Inside Indirect Tax

April 2023

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 monthly as developments occur. We look forward to hearing your feedback to help us provide you with the most relevant information to your business.

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KPMG Publications

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 taxes and includes a timeline of key upcoming Organization for Economic Cooperation and Development (OECD), European Union (EU), and G20 meetings at which 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 tax reporting, 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 Barbados** published a report discussing the tax measures in the 2023 budget. The proposed measures include: (1) removing the cap on VAT payable on gasoline and diesel fuel (currently 47 cents per liter and 37 cents per liter, respectively); (2) extending the excise tax and VAT holiday on the purchase of electric vehicles by ordinary persons or companies for another two years, until March 31, 2026; (3) introducing a VAT exemption for film-related vendors, such as studios and film equipment rentals that are registered as exclusive film providers; and (5) reducing the air travel and tourism development fee for travel within the Caribbean Community (CARICOM) from BBD 37.50 to BBD 20 effective from July 1, 2023, until December 14, 2023.
- **KPMG in Belgium** published a report discussing the first phase of a proposed tax reform. The proposed measures include: (1) introducing a VAT zero-rate on basic products such as vegetables and fruits, medicines, diapers, and other hygiene products, as well as public transport; (2) harmonizing the existing reduced VAT rates of 6 percent and 12 percent into a new reduced VAT rate of 9 percent (except for utilities that will remain subject a 6 percent rate); (3) increasing the VAT rate on coal from 12 percent to 21 percent; (4) introducing a permanent 12 percent reduced VAT rate for demolition and reconstruction of immovable property; and (5) introducing e-invoicing and e-reporting requirements. The e-invoicing rules will be phased in, with a first phase entering into force from July 1, 2024 for taxpayers established in Belgium whose gross receipts, excluding VAT, exceeded EUR 9 million during calendar year 2023. Mid-sized Belgian taxpayers (those with gross receipts ranging between EUR 700,000 and EUR 9 million during calendar year 2023 or with gross receipts of more than EUR 700,000 during calendar year 2024) will follow effective January 1, 2025. The remaining taxpayers would be required to comply with the e-invoicing requirement from July 1, 2025, except for taxpayers who are subject to the VAT exemption program for small businesses or to the special VAT regime for agricultural entrepreneurs, both of whom would be subject to the e-invoicing requirement effective January 1, 2028.

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- **KPMG in Bolivia** published a report discussing the e-invoicing requirement for a fourth group of taxpayers that became effective April 1, 2023. These taxpayers may issue fiscal documents through the new e-invoicing system, the existing SFV system, or manually until May 31, 2023. Effective June 1, 2023, these taxpayers are allowed to issue fiscal documents only through the new e-invoicing system.
- **KPMG in Canada** published a report discussing the tax measures in the 2023 budget of the province of British Columbia. These measures include proposals to (1) amend the provincial sales tax (PST) rules for online marketplace facilitators and services; (2) exempt automated external defibrillators (AEDs), kits containing AEDs, and parts and services for AEDs from PST effective March 1, 2023; and (3) increase the carbon tax rate annually by CAD 15 per ton of carbon dioxide equivalent emissions, until the rates reach CAD 170 per ton in 2030 on April 1, 2023.
- **KPMG in Canada** published a report discussing the tax measures in the 2023 federal budget. Among other things, the budget would clarify that payment card clearing services rendered by a payment card network operator are excluded from the definition of excluded financial services and are generally subject to goods and services tax (GST)/harmonized sales tax (HST) after March 28, 2023. The budget further proposes to increase the maximum GST credit for grocery purchases in January 2023 and confirms that the Ministry of Finance will proceed with the previously announced tax measures, which include clarifying the GST/HST treatment of crypto-asset mining and GST/HST joint venture elections.
- **KPMG in Canada** published a report discussing the tax measures in the 2023 budget of the province of Saskatchewan. The budget proposes to introduce a PST exemption for (1) labor costs and materials to repair and install exempt medical equipment into real property effective April 1, 2023, provided certain conditions are met; (2) certain rigs used for qualifying activities, including certain commercial geothermal drilling, retroactive to April 1, 2017; (3) certain storage buildings used for storing commercially grown fruits and vegetables, and certain boats with attached harvesting equipment when primarily used in rice farming, retroactive to April 1, 2019; and (4) certain hydraulic pipe tables effective from April 1, 2023.
- **KPMG in Chile** published a report discussing the "Recovery and Early Assistance Plan," which is a series of tax relief measures and exemptions in response to fire damages in the central-southern area of Chile. The measures include (1) waiving fines and interest and facilities for unpaid taxes; (2) introducing a VAT exemption for donations made to public bodies; (3) extending the VAT filing period; (4) waiving payment of taxes for services rendered by taxpayers domiciled abroad if they are directly related to firefighting; (5) extending the term allowed taxpayers with advanced collection processes to regularize their situation and avoid auctions of their assets for non-payment of tax obligations; and (6) introducing a customs duties exemption for products and materials for the support of affected families.
- **KPMG in Cyprus** published a report discussing the mandatory use of the single tax portal for VAT payments. Effective March 27, 2023, all VAT and VAT information exchange system (VIES) payments must be made through the new single tax administration portal *Tax For All* (TFA), which replaces the TAXISnet website. The payment reporting code for each tax liability will be made available exclusively through the TFA portal. For payments at bank counters, taxpayers are required to print the new payment slip which is also available exclusively through the TFA portal. All existing forms as well as existing VAT and VIES payment codes are abolished. To read KPMG's previous discussion of the implementation of the new tax portal, please click here.

