questions related to the average volume of invoices issued on an annual basis and whether the invoices are issued in an electronic format. According to the survey, the government is assessing taxpayers' readiness if an e-invoicing mechanism is implemented in Bahrain. However, no official announcement regarding e-invoicing has yet been made by the government.
- **KPMG Bahrain** published a report discussing an updated list of goods subject to excise tax. The National Bureau for Revenue (NBR) recently updated the list of goods subject to the excise tax on its website. In addition to the list of excisable goods, the NBR provides an overview of excise procedures in Bahrain and access to the excise tax registration, licensing, tax returns, refund, and deduction forms. The website further includes a set of "frequently asked questions" (FAQs) intended to provide comprehensive information about the purposes and procedures of the excise tax system. The report also notes that the Omani tax authority published VAT guidelines for the financial services sector and that the Saudi Arabian Zakat, Tax and Customs Authority (ZATCA) published educational shorts on VAT registration obligations of commercial property owners.
- **KPMG Barbados** published a report discussing the Saint Lucia budget statement for 2022-2023. It contains a number of tax measures for "international business companies," including a stamp duty exemption for the transfer of shares of an international business company that derives 90 percent or more of its income from outside Saint Lucia.
- **KPMG Belgium** published a report on circular 2021/C/114, published last year which clarifies the scope of the VAT exemption for the medical profession and hospitals effective January 1, 2022. The VAT exemption for medical and hospital care was amended in July 2021 to align the scope with the EU legislation and Belgian case law to explicitly exclude non-therapeutic services. (For KPMG's previous discussion of the amendment, please click here.) The circular provides for transitional measures for some special situations and clarifies the submission of VAT returns. Finally, the circular states that, due to the health crisis, the Minister of Finance has requested the VAT Administration to adopt in 2022, a flexible attitude in the event of unintentional errors by a professional.

- **KPMG Belgium** published a report discussing the Court of Justice of the European Union (ECJ) decision in *Airbnb Ireland*, C-674/20. In the case, the ECJ held that a provision of Belgian regional legislation requiring providers of property intermediation services, (particularly the operator of an electronic accommodation platform) to transmit certain particulars of tourist accommodation transactions to the tax authorities is not contrary to EU law. The ECJ found that the provision falls within the "field of taxation" and, as such, is expressly excluded from the scope of the e-Commerce Directive. Finally, the ECJ determined that because the provision covers all providers of property intermediation services, irrespective of their place of establishment and the manner of mediation, the provision is not contrary to the freedom to provide services in the EU.
- **KPMG Brazil** published a report (in Portuguese) reminding banks and financial institutions to submit the information return (*Declaração de Informações de Meios de Pagamentos*—DIMP) for the state-level VAT (*Imposto sobre Circulação de Mercadorias e Serviços*—ICMS) starting April 2023 for transactions that occurred between January and March 2022. The information reporting requirements apply to banks and financial institutions if they are part of the Brazilian payment system (*Sistema de Pagamentos Brasileiro*—SPB). The measure specifically concerns transactions carried out with debit and credit cards, store cards (private label), transfers of funds, and other electronic payment instruments when the payment recipients are legal entities or individuals.
- **KPMG Brazil** published a report (in Portuguese) on a recent government guidance regarding new rates for the federal excise tax on manufactured products (*Imposto sobre produtos industrializados*—IPI) effective May 1, 2022, and a new common external tariff structure of the "Mercosur" common nomenclature (*nomenclatura comum do Mercosul*—NCM). The NCM provides a 2022 harmonized tariff system, effective January 1, 2022. Mercosur is a regional trade association with five members: Argentina, Brazil, Paraguay, Uruguay, and Venezuela. Seven countries have associate status (i.e., Suriname, Guyana, Colombia, Ecuador, Peru, Chile, and Bolivia).
- **KPMG Canada** published a report discussing Ontario's nonresident home buyer's tax. This tax is payable when a foreign national, foreign corporation, or taxable trustee (i.e., a trustee of a trust with either a foreign trustee or a foreign beneficiary) purchases or acquires designated land in Ontario. The province has increased the tax to 20 percent (from 15 percent) of the purchase price for the transferred property effective March 30, 2022. In addition, the tax now applies to all residential properties across Ontario that are purchased by foreign nationals, foreign corporations, and taxable trustees. Previously, the tax applied only to homes acquired in the Greater Golden Horseshoe Area, which includes Toronto and other heavily populated regions in Southern Ontario. The province further announced that it is eliminating rebates of the tax for international students and foreign nationals working in Ontario and released transitional rules for the tax changes.
- **KPMG Canada** published a report discussing proposed changes to the 2022 budget for Newfoundland and Labrador that was delivered on April 7, 2022. The proposed changes include eliminating the retail sales tax on home insurance for one year.
- **KPMG Canada** published a report discussing indirect tax measures in the federal budget for 2022, which was delivered on April 7, 2022. The budget contains the following indirect tax measures: (1) a requirement on digital platform operators to collect and report relevant information about sellers that use their platform to tax authorities; (2) the expansion of the goods and services tax and harmonized sales tax (GST/HST) hospital rebate for charities or non-profit organizations to include certain health care services delivered by

a nurse practitioner; (3) a provision that all assignment sales by individuals for newly constructed or substantially renovated residential housing would be taxable for GST/HST purposes; (4) amendments to the proposed new excise duty system on vaping products originally announced in the 2021 federal budget and amendment of the cannabis excise duty framework; and (5) repeal of the 100 percent Canadian wine excise duty exemption (effective June 30, 2022) and elimination of the excise duty for beer containing no more than 0.5 percent alcohol by volume (ABV) effective July 1, 2022.

- **KPMG Canada** published a report discussing tax measures in the 2020 budget for Manitoba. The indirect tax measures include a fuel tax exemption for peat harvesting equipment and a reduction of the health and post-secondary education tax levy for certain employers.
- **KPMG Chile** published a report discussing recent VAT developments, including (1) invoicing rules applicable to purchases of digital services subject to VAT from a nonresident; (2) VAT treatment applicable to international telephone recharge services through a mobile application; (3) VAT treatment applicable to professional services facilitated through online marketplaces; and (4) VAT treatment applicable to the administration and management of forest assets.
- **KPMG Czech Republic** published reports on recent indirect tax developments including (1) the VAT treatment of donations to Ukraine; (2) the VAT treatment of leaseback transactions, and (3) discussions on extending the EU-wide One-Stop-Shop (OSS) regime for cross-border sales of goods.
- **KPMG Greece** published a report discussing a recent tax authority guidance on the EU quick fixes. The "quick fixes" rules, which were transposed into Greek VAT legislation and became effective January 1, 2020 focus on the following four areas: (1) the application of the intra-EU "call-off stock" simplification; (2) the VAT treatment applicable to intra-EU chain transactions; (3) the requirement to obtain a customer's VAT identification number to be able to zero-rate intra-EU sales of goods; and (4) the pieces of evidence to establish that goods have been shipped between EU Member States.
- **KPMG Greece** published a report discussing recent tax developments, including extending the period for building contractors to apply for the VAT suspension regime until June 30, 2022. The regime suspends the application of VAT on transfers of buildings and applies for building permits issued on or before December 31, 2021. For building permits issued as of January 1, 2022, building contractors may opt to apply for the VAT suspension regime six months of issuance.
- **KPMG Kenya** published a report discussing the Finance Bill 2022, which was presented to the parliament on April 12, 2022. The bill includes proposals to amend the VAT rules applicable to sales of digital services by a nonresident: (1) amending the definition of a digital marketplace for VAT purposes, by replacing the term "sell or provide services, goods or other property" with "sell goods or provide services"; (2) expanding the VAT registration and collection requirement to nonresidents selling digital services to businesses in Kenya; and (3) excluding persons providing cross-border digital services via the internet or an electronic network or through a digital marketplace from the application of the KES 5 million ($42,700) VAT registration threshold. Further, the bill proposes to clarify that VAT incurred on expenditures would only be claimable by a registered person if the VAT was declared in a return for the period; clarify the applicable penalties and interest on VAT on imported goods that are subject to customs control; subject to VAT certain sales of goods that are currently VAT exempt; and reduce the refund period for VAT paid in error from 12 months to 6 months.