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- **KPMG in the Czech Republic** published a report discussing new VAT obligations of transport service providers through mobile applications effective January 1, 2023. The provision of passenger transport arranged through a mobile application is considered an economic activity. The passenger transport provider is required to register for VAT if their gross receipts exceed CZK 2 million in a 12-months period. VAT-registered passenger transport providers are further required to self-assess VAT when they receive services consisting of accessing a mobile application from a non-resident vendor, but may, at the same time, deduct the input VAT if statutory conditions are met. If the passenger transport providers are not registered for VAT, they are required to register as a person identified for tax and pay the self-assessed VAT on the service received but will not be entitled to recover the self-assessed VAT.
- **KPMG in the Czech Republic** published a report discussing a recent decision of the Supreme Administrative Court (SAC) regarding ownership of goods for VAT deduction purposes. In this case, the taxpayer purchased goods from a seller who kept the goods in a warehouse under their control and resold the goods based on a power of attorney issued by the taxpayer. The taxpayer would subsequently receive monthly reports on purchases and resales from the seller. The question arose as to whether the taxpayer was allowed to recover VAT incurred on the purchase of the goods by the taxpayer. The SAC held that the taxpayer cannot recover the VAT because the taxpayer had not acquired the right to dispose of the goods as their owner. In this regard, the SAC emphasized that it is necessary that the owner can make decisions influencing the legal position of the goods. If the owner does so through an agent, it is still necessary to prove that the owner can at least generally influence the agent's acts. Such an influence is established if the owner knows what the relevant goods are, has a real possibility to give instructions concerning the goods to the agent, and responds when the agent oversteps their powers.
- **KPMG in the Czech Republic** published a report discussing proposed amendments to a draft government decree on the VAT treatment of compensation paid to vendors to deliver electricity and gas at fixed prices. The draft decree, published in February, held that these payments are not subject to VAT because there is no direct link between the payments and the provision of electricity and gas. However, both the Czech legislative council and the Ministry of Finance opposed this provision during the comment period because the VAT law and not the government decree can determine if a VAT exemption. The proposed amendment omits this wording, thus technically leaving open the question of whether such compensation is subject to VAT or not.
- **KPMG in Germany** published a report discussing recent VAT developments in Germany including a recent tax authority guidance on when research institutions qualify as a business for VAT purposes. It also addresses court rulings on levying VAT on heat provided from a biogas plant and whether passing on costs qualifies as a business activity for VAT purposes. In another report, KPMG Germany discusses court rulings on the VAT treatment of intercompany sales in the context of VAT grouping and the VAT treatment of renting mobile accommodation containers to employees. The report further discusses tax authority guidance on donations to Ukraine and on the zero-rating for transactions in connection with certain photovoltaic systems.
- **KPMG in Hungary** published a report discussing implementation of the machine-to-machine (M2M) e-VAT system. The report notes that the tax authority has made available on the GitHub development platform the XSD schema for the system and the application programming interface (API) documentation of the M2M process for VAT returns. The M2M e-VAT system offers an alternative to preparing and submitting VAT returns via the ÁNYK framework. The tax authority invites user feedback so that constructive suggestions can be incorporated into the concept. To read KPMG's previous discussion of the revision of the Hungarian e-VAT system to a machine-to-machine approach, please click here.