- **KPMG Latvia** published a report on zero-rating sales of goods that are to be delivered to Ukraine. Goods delivered to Ukraine may be zero-rated when delivered to a qualifying public benefit organization provided that the goods are exported from the EU in the framework of humanitarian aid and charity to provide general support to Ukraine; or are delivered to an entity that is recognized by another EU Member State, which transfers them as humanitarian aid or donations to the public of Ukraine. Further, the delivery of goods needs to be supported either by a mutually concluded contract, deed of transfer and acceptance of goods, or other document supporting the transaction.
- **KPMG Latvia** published a report discussing the obligation of the Latvian tax authority to publish, on its website, information about its decisions regarding violations of tax and customs laws, including the results of a tax audit, or data compliance check, and decisions to deny a claim for refund of overpaid VAT. The information published includes the taxpayer's name and registration number, the date on which the tax authority's decision is effective, a summary and description of the tax authority's decision, and information about whether the decision has been appealed. Further, there is no obligation to ask for the taxpayer's consent or to inform the taxpayer before the information is published.
- **KPMG Malaysia** published a report discussing excise tax developments in Malaysia. The Malaysian 2022 budget included a proposal to expand the scope of the excise tax on sugar-sweetened beverages to include pre-mixed preparations of certain beverages including those that are chocolate or cocoa-based, malt, and certain coffee and tea drinks. On March 31, 2022, the Malaysian Customs announced it postponed the implementation of the excise tax on pre-mixed beverages to a later date yet to be announced.
- **KPMG Malaysia** published a report on a recent tax authority guidance relating to the sales tax exemption on the importation or acquisition of pallets. According to the guidance, a registered manufacturer or his agent may obtain the sales tax exemption on the importation of pallets only when the pallets are used for packaging materials for exporting finished goods. The pallets must not be returned to the registered manufacturer and must belong to the buyer. Further, pallets that are reusable or returnable to the registered manufacturer are not categorized as packaging materials and will not qualify for the sales tax exemption. In addition, for pallets that are used to ship goods exported and subsequently reimported, the importer may obtain the exemption upon the reimport.
- **KPMG Netherlands** published a report discussing a bill in the Dutch parliament to transpose EU Directive (Council Directive (EU) 2021/514 ("DAC7")) into national law. If enacted, the bill will introduce a reporting obligation for digital platform operators to provide the Dutch tax authorities with information about certain users on their platforms. The reporting obligation under DAC7 must be transposed into Dutch legislation by December 31, 2022.
- **KPMG Philippines** published a report discussing a recent tax authority guidance that prescribes the format of the VAT zero-rating certification to be issued by investment promotion agencies to duly registered export enterprises.
- **KPMG Poland** published a report discussing recent tax developments, including a recent decision of the Supreme Administrative Court (SAC) on the value of auxiliary services included in the taxable base for VAT purposes. In the case, the SAC held that to include the value of auxiliary services relating to a finance lease in the taxable base for VAT purposes, the value of such services must be known at the time of determining the taxable base, which may not always be possible.

- **KPMG Poland** published a report on recent indirect tax developments, including a recent tax authority ruling in which it held that a business is allowed to recover VAT incurred on expenditures when receiving the invoice even if they are not yet a registered VAT taxpayer. The case at hand is related to a taxpayer who bought an apartment for short-term rental purposes. Until the completion of the real estate, the buyer made advance payments documented by invoices, yet at that time the buyer still was not a registered VAT taxpayer. The taxpayer intended to register as such and apply for a refund of VAT paid on the advance payments at a later stage. According to the tax authority, exercising the right to deduct VAT is possible if there exists a connection between the purchase made and the taxable activities performed.
- **KPMG Serbia** published a report discussing VAT refunds for foreign taxpayers. Foreign taxpayers may obtain VAT refunds on goods and services purchased within Serbia if they meet the following conditions: (1) the VAT amount is stated in the invoice and the invoice is paid; (2) the minimum amount for a VAT refund in Serbia is EUR 200, in Serbian dinar equivalent, (3) the applicant has not made any sales in Serbia for which the applicant is liable to collect and remit VAT, and (4) the taxpayer is established in a country with which Serbia has reciprocity (mainly European countries). A request for a VAT refund for 2021 must be submitted by June 30, 2022. To submit a VAT refund request, a foreign taxpayer would need to obtain a Serbian tax identification number.
- **KPMG South Africa** published a report discussing the VAT treatment of aircraft leases. Effective April 1, 2021, South Africa amended the meaning of "enterprise" in its VAT law to provide that a nonresident lessor of aircraft under a cross-border rental does not conduct an enterprise in South Africa if the goods under the lease are provided to a recipient (a lessee) that is a resident of South Africa; the goods being provided are for use by the lessee wholly or partly in South Africa; the lessee and lessor agree in writing that the lessee will enter the goods for home consumption and pay the VAT on import, and that the lessee will not be reimbursed by the lessor for any VAT incurred. Historically, prior to this amendment, the Commissioner for the South African Revenue Service (SARS) issued various rulings that concluded that foreign lessors of aircraft and aircraft engines were not required to register for VAT purposes, provided certain requirements were met. These rulings were withdrawn effective December 31, 2021. Following the amendment, the SARS' position regarding the separate leasing of aircraft engines has changed. In this respect, the SARS view is that the term "aircraft" does not include aircraft engines where the engines are leased separately. Consequently, when only an engine is leased separately from the aircraft, the exception to the definition of "enterprise" does not apply. Under the SARS position, a nonresident lessor that leases only aircraft engines to be used in South Africa has an enterprise for VAT purposes and must register for VAT when the value of the lease payments exceeds ZAR1 million ($61,650) in any 12 months.
- **KPMG Spain** published a report discussing a draft regulation to implement certain requirements for electronic computer software and systems to promote e-invoicing systems. The draft regulation sets out a requirement that all businesses have in place by January 1, 2024, certain validated electronic invoicing systems and submit their records on a continuous (albeit, for the time being, voluntary) basis to the tax authority.

- **KPMG Spain** published a report on a law introducing a new excise tax on non-reusable plastic packaging and a new tax on landfills and incineration of waste.
- **KPMG Sweden** published a report (in Swedish) discussing tax measures in the Spring budget that was presented on April 19, 2022. The budget explains the recently announced "bank tax." (For KPMG's previous discussion of this tax, please click here.) It further includes a proposal to introduce a new energy tax exemption for farmers alongside the current carbon dioxide tax exemption.

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# Global Rate Changes

- **Belarus**:[i] Effective May 1, 2022, Belarus increased the VAT rate applicable to data transfer services provided by internet service providers and mobile communication operators from 25 percent to 26 percent.
- **Croatia**:[ii] Effective April 1, 2022, Croatia reduced the VAT rate for baby food, edible oils and fats, delivery of live animals, delivery of fresh or chilled meat and edible slaughter products, and other similar products from 13 percent to 5 percent. Further, Croatia reduced the VAT rate for butter and margarine from 25 percent to 5 percent and the rate for menstrual products, delivery of natural gas, and other energy sources from 25 percent to 13 percent. Finally, Croatia temporarily reduced the VAT rate for natural gas to 5 percent from April 1, 2022, to March 31, 2023.
- **Fiji**:[iii] Fiji recently issued a list of services, including legal and accounting services, management consultancy services, architectural, and engineering activities, that are subject to an increased 15 percent VAT rate effective April 1, 2022. .
- **Greece**:[iv] Effective March 15, 2022, Greece introduced a super-reduced 6 percent VAT rate for fertilizers (previously a reduced 13 percent VAT rate applied). In addition, diesel oil exclusively used in agriculture will be exempt from VAT from January 1, 2022, to December 31, 2022.
- **Ireland**:[v] On April 13, 2022, the Irish Government announced a temporary reduction of the VAT rate on gas and electricity from 13.5 percent to 9 percent from May 1 to October 31, 2022. In addition, Ireland will extend the temporary reduction in excise duty on fuels effective from March 10, 2022, until Budget Day in October 2022, instead of ending August 31, 2022, along with a further reduction in the excise tax levied on dyed diesel (i.e., green diesel).
- **Moldova**:[vi] Effective April 15, 2022, Moldova exempts e-books and periodicals from VAT. Previously, books and periodicals were exempt from VAT only if in paper form. Moldova further clarified that the reduced VAT rate of 6 percent on hotel and restaurant services ceased to apply on April 24, 2022 (the end of the state of emergency declared by the Moldovan parliament).
- **Paraguay**:[vii] Paraguay recently extended the application of the VAT and selective consumption tax (ISC) relief measures implemented during the COVID-19 pandemic until June 30, 2022 (from March 31, 2022). For KPMG's previous discussion of the special regimes, please click here.