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- **KPMG in India** published a report discussing a recent decision of the Indian Supreme Court in *the State of Karnataka v. Ecom Gill Coffee Trading Private Limited* on the proof required for VAT recovery. In this case, the court held that a taxpayer applying for recovery of the state of Karnataka VAT (applicable until July 1, 2017) must provide proof of the relevant transaction by providing the name and address of the selling dealer, details of the vehicle that delivered the goods, payment of freight charges, acknowledgment of taking delivery of goods, tax invoices, and payment particulars. The mere production of invoices and/or payment by check is not sufficient.
- **KPMG in Indonesia** published a report discussing "Government Regulation No. 49 Year 2022 ("GR-49") on the categories of goods and services that are not subject to VAT. The guidance provides that VAT is not due on out-of-scope transactions, VAT-exempt transactions, and zero-rated transactions. Vendors of out-of-scope transactions and VAT-exempt transactions are not entitled to deduct VAT incurred on expenditures. Vendors of zero-rated transactions are entitled to recover VAT. In addition, GR-49 changes health, social, financial and insurance, education, public transportation, and outsourcing services from out-of-scope transactions to VAT exempt transactions. Thus, taxpayers selling this category of transactions may be required to issue VAT invoices.
- **KPMG in Indonesia** published a report discussing new customs and VAT obligations on imported software products and other digital goods. Taxpayers that import intangible goods are required to submit an import of goods notification form any time intangible goods are imported into the country. This must be done no later than 30 days from the date of payment. They are also required to pay the import duty and tax relating to importation including import VAT, which must be done before submitting the import of goods notification form.
- **KPMG in Kenya** published a report discussing a recent judgment of the Kenyan High Court in *Mwaura Kabata & 4 Others v The National Assembly & Others* on the constitutionality of provisions of the Kenyan Finance Act, 2022, that remove exports of services from the list of VAT zero-rated services. In particular, the High Court considered whether the amendments to the Act ought to have been re-submitted to the public for public participation. According to the High Court, Parliament is empowered to introduce amendments to a bill at the committee stage provided that the amendments are in line with the subject matter of the bill that has already been agreed to. In this case, the Finance Bill, which was subjected to public participation, was intended for the amendment of tax laws. The amendment of the VAT Act fell within the scope of the bill. The amendment cannot, therefore, be said to be contrary to the object and purpose of the bill. Further, on the issue of whether the imposition of VAT on the export of services would subject taxpayers to double taxation, the High Court opined that Kenya has various double taxation avoidance agreements in place to address the issue of double taxation in two jurisdictions. It should be highlighted that Kenya's president recently proposed to zero-rate exported services effective July 1, 2023.
- **KPMG in Malaysia** published a report discussing recent tax developments. These include (1) the postponement of the sales tax on low-value goods; (2) a new Tourism Tax Policy on the liability of digital platform service providers to collect tourism tax; (3) a tourism tax regulation providing for compounding of offenses committed under the regime; (4) guidelines for applying for the excise duty and sales tax exemptions on the sale, transfer, private use, or disposal of a specific type of taxis and hired cars; and (5) the launch of the "MyExcise" tax portal.
- **KPMG in Mexico** published a report discussing an updated list of the nonresident providers of digital services who are registered under the Mexican VAT on digital services regime. As of February 28, 2023, 182 taxpayers are registered under the regime.