- **Peru**:[viii] Effective May 1, 2022, Peru has introduced a temporary VAT zero-rating for the sale of various basic foodstuffs including poultry meat, sugar, and bread. The zero-rating will apply through July 31, 2022.
- **Slovenia**:[ix] On March 29, 2022, the Slovenian tax authority clarified that personal assistance services provided to handicapped persons under the Personal Assistance Law should be assessed on their merits, which requires the tax authorities and taxable persons to determine on a case-by-case basis whether the supply of the service is a simple or more complex assistance. This is determined based on the standard classification of activities and consequently, whether the personal assistance service is exempt or subject to VAT. In addition, the tax authority clarified that a sole entrepreneur entered in the register of personal assistance providers at the competent ministry, but without having been granted a concession, does not meet the VAT exemption conditions. The same applies if the personal assistance services are performed by a personal assistance provider independently (e.g., a sole entrepreneur) on behalf of a concessionaire, and the provider does not have a concession.
- **Spain**:[x] On March 30, 2022, Spain published Royal Decree Law No. 6/2022, which extends the application of the 10 percent reduced VAT rate on electricity until June 30, 2022. The royal decree further includes a waiver of the 7 percent IVPEE tax on electricity generation.
- **Ukraine**:[xi] Effective April 1, 2022, Ukraine introduced a VAT exemption for the import of passenger vehicles, (semi)-trailers, motorcycles, and lorries for the duration of the martial law. The exemption applies to individuals, as well as legal entities subject to the simplified tax regime at a rate of 2 percent.
- **United Kingdom**:[xii] On March 23, 2022, the UK's tax authority, HMRC, released a policy paper outlining changes to its VAT relief regime for energy saving materials (ESMs) effective April 1, 2022. Previously, the VAT law granted a 5 percent reduced VAT rate for the installation of ESMs in residential accommodations, subject to certain social policy conditions including that the cost of the ESM does not exceed 60 percent of the total value of the sale subject to VAT (the 60 percent test). The policy paper widens the scope of the regime so that: (1) the relief will no longer be restricted by the social policy conditions or the 60 percent test in the VAT Act; (2) wind and water turbines are added to the list of ESMs; and (3) a temporary zero percent VAT rate applies to ESMs from April 1, 2022, through March 31, 2027.
- **United Kingdom**:[xiii] Effective April 1, 2022, the VAT relief measures applicable to the tourism and hospitality industry no longer apply. As a consequence, the standard VAT rate of 20 percent applies to the following: (1) food and non-alcoholic beverages sold for on-premises consumption (e.g., in restaurants, cafes, and pubs); (2) hot takeaway food and hot takeaway non-alcoholic beverages; (3) sleeping accommodations in hotels or similar establishments, holiday accommodations, pitch fees for caravans and tents, and associated facilities; and (4) admissions to certain attractions that are not eligible for the cultural VAT exemption, including theaters, fairs, concerts, museums, and cinemas.
- **Uzbekistan**:[xiv] Effective April 11, 2022, Uzbekistan introduced a temporary VAT exemption for the importation of spare parts for medical equipment and products, as well as certain consumables for medical purposes.

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# Indirect Tax Developments and News from Around the World

## The Americas

### United States: Comprehensive Tax Bill Enacted Over Governor's Veto

On April 13, 2022, the Kentucky General Assembly voted to override the Governor's veto of House Bill 8, which makes significant changes to the state's tax laws. The most significant change in House Bill 8 is likely the gradual, potential reduction (and possible elimination) of the state's current 5 percent individual income tax rate. Most other tax measures in the bill are designed to raise revenues to help fund the individual income tax cut. Currently, Kentucky imposes sales and use tax on 17 specifically enumerated services. House Bill 8 adds 35 new services to the list that will be taxable as of January 1, 2023. The list of newly taxable services is as follows: photography and photo finishing; marketing; telemarketing; public opinion and research polling; lobbying; executive employee recruitment; website design and development; website hosting; facsimile transmission; private mailroom, including presorting, address barcoding, tracking, delivery to postal service, and private mailbox rentals; bodyguard; residential and nonresidential security system monitoring; private investigation; process server; repossession of tangible personal property; personal background check; parking services including parking lots, but excluding those at educational institutions; road and travel services provided by automobile clubs; condominium time-share exchange; rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events; social event planning and coordination; leisure, recreational, and athletic instructional; recreational camp tuition and fees; personal fitness training; massage services (except when medically necessary); cosmetic surgery; body modification; testing, except testing for medical, educational, or veterinary reasons; interior decorating and design; household moving; specialized design services, including the design of clothing, costumes, fashion, fur, jewelry, textiles, shoes and lighting; lapidary services, including cutting, polishing, and engraving precious stones; labor and services to repair or maintain commercial refrigeration equipment and systems when no tangible personal property is sold in that transaction including service calls and trip charges; labor to repair or alter apparel, footwear, watches, or jewelry when no tangible personal property is sold in that transaction; and prewritten computer software access services.

The bill adopts definitions for certain of the newly taxable services, including "prewritten computer software access services," which means the right of access to prewritten computer software when the object of the transaction is to use the prewritten computer software, while possession of the prewritten computer software is maintained by the seller or a third party—wherever located—regardless of whether the charge for the access or use is on a per use, per user, per license, subscription, or some other basis. House Bill 8 further includes sales and use tax exemption changes; a new excise tax on motor vehicle rentals or sharing; a new tax on electric vehicle charging; accommodations tax changes; and a tax amnesty program. For more information, click here.

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## European Reform: Amendments to the EU VAT Directive Focused on VAT Rates

On April 6, 2022, the EU published Council Directive (EU) 2022/542, which updates the list of goods and services eligible for the application of reduced VAT rates to support health systems, the EU environmental commitments on decarbonization and the digital transformation of the economy, as well as to preserve the functioning of the EU's internal market and avoid distortions of competition. Under the new updates, EU Member States are allowed to apply a standard rate of at least 15 percent and two reduced rates of at least 5 percent to items described in Annex III of the EU VAT Directive. In addition, each EU Member State can apply a reduced rate lower than 5 percent and a special zero rate on goods and services considered to cover basic needs, such as foodstuffs, water, medicines, pharmaceutical products, health and hygiene products, transport of persons, and certain cultural items (e.g., books, newspapers, and periodicals).

New additions to Annex III include (1) digital services that previously did not qualify for reduced rates such as internet access and livestreaming of cultural and sports events; (2) goods to protect public health that have shown to be crucial tools in the fight against COVID-19, such as personal protective equipment, masks and certain medical equipment, as well as more items considered as essential aids for the disabled; (3) certain items such as bicycles, green heating systems, and solar panels installed in private homes and public buildings; (4) diverse products and services deemed appropriate and useful by member states considering the general interest of public policy objectives. Further, the EU also agreed to bar reduced rates for goods and services considered detrimental to the environment and the EU's 2030 climate change objectives, and to make derogations and exemptions for certain goods and services, currently in place for historical reasons in certain Member States, available to all countries to ensure equal treatment and to avoid distortions of competition.