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- **KPMG in Mexico** published a report discussing a recent decision of the Mexican Supreme Court that an "offset" amount resulting in the extinction of VAT obligations cannot be considered an "effective payment method" per the VAT law. Consequently, the VAT related to the offset amount is not creditable as VAT incurred on expenditures.
- **KPMG in New Zealand** published a report discussing the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Act, which received Royal Assent on March 31, 2023. The Act (1) introduces new information reporting requirements for New Zealand digital platform operators in the gig and sharing economy effective January 1, 2024; (2) imposes GST collection obligations on electronic marketplaces that facilitate accommodation and transportation services effective April 1, 2024; and (3) includes remedial amendments such as recent GST invoicing changes. To read KPMG's previous discussion of the indirect measures in the bill (now law), please click here.
- **KPMG in Nigeria** published a report discussing guidelines on the administrative and compliance obligations of companies charged with the responsibility to withhold VAT at source and/or self-account for VAT on taxable sales. The Nigerian VAT law requires government bodies and companies operating in the oil and gas sector, deposit money banks, and selected telecommunications companies to withhold VAT due on all payments made to contractors, empowers the tax authority to appoint any person as an agent for VAT collection purposes, and requires a recipient to self-account for VAT when no tax is charged on an invoice. The guidelines clarify how these obligations operate in practice.
- **KPMG in the Philippines** published a report discussing a recent tax authority circular clarifying the effects of publishing the list of taxpayers who cannot be located (CBL). According to the circular, publishing the list gives notice to the taxpayers and the public in case anyone has information on the whereabouts of such taxpayers or business transactions with them. The circular further explains the tax consequences of transactions with CBL taxpayers, which include the non-deductibility of purchases and the inability to recover VAT, unless the buyer can prove the existence of the vendor tagged as CBL and the authenticity of the purchases made. These tax consequences apply to transactions made after the publication of the name of the CBL taxpayer.
- **KPMG in Poland** published a report discussing, among other things, tax consultations regarding the introduction of the concept of "VAT warehouses" in Poland. VAT warehouses can be used to simplify VAT settlement and collection processes, especially for entities involved in international trade in goods. A VAT warehouse is an authorized place in which goods are produced, processed, held, received, or dispatched free of VAT.
- **KPMG in Poland** published a report discussing a new bill proposing amendments to the implementation of mandatory e-invoicing for business-to-business and business-to-government transactions in Poland. Implementation of the requirements will be delayed six months to July 1, 2024. Further, the mandatory e-invoicing will not apply to transactions with natural persons not conducting business activities. Importantly, the voluntary use of e-invoicing for such transactions is now prohibited, which is a major amendment compared to the previous version of the bill. To read KPMG's previous discussion of Poland's e-invoicing measures, please click here.
- **KPMG in Poland** published a report noting that the Polish Public Finance Committee approved the Slim VAT 3 package. The package is intended to further simplify and accelerate VAT settlements, improve liquidity, and reduce formalities for companies in international trade. To read KPMG's previous discussion of the Slim VAT 3 package, please click here.

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- **KPMG in Serbia** published a report noting that the Serbian VAT law allows nonresident taxpayers to recover VAT paid on their purchases in Serbia provided they hold an invoice that shows that VAT has been paid on the purchases. The minimum amount for a VAT refund in Serbia is EUR 200. In addition, VAT may be refunded if the taxpayer has not sold any goods and services in Serbia, apart from the zero-rated delivery of goods, transport of passengers by bus, for which the customs authority charge VAT, as well as goods and services for which the recipient is required to self-assess VAT. Further, a VAT refund is available only to legal entities established in countries with which Serbia has reciprocity. A request for a VAT refund for 2022 must be submitted by June 30, 2023, at the latest. To submit a VAT refund request, a non-resident taxpayer must have a Serbian tax identification number.
- **KPMG in Serbia** published a report discussing amendments to the Serbian "VAT rulebook" effective February 1, 2023. Among other things, the amendments relate to the VAT treatment of services provided free of charge by nonresident vendors, the use of the market value for the VAT base, the zero-rating of exports of goods, and VAT invoicing requirements.
- **KPMG in Thailand** published a report discussing the Thai Cabinet's approval of a draft VAT exemption for investment tokens offered to the public. If enacted, the exemption will apply retroactively from May 14, 2018, to the transfer of investment tokens offered to the public by companies or partnerships and to the trading of investment tokens in the secondary market. Where the offered tokens are a mix of investment tokens and tokens issued for other purposes, the exemption will apply only to the investment tokens, and the investment tokens must be separated from other tokens. To read KPMG's previous discussion of Thailand's tax relief measures to support trading in digital assets, please click here.
- **KPMG in the United Arab Emirates** published a report discussing an updated VAT guide on the apportionment of VAT paid on purchases for taxpayers that do not have a full right to recover VAT. Among other things, the guide (1) extends the scope of sectors that can apply to use the outputs-based special apportionment method and the sectoral special apportionment method; (2) clarifies the date on which the VAT registrant can apply to use a special apportionment method for the first time; (3) clarifies the effective date of application of the special method as approved by the tax authority; and (4) clarifies the requirements for reapplying for a special apportionment method. Under the outputs-based method, taxpayers determine their VAT recovery right based on the value of taxable sales as a proportion of all sales made by the taxpayers while the sectorial method allows large complex businesses to determine their VAT recovery right based on individual business sectors. Other special apportionment methods are based on counting the number of transactions used for taxable purposes over the total number of sales, or the floorspace used for taxable sales purposes over the total floor space.

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Global Rate Changes

- **Azerbaijan:**[i] On February 27, 2023, Azerbaijan included "other calcium phosphates," and threonine within the list of goods that are VAT exempt and extended the VAT exemption through December 31, 2023.
- **Barbados:**[ii] Barbados recently extended the period of application of the 7.5 percent reduced VAT rate on residential electricity through September 30, 2023. The regime was originally introduced effective from August 1, 2022, through January 31, 2023.

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- **Belarus:**[iii] On March 29, 2023, Belarus announced a VAT exemption for mining, purchasing, selling, and exchanging tokens for other tokens when performed by business entities resident in the High Technology Park. The exemption applies from January 1, 2023, through January 1, 2025.
- **Belgium:**[iv] On March 23, 2023, Belgium enacted a law which made permanent the 6 percent reduced VAT rate on electricity, natural gas used as heating fuel, and heat provided through heat networks for non-business use effective April 1, 2023.
- **Bulgaria:**[v] On March 17, 2023, the Bulgarian Ministry of Finance launched a public consultation on a proposal to end the application of the reduced 9 percent VAT rate on restaurant and catering services, tour operator services, and the use of sports facilities on July 1, 2023.
- **Croatia:**[vi] On March 24, 2023, Croatia extended the application of the 5 percent reduced VAT rate on natural gas, district heating, firewood, pellets, briquettes, and wood chips through March 31, 2024. This measure was originally scheduled to end on March 31, 2023.
- **Egypt:**[vii] On March 2, 2023, the Egyptian Ministry of Finance published amendments to the VAT payment procedure for specified machinery and equipment. Taxpayers engaged in the selling of goods or provision of services using such machinery, equipment or production lines in its performance may take advantage of a 5 percent reduced VAT rate. To qualify, they must provide a document establishing that the machinery in questions was used in the transaction, and a registration certificate of the product with the Egyptian tax authorities, or a tax card to the competent customs authority. In addition, for the payment of VAT due on imported machinery, equipment, and production lines received in a disassembled or fragmented form and for which the competent tax authority cannot verify that they constitute machinery, equipment, or production lines, the tax will be paid provisionally and subsequently be subject to special procedures and inspection by the competent authority.
- **Greece:**[viii] On March 28, 2023, Greece extended application of the 13 percent reduced VAT rate on transportation services, catering services, cinema tickets, coffee, and non-alcoholic drinks, tourism, zoo tickets, gyms, and dance schools, as well as on the import of artwork, art collections, and antiquities through December 31, 2023. The country also extended application of the 6 percent reduced rate on filters for dialysis, hemofiltration, and plasmapheresis, as well as products used for virus protection and the prevention of hospitalization through the same date. The applicability of the reduced rates was originally scheduled to end on June 30, 2023.
- **Grenada:**[ix] On March 1, 2023, Grenada implemented indirect tax amendments that were announced in its 2023 budget. They include (1) increasing the VAT rate on carbonated beverages, soft drinks/sodas, and drinks with added sugar from 15 percent to 20 percent, (2) removing the VAT zero-rate for sugar, and (3) increasing tobacco excise duties and the excise tax on alcoholic drinks, (4) introducing a temporary VAT zero-rate for basic foodstuffs and sanitary items from February 2023 through December 2023, (5) introducing a VAT exemption for various digital media items, and (6) reducing the VAT rate to 15 percent for mobile and broadband data effective from February 1, 2023.
- **Italy:**[x] The Italian cabinet approved a decree to temporarily reduce the VAT rate from 10 percent to 5 percent for natural gas. The reduced rate applies from April 1, 2023 through June 30, 2023.
- **Kazakhstan:**[xi] On March 14, 2023, Kazakhstan introduced a temporary import VAT exemption for art imported by private museums. The exemption applies from March 26, 2023, through January 1, 2026, and applies to the following goods if they are over 100 years old: paintings, drawings and pastels, mosaics, other items painted or decorated by hand, collages and similar decorative images, original engravings, prints and lithographs, original sculptures and figurines made of any materials. The exemption further applies to collections and collectibles in archeology, ethnography, or history.