Council Directive (EU) 2022/542 further amends the sourcing rules for livestreaming of events. Currently, cultural, artistic, sporting, scientific, educational, entertainment or similar activities, including the activities of the organizers of such activities and, where appropriate, ancillary services provided to final consumers are taxable where the services are performed. The ECJ held in *Geelen*, Case C-568/17 (May 8, 2019), that this provision should apply also to live streaming of events for which the place of performance should be the place where the vendor is located. The EU VAT Committee subsequently considered in its nonbinding guidelines that the place of performance of livestreaming of events should be where the consumer is established. Council Directive (EU) 2022/542 implements this opinion by clarifying that when the services relate to activities that are streamed or otherwise made virtually available, the service should be sourced where the consumer is established. EU Member States are generally required to transpose the amendments into domestic law by December 31, 2024 and apply the new measures from January 1, 2025.

Source: Orbitax, EU Council Directive Published Amending Rules on Reduced VAT Rates, April 12, 2022; European Union – EU Council Adopts Major Overhaul of VAT Reduced Rates, April 6, 2022, News IBFD

## European Union: Affiliate Company Does Not Automatically Qualify as Fixed Establishment

On April 7, 2022, the ECJ published its judgment in *Berlin Chemie*, Case C-333/20, regarding whether a subsidiary providing, on an exclusive basis, marketing, regulatory, advertising and representation services to a related entity constitutes a fixed establishment. In the case at hand, a Romanian company provided a variety of marketing, regulatory, advertising, and representation services exclusively to a German company (an affiliated entity). The Romanian company was 100 percent owned by a German group, which in turn was 95 percent owned by a German company. The Romanian company considered that the sourcing of its marketing, regulatory, advertising, and representation services was Germany, and consequently issued invoices without Romanian VAT. However, the Romanian tax authority considered that these services were taxable in Romania based on its assessment that the German company had sufficient technical and human resources at the place of business of the Romanian company, and therefore must be deemed to have a fixed establishment in Romania.

The ECJ first reiterated its prior case-law on the fixed establishment concept. Under Article 44 of the EU VAT Directive, services provided to a taxpayer are sourced where the business is established, unless the services are provided to its fixed establishment elsewhere. In the latter case, the services are sourced at the location of that fixed establishment. Based on Article 11 of the EU VAT Implementing Regulation, a fixed establishment is an establishment characterized by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use the services provided to it for its own needs. The existence of a fixed establishment of a company established in another Member State may not be deduced merely from the fact that that company has a subsidiary there (see *Dong Yang Electronics*, C-547/18 (May 7, 2020)).

The ECJ then considered that, while it is not necessary for a taxpayer to own the human and technical resources for a fixed establishment to exist, that person must be able to dispose of those human and technical resources as if these were its own. While in the case at hand, the German company had permanent and uninterrupted access to the resources of the Romanian company, a fixed establishment would only be established if the German company had, based on the contractual provisions, the technical and human resources of the Romanian company at its disposal as if they were its own.

The ECJ further pointed out that a fixed establishment must also be able to receive the services provided to it and use them for its business (sometimes referred to as a passive fixed establishment). In the case at hand, the argument of the Romanian tax authority comes down to the fact that the resources used by the Romanian company to render the services are the same resources as those used by the German company to receive the services. However, according to the ECJ, the same means cannot be used both to provide and receive the same services.

The ECJ concluded that a company established in a Member State does not have a fixed establishment in another Member State on the ground that it has a subsidiary there that provides it with human and technical resources based on contracts under which the subsidiary provides the parent, on an exclusive basis, with marketing, regulatory, advertising and representation services which are likely to have a direct impact on its volume of sales. To read a report prepared by the KPMG International member firm in Belgium, please click here.

## European Union: Roundup of ECJ Cases

On April 7, 2022, the ECJ published its decision in *I GmbH*, Case C-228/20, in which it ruled that the EU VAT Directive precludes national legislation stipulating that the provision of medical care by a certain type of private hospital is VAT exempt. In the case, the exemption applied only to care provided by a hospital if that establishment was approved in accordance with the national provisions relating to the general health insurance regime, following its inclusion in a land-level hospital plan or the conclusion of care sale contracts with statutory health insurance or substitute funds. The ECJ concluded that these requirements resulted in comparable private hospitals, which provide similar services under social conditions comparable with those applicable to bodies governed by public law, being treated differently as regards the exemption laid down in that provision. Further, to determine whether medical care provided by a private hospital is provided under social conditions comparable with those applicable to bodies governed by public law, the competent authorities of a Member State may take into consideration the regulatory conditions applicable to the services provided by hospitals governed by public law and indicators of that private hospital's performance in terms of staff, premises, equipment, and the cost-efficiency of its management, in so far as those indicators are also applicable to establishments governed by public law.

On April 7, 2022, the ECJ published its decision in *UB*, Case C-489/20, in which it ruled that a customs debt is extinguished when goods are seized and subsequently confiscated if they have already been unlawfully introduced into the customs territory of the European Union. However, the extinguishment of the customs debt does not lead to the extinguishment of the debt linked to either excise duty and to VAT for goods unlawfully introduced into the EU customs territory.

On April 7, 2022, the ECJ published the nonbinding Opinion of its Advocate General (AG) in *Navitours Sàrl*, Case C-294/21, in which the AG opined that the EU VAT Directive applies to the provision of passenger transport services carried out in a territory covered by Luxembourg and Germany, no matter whether Luxembourg and Germany have concluded an arrangement on the methods of applying the VAT in the joint territory. The EU VAT Directive further allows taxation of providing such transport services by both Luxembourg and Germany in consultation or unilaterally by one of them. If one state chooses to unilaterally tax the service, the other should abolish the right to tax the said service.

On April 28, 2022, the ECJ published its decision in *Happy Education*, Case C-612/20, in which it ruled that the EU VAT directive must be interpreted as meaning that the concept of an "organization recognized as having similar objects" to those of an educational body governed by public law does not cover a private entity which carries out teaching activities in the public interest for the purposes of the VAT exemption relating to education. In the case, the activities carried out by the private body consisted of organizing activities supplementing the school curriculum, such as homework support classes, educational programs, and foreign language classes. The private body had been classified by the National Trade Register Office under CAEN code 8559 – "Other education n.e.c.," but did not satisfy the conditions under national law for obtaining such recognition.

On April 28, 2022, the ECJ published the nonbinding Opinion of its AG in *BFF Finance Iberia*, Case C-585/20, in which the AG opined that in the case of late payment in commercial transactions, VAT should be considered as already included in the amount stated in the invoice when calculating late payment interest, irrespective of whether the creditor previously paid VAT to the tax authorities.

On April 28, 2022, the ECJ published its judgment in *DSAB Destination Stockholm*, Case C-637/20, in which it ruled that an instrument that gives the bearer the right to benefit from various services at a given place, for a limited period of time and up to a certain amount, may constitute a "voucher" within the meaning of the EU VAT Directive, even if, because of the limited validity period of that instrument, an average consumer cannot benefit from all the services offered. That instrument constitutes a "multi-purpose voucher" since the VAT due on those services is not known at the time of issuance of that instrument.

Source: European Union; Germany – ECJ Decides on Social Conditions Private Hospital Must Meet to Be Exempt from VAT: I (Exonération de TVA des prestations hospitalières) (Case C-228/20) (VAT), April 7, 2022, News IBFD; European Union; Lithuania – ECJ Decides that VAT and Excise Duty on Smuggled Products are Due Even if Customs Debt is Extinguished: Kauno teritorinė muitinė (Case C-489/20) (VAT), April 7, 2022; European Union; Luxembourg – ECJ Advocate General Opines That Luxembourg Can Subject To Tax Transportation Services Performed In Joint Territory of Luxembourg and Germany: État du Grand-duché de Luxembourg and Administration de l'enregistrement, des domaines and de la TVA (Case C-294/21) (VAT), April 7, 2022, News IBFD; European Union; Belgium – ECJ Allows Tax Authorities to Request Information from Electronic Platform Intermediaries under EU Law: Airbnb Ireland (Case C-674/20), April 28, 2022, News IBFD; European Union; Romania – ECJ Decides on Whether VAT Exemption Applies to Services Provided by Private "School After School": Happy Education (Case C-612/20) (VAT) April 28, 2022, News IBFD; European Union – ECJ Advocate General Opines that Compensation for Recovery Costs Applies to Every Invoice and "Amount Due" Includes VAT in Case of Late Payment in Commercial Transactions: BFF Finance Iberia (Case C-585/20) (VAT), April 28, 2022, News IBFD; European Union; Sweden – ECJ Decides on Whether City Cards May Be Regarded as Multi-Purpose Voucher for VAT Purposes: DSAB Destination Stockholm (Case C-637/20) (VAT), April 28, 2022, News IBFD

## European Union: New VAT Committee Guidelines

On April 28, 2022, the EU published updated Guidelines resulting from meetings of the VAT Committee. The EU's VAT committee is an advisory organization set up to promote the uniform application of the VAT Directive. The VAT Committee cannot make legally binding decisions but can only provide guidance on the application of the directive. The update includes the agreements reached by the VAT Committee on the topics discussed in its 119th Meeting held on November 22, 2021, including (1) the treatment of dietary recommendations administered by a medical treatment institution within a medical treatment process; (2) the treatment of head office branch transactions when a VAT group is involved pursuant to the ECJ cases in *Skandia* (Case C-7/13 (September 17, 2014)) and *Danske Bank* (Case C-812/19 (March 11, 2021)); and (3) the sourcing of sales of liquefied natural gas. (For KPMG's previous discussion on the *Danske Bank* case, click here.)

## Norway: Proposal to Expand Nonresident VAT Obligations to All Remotely Deliverable Services

On April 8, 2022, Norway launched a consultation on a proposal to broaden the scope of its VAT law to impose VAT on the sale of all remotely deliverable services from nonresident providers to final consumers in Norway. Currently, a nonresident is required to register for VAT in Norway only if it provides digital remotely deliverable services to Norwegian consumers. The proposal extends this obligation to all remotely deliverable services. Remotely deliverable services would be defined as services for which the performance or delivery by nature of the service cannot be associated with a particular physical location. These include advisory and marketing services. The policy intention is to remove a competitive advantage for foreign providers of non-electronic services to consumers in Norway which are not presently taxed. As is currently the case for digital services, VAT on remotely deliverable services will be administered through the "VAT on e-commerce" mechanism to simplify registration for foreign sellers. For services provided to business customers, the customer will remain liable to self-assess VAT under the reverse charge mechanism.

Source: Norway – Norway Proposes VAT Obligation on Sale of Remotely Deliverable Services for Foreign Suppliers, April 12, 2022, News IBFD; CCH, Global VAT News & Features, Norway To Broaden VAT On Foreign B2C Services (Apr. 12, 2022)

## Turkey: Introduction of Optional Reverse Charge Mechanism

On April 21, 2022, Turkey published General Communiqué No. 41, in which it announced the introduction of an optional VAT self-assessment mechanism for certain transactions. To benefit from the mechanism, taxpayers are required to draw up a written contract with the taxpayers from whom they purchase goods and services and declare and pay all VAT due on the specified transactions. The contract must be for one year, and a copy of the contract must be submitted to the relevant tax office. The mechanism is intended to prevent compliant taxpayers from coming within the scope of "special provisions," which apply to taxpayers using false or misleading documents, taxpayers not making a declaration, taxpayers that cannot be found at the address they have declared, and taxpayers not submitting books and documents. (For KPMG's previous discussion of Turkey's special VAT provisions, please click here.) Taxpayers who opt for the contract mechanism will not be held jointly and severally liable for any unpaid VAT and will not be subject to the special VAT provisions. In addition, the Communique provides that delivery of iron and steel products is covered by a 4/10 partial VAT self-assessment mechanism. It further clarifies other issues, including the implementation of an 8 percent VAT for selling land and parcels, the implementation of an 18 percent VAT for used vehicles; and VAT refunds for manufacturers. The provisions of the Communiqué regarding the optional VAT self-assessment mechanism and the 4/10 partial VAT self-assessment mechanism for iron and steel products will take effect from May 1, 2022. The provisions regarding the VAT refund for manufacturers are effective from April 21, 2022.

Source: Turkey – Turkey Introduces Optional Reverse Charge VAT Mechanism, April 25, 2022, News IBFD.

## Uganda: Overview of Recent Indirect Tax Developments

On March 31, 2022, the Minister of Finance, Planning, and Economic Development of Uganda tabled before the parliament the Tax Amendment Bills 2022, which include proposed amendments to its VAT regime effective July 1, 2022. The proposed changes include the introduction of VAT exemptions for oxygen cylinders or oxygen for medical use, assistive devices for persons with disabilities, and airport user services charged by the Civil Aviation Authority. In addition, Tax Amendment Bills 2022 would include the International Development Law Organization (IDLO) and Foreign Commonwealth and Development Office (FCDO) in the list of public international organizations that are exempt from VAT. The Bills would also zero-rate educational materials including educational materials manufactured in a Partner state of the East African Community and sanitary towels, menstrual cups, tampons, and inputs for their manufacture.

On April 22, 2022, the Ugandan Revenue Authority (URA) announced the launch of an e-portal for simplified VAT registration and compliance under its VAT on digital services regime, which has been effective since July 1, 2018. The digital services covered under the regime include websites, web hosting, and remote maintenance of programs and equipment; software and software updates; images, text, and information; access to databases; self-education packages, music, films, and games including games of chance; and political, cultural, artistic, sporting, scientific, and other broadcasts and events including television. Until now, nonresidents were only able to register by contacting the URA directly and completing a set of forms. The new e-portal allows nonresidents to complete the entire registration process online. As an alternative, nonresident persons may appoint a tax agent or a tax representative for purposes of fulfilling their tax obligations in Uganda.

Source: Uganda – Budget 2022: Tax Amendment Bills 2022 Presented to Parliament – Indirect Taxation, April 6, 2022, News IBFD; Uganda – Uganda Introduces Online Value Added Tax (VAT) Registration and Return Filing by nonresident Suppliers of Services, April 25, 2022, News IBFD

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## Indonesia: New VAT Rules for Crypto Assets

On March 30, 2022, Indonesia's Ministry of Finance published Regulation Number 68/PMK.03/2022 on the income and VAT treatment of crypto transactions effective May 1, 2022. The regulation provides that e-commerce providers that facilitate the trading of crypto assets (e-commerce trading operators), including crypto asset physical traders and crypto asset electronic wallet service providers, will be designated as VAT collectors on the taxable delivery of crypto assets from the seller to the buyer. Under the regulation, a crypto asset physical trader is a party that has obtained approval from the body governing commodity futures trading (i.e., the Commodity Futures Trading Regulatory Agency (BAPPEBTI)) to conduct crypto asset transactions on their own behalf and/or facilitate transactions between crypto asset sellers and buyers.

The regulation further clarifies that the delivery of the following goods and services is subject to VAT: (1) crypto assets, by crypto asset sellers; (2) the provision of electronic facilities used for crypto asset trading transactions, by e-commerce trading operators; and (3) crypto asset transaction verification services and/or crypto asset miner group management services (mining pool), by crypto asset miners. This includes the delivery of crypto assets from crypto asset sellers in Indonesia and/or to crypto asset buyers in Indonesia, through electronic facilities organized by e-commerce trading operators. Delivery can be in the form of buying and selling crypto assets with fiat money; exchanging one crypto asset for another (swap); and/or exchanging crypto assets with goods (other than crypto assets) and/or services. The VAT payable on these transactions is computed as follows: a 1 percent VAT rate multiplied by the transaction value of the crypto assets, if the e-commerce trading operator is a crypto asset physical trader; a 2 percent VAT rate multiplied by the transaction value of the crypto assets, if the e-commerce trading operator is not a crypto asset physical trader; and for crypto asset mining services, a 10 percent VAT rate multiplied by the monetary value of the crypto assets received by crypto assets miners.