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- **Malawi:**[xii] On March 2, 2023, the Malawi Minister of Finance and Economic Affairs presented the 2023/2023 Budget, which proposes to (1) exempt wheat flour and urinary drainage bags from VAT; (2) apply the standard VAT rate of 16.5 percent to exercise books with hard covers, flour products, other cereals, groats and meal of wheat, rolled or flaked grains of oats or other cereals, germ cereals, roasted malt, barley, rye, and sorghum or millets; (3) introduce a definition of a "going concern" to the VAT law; and (4) clarify that exempt goods when exported are to be treated as zero-rated sales. In addition, the budget includes several customs and excise duty proposals, including a proposal to revise the customs rebating thresholds, remove customs duties on the importation of electric motor vehicles and charging systems, gas appliances, and urinary drainage bags, and to introduce an excise tax on specified roofing tiles. The VAT measures took effect on April 1, 2023, while the customs and excise measures took effect on March 2, 2023.
- **Moldova:**[xiii] On January 23, 2023, Moldova proposed to introduce a VAT exemption for crowdfunding services.
- **Monaco:**[xiv] On March 17, 2023, Monaco extended application of the 5.5 percent reduced VAT rate to foodstuffs for animals raised for food for human consumption and products of agricultural origin, fishing, pisciculture or poultry farming normally intended for use in agricultural production, installation and maintenance of charging infrastructure for electric vehicles, and energy renovation services. In addition, Monaco also introduced measures allowing VAT taxpayers to now use the electronic seal procedure.
- **Montenegro:**[xv] Effective January 18, 2023, Montenegro enacted amendments to its VAT law, which include (1) zero-rating services providing access to networks that transmit natural gas, electricity, and energy for heating or cooling; (2) introducing import VAT exemptions for natural gas provided through the natural gas system, natural gas filled from a natural gas delivery vessel into the natural gas system or into the natural gas system and supply chain, and electricity via the electric grid and energy for heating or cooling via its respective network; and (3) applying the 7 percent reduced VAT rate to solar panels.
- **Netherlands:**[xvi] On March 3, 2023, the Dutch parliament accepted for consideration a bill, which if approved, would zero-rate foodstuffs and non-alcoholic beverages (other than in the catering sector) for 12 months and apply the standard VAT rate for the hospitality industry, including the delivery or collection of meals or drinks.
- **Nicaragua**[xvii] On February 17, 2023, the Nicaraguan Ministry of Finance published a list of VAT-exempt goods, which includes goods for the agroindustry, food industry, and handcrafts (e.g., leather, textiles, wood, furniture, and footwear) industries, as well as capital goods used for bakery, plastic industry, and metal-mechanics industries.
- **Pakistan:**[xviii] Pakistan has introduced an increased 25 percent sales tax rate on luxury goods, which include specified vehicles, carpets, chocolates, cigarettes and cigars, cosmetics, footwear, furniture, home appliances, ice cream, recreational craft, jewelry, wristwatches, SUVs and CUVs (crossovers), vehicles with an engine capacity above 1400cc, and double cabin (4x4) pick-up vehicles.