Source: Indonesia – Indonesia To Impose Income Tax and VAT on Cryptoassets, April 11, 2022, News IBFD

## Indonesia: Overview of Recent Indirect Tax Developments

On March 30, 2022, the Indonesian Ministry of Finance (MoF) issued Ministerial Regulation No. 69/PMK.03/2022, in which it clarified the VAT treatment of financial technology (Fintech) implementation services effective May 1, 2022. The regulation provides that the delivery of fintech implementation services is subject to 11 percent VAT. Fintech services that are subject to VAT include payment system services, investment settlement, capital raising, P2P lending, investment management, online insurance products, market support and digital finance support.

On March 30, 2022, the MoF issued Regulation No. 63/PMK.03/2022, in which it clarified the VAT treatment for tobacco product retail sales effective April 1, 2022. The regulation clarifies that 11 percent applies to the delivery of specified tobacco products VAT at 9.9 percent applies to the delivery of other specified tobacco products. Further, it includes provisions on the VAT base computation for retail sales and the filing and payment procedures.

On March 30, 2022, the MoF issued Regulation No. 65/PMK.03/2022, in which it clarified the VAT treatment for sales of used motor vehicles.

On March 30, 2022, the MoF issued Regulation No. 71/PMK.03/2022, in which it clarified the VAT treatment for specific taxable services effective April 1, 2022. The regulation provides that taxpayers must bill a 10 percent VAT rate for postal/parcel delivery, travel agency, freight shipping management, and specified marketing services.

Indonesia recently postponed the implementation of its carbon tax regime from April 1, 2022, to July 1, 2022. The postponement should allow the government time to prepare various necessary technical regulations to coordinate implementation with the carbon trading regime and to ensure that there are no gaps in implementation of the two policies. (For KPMG's previous discussion of Indonesia's proposed carbon tax regime, please click here.)

Source: Indonesia MOF Issues Ministerial Regulation on Taxation of Financial Technology Implementation Services, Bloomberg Law News, April 14, 2022; Indonesia – Indonesia To Impose Tax on Financial Technology Operations, April 29, 2022, Bloomberg Law News; Indonesia MOF Issues Regulation on VAT for Tobacco Product Sales, Bloomberg Law News, April 12, 2022; Indonesia MOF Issues Regulation on VAT Measures for Deliveries of Used Motor Vehicles, Bloomberg Law News, April 12, 2022; Indonesia MOF Issues Regulation on VAT Measures for Specific Taxable Services, Bloomberg Law News, April 11, 2022

## Laos: Nonresident Digital Services Providers Required to Register for VAT

On March 31, 2022, the Laos Provincial Revenue Department of Vientiane announced the issuance of Notification No. 0541/MOF of February 24, 2022, which introduces a requirement for nonresident providers of digital services and platforms to register for VAT and diverted profit tax (DPT) if they make sales to Laotian business and nonbusiness customers. The deemed profit tax is a 3 percent gross receipts tax on income earned from Laos. According to the Notification, digital services include online movies, streaming services, advertising, booking for travel and accommodation services, and intermediary services. Nonresident digital services providers are required to register for VAT and DPT if the total revenue earned from Laotian buyers is more than LAK 400,000,000 ($40,000) per year. Taxpayers who do not meet this threshold are not required to register in Laos. However, their sales are subject to VAT and DPT withholding. In this case, the Laotian customer is obligated to withhold the VAT and DPT and declare to the tax authority on behalf of the nonresident seller. Intermediaries such as platforms and marketplaces are required to collect VAT only on behalf of non-Laotian sellers and Laotian sellers that are not VAT registered on their platforms. However, they are not required to collect VAT on behalf of Laotian sellers who are VAT registered.

Source: KPMG International member firm in Laos; Orbitax, Laos Establishes Tax Obligations for nonesident E-Commerce and Digital Service Platform Providers, April 7, 2022.

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### Brazil: Overview of Recent Trade and Customs Developments

On April 6, 2022, the Brazilian tax authority (*Receita Federal do Brasil—RFB*) published guidance (*ordinance RFB nº 163*) providing for activities related to the monitoring and review of certifications granted under the Brazilian "Authorized Economic Operator program" (*Programa Brasileiro de Operador Econômico Autorizado*). The purposes of monitoring authorized economic operator companies are to (1) verify that authorized economic operator companies are committed to the objectives, principles, requirements and criteria of the program; (2) promote initiatives aimed at strengthening the security of the international supply chain; and (3) encourage voluntary compliance with tax and customs legislation, through preventive actions and incentives for self-regulation. The monitoring activities of certified companies aim to encourage the maintenance of compliance with the requirements of the Authorized Economic Operator program. The company certified as an authorized economic operator may have its benefits graduated or interrupted, as a result of the monitoring activities carried out by the RFB team. For more information, click here.

### Malaysia: Updated Customs Duties Order Covering New Emerging Products

On April 15, 2022, the Malaysian Ministry of Finance issued the new Customs Duties Order 2022, which supersedes the existing Customs Duties Order 2017 effective June 1, 2022. This new customs duties order is in line with the release of the seventh edition of the Harmonized System (HS 2022) by the World Customs Organization (WCO). It has been updated with a total of 351 sets of amendments covering different new and emerging products such as drones, smartphones, and vapes. To read a report prepared by the KPMG International member firm in Malaysia, please click here.

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# In Brief

- **Anguilla:**[xv] On April 4, 2022, Anguilla's Inland Revenue Department launched registration for the new GST regime, which is effective July 1, 2022. Businesses are required to register for GST the value of their taxable sales was XCD300,000 ($111,000) or more within the last 12 months, or they expect the value of their taxable sales to equal or exceed XCD300,000 within the next 12 months. All providers of short-term accommodation, auctioneers, promoters and proprietors of public entertainment, and state or statutory bodies must register for GST regardless of their gross receipts. Registration forms can be obtained from the IRD's website.
- **Argentina:**[xvi] On March 31, 2022, Argentina published Resolution No.5179/2022 in which it amended conditions under which small and medium enterprises (SMEs) can lose eligibility for deferred VAT payments. The Resolution provides that SMEs can lose VAT benefits due to the failure to submit VAT returns for three months in a 12-month period and a failure to pay VAT for three months in a 12-month period. SMEs can also lose their certificate of

exclusion from VAT withholding due to a failure to submit VAT returns for three out of 12. The resolution became effective April 1, 2022.

- **Australia:**[xvii] On March 31, 2022, the Australian Tax Office (ATO) updated its guidance for companies on the development of robust tax risk management and governance frameworks. Tax risk is the risk that companies may be paying or accounting for an incorrect amount of tax (including both income and indirect taxes), or that the tax positions a company adopts are out of step with the tax risk appetite that the directors have authorized or believe is prudent. The guide sets out principles for board-level and managerial-level responsibilities, with examples of evidence that entities can provide to demonstrate the design and operational effectiveness of their control framework for tax risk. Further, the guide is intended to support businesses in developing a new framework or improving an existing one; testing the robustness of that framework against the ATO's best practice benchmarks; and supporting businesses in demonstrating the operational effectiveness of their key internal controls to company stakeholders, including the ATO.
- **Belarus:**[xviii] Effective May 1, 2022, Belarus introduced a new tax on the placement or distribution of advertising content in Belarus on any channel. The payers of the tax are Belarusian companies or individual entrepreneurs advertising their products or services, and Belarusian advertising agencies acting on behalf of foreign companies advertising their products or services. The tax is imposed on the amount of fees (net of VAT) paid by a company advertising its products or services or paid to a Belarusian advertising agency (in respect of advertising by foreign companies) to the entity that places or otherwise distributes the advertising. The tax rate is 10 percent for advertising placed outdoors or on vehicles and 20 percent for other types of advertising. Tax returns are due quarterly on the 20th and payment is due on the 22nd of the month following the reporting quarter.
- **Burkina Faso:**[xix] On March 30, 2022, Burkina Faso's tax administration informed taxpayers that the mandatory issuance of standardized invoices will start from May 1, 2022.
- **Czech Republic:**[xx] On March 31, 2022, the Czech tax authority issued a notice on the tax treatment of cryptocurrencies. The notice contains an overview of applicable laws and discusses the treatment of cryptocurrencies under various taxes, including VAT.
- **Denmark:**[xxi] Following the report of Denmark's Expert Group for Green Tax Reform, the Danish government announced a plan to introduce a carbon tax regime on April 20, 2022. The proposed tax will be introduced in phases and will amount to DKK 750 ($105) per ton of emitted CO2 for non-ETS (emission trading system) sectors. ETS sectors would be required to pay a minimum CO2 price of DKK 1,125 ($157) per ton in 2030 (this includes an expected ETS price of DKK 750 in 2030). For mineralogical processes, a minimum CO2 price of DKK 850 ($119) per ton in 2030 (including the ETS price) would apply. To facilitate companies in decarbonizing their processes, as well as preventing the risk of carbon leakage and maintaining Danish employment, the government's proposal also includes DKK 7 billion ($ 979,860,000) to be allocated to a green transition fund. The government will start negotiating with political parties in the parliament to reach a majority for these proposals during this week. For KPMG's previous discussion of Denmark's carbon tax measures, please click here.
- **Egypt:**[xxii] Egypt announced plans to expand its mandatory e-invoicing regime effective July 1, 2022. Businesses will be required to submit invoices in a standardized format to a centralized government system, which will store invoices for later reference. The program

will simplify the process for businesses to prepare VAT returns, by eliminating the need to provide sales receipt data. Businesses may voluntarily comply with the e-invoicing system from April 15, 2022.

- **European Union:**[xxiii] On April 11, 2022, the EU Commission launched a consultation on a proposed reform of its excise duty rates on alcohol. The rules have not been updated since 1992 and do not reflect inflation, market developments, consumption patterns, or growing public health concerns. The call for contributions will feed into a broader process for identifying issues to be addressed. It requests feedback from stakeholders with day-to-day experience in excise tax.
- **European Union:**[xxiv] On March 28, 2022, the European Commission published a report on tax compliance costs for SMEs. The report follows a study to quantify the administrative burden of tax compliance for SMEs and large enterprises in the EU and the United Kingdom in the 2019 fiscal year. The study covers the following industries: manufacturing, construction, wholesale and retail trade, accommodation, and food services activities, as well as professional, scientific, and technical activities. The study contains two parts:(1) quantification of costs imposed on businesses by fiscal obligations, differentiated by the country where they are established and according to their size and the nature of their business activity; and (2) an overview of the national obligation faced by SMEs to comply with the most burdensome taxes. It concludes with recommendations collected through the interviews with stakeholders on reducing administrative costs and mitigating possible distortions and disadvantages for EU-based SMEs in tax compliance.
- **European Union:**[xxv] On April 22, 2022, following the end of a consultation period, the EU parliament published a Report and Explanatory Statement on the proposal to extend the application period of the optional temporary VAT self-assessment mechanism and the quick reaction mechanism. Both mechanisms were scheduled to expire December 31, 2018, but were extended until June 30, 2022. The proposal includes ceasing the monitoring and assessment requests of the VAT self-assessment mechanism and extending its application along with the quick reaction mechanism to December 31, 2025, the date on which it is expected that the definitive VAT system and the VAT in the digital age rules are in place. On May 3, 2022, the European Parliament approved the European Commission's proposal on extending the application of the optional reverse charge mechanism and the Quick Reaction Mechanism in relation to intra-EU sales of certain goods and services susceptible to VAT fraud.
- **Ghana:**[xxvi] On March 29, 2022, Ghana passed a law introducing a 1.5 percent levy on electronic money transfers effective May 1, 2022. The levy is imposed on electronic money transfers, charged at the time of transfer by electronic money issuers, payment service providers, banks, specialized deposit-taking institutions, and other financial institutions. The levy does not apply to cumulative transfers of up to GHS 100 ($12.85) per day by the same person; transfers between accounts owned by the same person; transfers for the payment of taxes, fees, and charges on government payment systems; specified merchant payments; transfers between principal, agent, and master-agent accounts, and electronic clearing of checks. (For KPMG's previous discussion of this levy, please click here.)
- **Italy:**[xxvii] On April 7, 2022, the Italian Revenue Agency issued Letter No. 182/2022, in which it clarified the VAT treatment applicable to vehicle tax reimbursements following the introduction of a new payment method called PagoPA. The taxpayer was a company that managed a fleet of cars, for which it collected vehicle tax and fee payments using the newly introduced PagoPA payment method. The taxpayer inquired as to the VAT treatment of the

tax collections it makes in its car fleet management business. The tax agency clarified that if the relationship between the business and its clients is considered a mandatory payment service for car taxes through PagoPA does not enter into the calculation of the tax base and the collection of the vehicle tax and its invoicing by the taxpayer is exempt from VAT.

- **Kazakhstan:**[xxviii] On March 28, 2022, the Kazakh Ministry of Finance updated the VAT refund procedure rules effective from April 14, 2022. According to the updates, taxpayers may file a request for a refund of overpaid VAT electronically, with the refund request indicated in the VAT return filed for the relevant tax period. If no refund request is indicated in the VAT return, any overpaid VAT will either be credited against the taxpayer's future VAT liabilities or refunded if the taxpayer requests a refund within three years of the date on which it discovered that it had overpaid. VAT refund requests must be made within 55 business days (if at least 70 percent of the taxpayer's total sales are zero-rated in the relevant period) and within 155 business days for other taxpayers. These deadlines begin 30 calendar days after the VAT return filing deadline (i.e., the 15th day of the month following the relevant quarter). Upon receipt of a VAT refund request, the tax authority is required to audit the taxpayer for the period of the request, after which it may deny the request. In any event, an approved refund will not exceed the amount claimed in the refund request or the amount reflected in the taxpayer's personal tax account on the date of completion of the tax audit. Within five business days after the signing of the tax audit report, the taxpayer must file a petition requesting an offset or refund of any overpaid tax or other mandatory fees. Based on that petition, the tax authorities will refund the overpaid VAT to the taxpayer's bank account, or credit it toward future VAT liabilities, or offset the overpaid VAT against current debts (including tax debts of the taxpayer's stand-alone divisions). Further, a simplified VAT refund procedure applies to certain taxpayers. (For KPMG's previous discussion of the simplified VAT refund procedure and its scope, click here.)
- **Kuwait:**[xxix] According to news reports, Kuwait has decided to further delay the introduction of a VAT regime and will instead consider the implementation of a selective excise tax regime. Under the latest proposal, selective excise tax rates of 10 percent to 25 percent would be imposed on tobacco products, carbonated, and sweetened drinks, and luxury goods such as jewelry, luxury cars, and yachts.
- **Netherlands:**[xxx] On April 19, 2022, the Dutch government launched a consultation on a proposal to zero-rate the sale and installation of solar panels for VAT purposes. The proposal is intended to stimulate investment in green energy and reduce administrative burdens to taxpayers and the tax authority.
- **New Zealand:**[xxxi] On April 14, 2022, New Zealand's Inland Revenue Department released a finalized interpretation statement on GST rules for finance leases. (For KPMG's previous discussion of the initial draft interpretation statement, click here.)
- **Paraguay:**[xxxii] On March 23, 2022, the Paraguayan tax authority, *Subsecretaría de Estado de Tributación* (SET), published General Resolution 112, in which it set the procedure for obtaining the VAT exemption for the sale of biofuels for diesel engines. Paraguay grants a VAT exemption for the purchase of raw materials, inputs, equipment, and goods involved in the manufacture and sale of biofuels. Taxpayers must request this exemption online, through the *Marangatu* system. They must provide the SET with proof of authorization to produce biofuel suitable for diesel engines (issued by the Ministry of Commerce and Industry). In addition, taxpayers must support their request with the list of equipment, facilities, and capital goods to be acquired to produce biofuel. SET will accept or deny the documents within two business days. Once accepted, SET will issue the exemption certificate within 20 business days. The certificate will remain valid for 90 days.