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Indirect Tax Developments and News from Around the World

The Americas

United States: Rhode Island Ruling Addresses Taxability of SaaS, PaaS, and IaaS

On March 7, 2023, the Rhode Island Department of Revenue published Ruling Request No. 2023-01 regarding whether sales and use tax applied to a taxpayer's charges related to its provision of employee recognition programs. In doing so, the Department confirmed its position on the taxability of SaaS, IaaS, and PaaS. Under the employee incentive programs operated by the taxpayer, a customer's employees were awarded rewards points that could be redeemed for merchandise and gift cards. The taxpayer charged customers a fee to create customized websites to facilitate the administration of employee incentive programs. Customers never had control over the websites, which were used by the taxpayer to administer its customers' employee recognition incentives. The Master Agreement between the taxpayer and its customers granted customers a "non-exclusive, non-transferable right to use and access the Web Site and the related software." The website referenced in the agreement was an administrative tool used by the taxpayer to administer employee recognition incentives on behalf of its customers. The taxpayer also provided merchandise and gift cards for which clients' employees could redeem reward points. Customers were charged a transaction fee based on the U.S. dollar value of the rewards points that were issued to employees and later redeemed. The taxpayer requested a ruling as to whether sales and use tax applied to charges for consulting, startup, and website design and the transaction fees charged to customers upon the issuance of rewards points. The taxpayer also requested that the Department rule on whether sales and use tax should be collected on the retail sales price of the merchandise as well as gift cards sold by the taxpayer.

Concerning the website consultation and design fees, the Department of Revenue responded that the computer software the taxpayer sells directly to its customers is "tangible personal property" subject to Rhode Island sales tax. To the extent the taxpayer charges Rhode Island customers to access its website and software services, those charges are taxable as Infrastructure as a service (IaaS), platform as a service (PaaS), and software as a service (SaaS), and as part of the sale and/or license of the software to the customer. Concerning the transaction fees charged to customers, the Department concluded that because the Master Agreement provided customers a license to access the taxpayer's website and software, the transaction fee charged for the issuance of the reward points was also subject to sales tax. The Department also ruled that sales tax must be collected on merchandise sold to Rhode Island residents through the redemption of rewards points, but it was not required to be collected when rewards points were redeemed for gift cards.

Brazil: Supreme Court Holds Freight Services Provided to Trading Companies Are not Subject to PIS/COFINS

On February 22, 2023, the Brazilian Supreme Court decided in Divergence Appeal 1.367.071 on whether freight services provided to trading companies for the delivery of products to be exported are subject to the Social Integration Programme (PIS) and the Financing of Social Security (COFINS) contribution requirements. PIS/COFINS are federal social contribution taxes charged on gross receipts from the sale of goods and services. PIS/

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COFINS apply also on the import of goods and the payment of services to non-residents, but not on the export of goods and services. In this case, a railway company specialized in the delivery of cargo via containers challenged its PIS/COFINS obligations because, it argued, the export exemption in the regime should not apply only to the sale of exported products but also to all transactions involved in the complex export mechanism, of which freight is an inseparable part.

Under the PIS/COFINS regulations, an exemption applies only to products exported or sold to trading companies, provided that, in the latter case, the products are meant to be exported. The regulations do not provide the same exemption to inland freight services to deliver such products at the departure ports, airports, or railways. The Supreme Court, however, held that as the exemption applies to indirect export transactions carried out by trading companies acting as intermediaries, the same understanding should apply to freight services. Therefore, PIS/COFINS cannot be levied on freight services because, according to the principle of destination, exported goods and services should enjoy tax neutrality on international trade transactions, and such tax burden would harm the efficacy of the exemption.