- **Poland:**[xxxiii] On April 7, 2022, the EU published a Council Implementing Decision authorizing Poland to extend the application of its split payment mechanism until February 28, 2025. Under the split payment mechanism, when a taxpayer acquires goods or services from another taxpayer, the portion of the payment to the vendor that is VAT is deposited separately and automatically to a dedicated account of the vendor (an r-VAT account. The net amount for the transaction is remitted to the vendor. The amount deposited in an r-VAT account earns interest for the vendor and may be used to satisfy its VAT obligations. (For KPMG's previous discussion of this mechanism and its authorizations, click here.)
- **Poland:**[xxxiv] On April 6, 2022, Poland published the consolidated text of its Retail Sales Tax Act.
- **Portugal:**[xxxv] In response to rising energy prices, Portugal announced tax relief measures in its 2022 budget. The proposed measures include (1) a cut to the ISP fuel tax, which is equivalent to a VAT rate reduction from 23 percent to 13 percent, (effective for May and June 2022); (2) freezing the carbon tax burden at current levels for 2022; (3) establishing a reduced VAT rate of 6 percent on the installation of solar panels and the repair of domestic appliances; and (4) adopting a VAT exemption for feed and fertilizers.
- **Saudi Arabia:**[xxxvi] The Saudi Arabian tax authority, the Zakat, Tax and Customs Authority (ZATCA), published a guide (in Arabic) on the VAT treatment of the construction sector. The guide provides ZATCA's views on the VAT treatment of some specific operations related to construction, including Engineering, Procurement, and Construction (EPC) contracts, completion reports, contracting with government entities, retention of payments, security deposits, damage compensations, and deduction of input VAT incurred on both the importing of equipment and its subsequent sale in the country.
- **Slovenia:**[xxxvii] On March 31, 2022, the Slovenian Financial Administration updated two guides on the tax treatment of income from employment, including the VAT treatment of tips received in restaurants.
- **Sri Lanka:**[xxxviii] On April 1, 2022, the Sri Lankan Inland Revenue Department issued a notice to taxpayers on implementing changes to the VAT regime that were proposed in the Budget for 2022 and enacted in March 2022. (For KPMG's previous discussion of VAT measures in the 2022 budget, click here.)
- **Suriname:**[xxxix] On April 8, 2022, Suriname commenced the implementation of a new VAT regime. According to press reports, the new VAT regime, which will replace the current gross receipts tax regime, has been approved for implementation effective July 1, 2022.
- **Switzerland:**[xl] Switzerland's parliament recently approved a law, 'Lex Netflix', to require streaming services that do not invest at least 4 percent of their Swiss revenues in local film productions to pay an equal amount to the Swiss Federal Office of Culture. The proceeds would be used to fund the production of films on which at least 50 percent of the crew and cast are Swiss. On May 15, 2022, Swiss voters taking part in a referendum approved the legislation.
- **Switzerland:**[xli] On March 15, 2022, Switzerland's Federal Supreme Court published its decision on whether a taxpayer was responsible for VAT on only refining services provided to customers and not on the underlying value of materials refined. Federal Tax Administration v. A__AG (2C_492/2020). In the case, the taxpayer received precious and industrial metal waste from companies involved in watchmaking or goldsmithing.

The taxpayer noted the weight of the metals received and did not issue a monetary credit or state the value of the metals. It then delivered the metal to affiliates or third parties to refine. The taxpayer's customers used the refined metals to order new semifinished products. While the taxpayer did not formally fabricate the semifinished products, it shipped them to the customers when ready for delivery and it did not indicate a value for the refined metals. The taxpayer charged VAT only on its refining and production, but not on the value of the metal. In its opinion, the customer remained the owner. The tax authority disagreed with this reasoning. The Federal Supreme Court agreed with the taxpayer, ruling that the customers had not transferred to the taxpayer the economic power of disposal of the metals based on the contractual documents presented in evidence.

- **Taiwan:**[xlii] On March 31, 2022, the Taiwanese Ministry of Finance issued a notice clarifying the business tax obligations of online traders. Individuals who sell goods or services through the internet are required to register for the business tax if their monthly annual turnover exceeds NTD 80,000 ($2,684) in the case of goods, and NTD 40,000($1,342) in the case of services. For already registered business entities whose monthly average sales amount is less than NTD 200,000 ($6,712), the National Taxation Bureau will determine the amount of business tax, which is 1 percent of the monthly sales amount, and issue a payment notice thereto quarterly. Business entities whose monthly average sales amount exceeds NTD200,000 must issue uniform invoices, and file a bimonthly tax return within fifteen days of the following period.
- **Turkey:**[xliii] On March 25, 2022, the Turkish legislature accepted a bill for consideration that includes various tax measures, including a VAT exemption for goods and services related to construction work for qualified taxpayers, applicable until December 31, 2025, and a VAT exemption for engineering services provided to manufacture electric motor vehicles, applicable until December 31, 2023.
- **Turkey:**[xliv] On April 4, 2022, the Turkish tax authority launched a consultation on a draft proposal to amend the VAT rules. The draft proposal seeks to (1) establish VAT declaration rules under the optional full withholding regime for specified metal products; (2) specify the VAT withholding rate and withholding treatment of specified metal products; (3) establish a procedure to claim VAT refunds and deductions; (4) set an 18 percent VAT rate on passenger transport services effective April 1, 2022; and (6) explain the VAT computation method.
- **United Kingdom:**[xlv] On March 24, 2022, the UK's First-Tier Tax Tribunal (FTT) gave its decision in *Glanbia Milk Ltd v HMRC*. The case involved whether a protein bar, called a "flapjack'" (an item historically considered a type of cake in the UK) qualifies as cake and should thus be a zero-rated confectionery. The FTT ruled that the items did not qualify as cake. According to the FTT, whether the item qualified as a cake depended on the overall impression of the item, having considered factors like ingredients, texture, marketing, manufacturing, consumption circumstances, and the product's name. No one factor is determinative, and decisions are made on a case-by-case basis.
- **United Nations:**[xlvi] In the UN Tax Committee's 24th session, which was held from April 4–12, 2022, the organization detailed a workplan to develop a series of good practices in the design, compliance, and administration of VAT/GST in developing countries. The proposed series will include design of a good VAT system, VAT compliance and administration issues, and VAT in special sectors like tourism. Further, the Tax Committee agreed to receive a paper regarding work that can be done on the taxation of crypto assets to be presented at its 25th Session.

- **Uzbekistan:**[xlvii] On April 4, 2022, Uzbekistan proposed a draft resolution to introduce a VAT refund mechanism for goods purchased by foreigners when crossing the Uzbekistan border. The proposed procedure will apply to goods labeled "tax free," which are purchased by mainly foreigners through an operator of the tax-free system. Legal entities wishing to become an operator of the "tax-free" system can apply to the State Tax Committee for approval. Further, the tax-free system will be piloted at international airports in Tashkent and Samarkand.
- **Zambia:**[xlviii] The Zambian Revenue authority published Practice Note No.1/2022, which provides an overview of various tax changes that were implemented through the different amendments the 2022 Budget. (For KPMG's previous discussion of the VAT measures in the Zambian 2022 budget, click here.)

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