Source: Brazil – Supreme Court: Revenues from Freight Services Provided to Trading Companies Not Subject to Contributions on Gross Revenues, (March 14, 2023), News IBFD.

Brazil: Guidance on PIS/COFINS Credits for Supermarkets

On March 10, 2023, the Brazilian tax authority published Private Ruling 46/2023 discussing whether taxpayers may claim PIS/COFINS credits for specified transactions engaged in by supermarkets. The ruling provides that PIS/COFINS incurred on uniforms is creditable, provided that the use of uniforms is a legal requirement, and they are used in the production of goods intended for sale (e.g., the case of the restaurant in the supermarket that produces ready-to-eat food and the bakery that produces sandwiches, cakes, and bread, etc.). Further, PIS/COFINS incurred on hygiene products is creditable if the use of the products is legally required and they are used in the production process in areas of the supermarket that produce goods intended for sale, such as bakeries and restaurants. However, PIS/COFINS incurred on uniforms and hygiene items used in the butcher shop of the supermarket is not creditable because the butcher shop does not produce any goods, but rather resells them. In addition, PIS/COFINS incurred on packaging expenses is not creditable, except when the packaging is used in activities that produce goods to be sold (e.g., bakeries and restaurants). Moreover, PIS/COFINS incurred on freight related to goods acquired for resale or used as inputs in the production of goods (e.g., bakeries and restaurants) provided that the purchased goods generate PIS/COFINS credits. Finally, supermarkets are not allowed to claim PIS/COFINS credits for expenses related to royalties for the use of administrative software, marketing, related to the transportation of cash, credit card fees, and plastic bags used by consumers free of charge.

Source: Brazil – Tax Authorities Clarify Contributions on Gross Revenue Credits for Supermarkets, (March 28, 2023), News IBFD.

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Egypt: Guidance Clarifying VAT on Digital Services Regime

The Egyptian tax authority (ETA) published guidance clarifying the new VAT on digital services regime effective June 22, 2023. Under the regime, nonresident vendors of remote services to final consumers (B2C) in Egypt are required to register under a new "simplified vendor registration mechanism" and charge VAT. Remote services are services for which, at the time of the performance, there is no necessary connection between the physical location of the recipient and the place of physical performance. These include digital content, such as e-books, movies, TV shows, music, and online newspaper subscriptions; website design or publishing services; online sale of games, apps, software, and software maintenance; and legal, accounting, and consultancy services. Remote services exclude "on-the-spot" services, which are services that require the physical presence of a customer in a specific location to receive it, even if they are booked online (e.g., booking hotel services, physiotherapy services, etc.). Remote services are in principle subject to the standard VAT rate of 14 percent unless the services are subject to the reduced VAT rate of 10 percent (e.g., consultancy, accounting, and marketing services) or are explicitly exempt (e.g., certain financial, insurance, and education services).

Nonresident vendors are required to register for VAT if they make sales greater than EGP 500,000 for any period of 12 months. However, the registration threshold is nil for services subject to the reduced VAT rate. The obligation to register, charge, and collect VAT applies to B2C sales. For sales made to business customers registered for VAT (B2B sales), the customer is required to self-assess the VAT. Remote services are sourced to Egypt if the recipient is a non-registered person that has a permanent residence in Egypt. The permanent residence of a recipient is deemed to be in Egypt if two of the following are in Egypt: residence information (e.g., billing address or home address), payment information (e.g., credit card info, bank account details, or bank ID), and access information (e.g., SIM info, IP address, location of landline through which services are provided).

Further, the guidance provides that if a vendor (local or nonresident) sells remote services through an electronic distribution platform (EDP), the EDP is deemed to have rendered the services itself and is required to collect and remit VAT applicable on the remote service. An EDP is an electronic interface—such as a website, internet portal, online store, or online marketplace—that allows recipients and persons offering services through the electronic interface to interact and which results in a sale through that electronic interface. An EDP will not be deemed to have made the sale if the following are satisfied: the vendor has agreed with the EDP in writing that the vendor, instead of the platform operator, is responsible for collecting the VAT and remitting it to the ETA; the invoice/receipt issued to the recipient of the remote service identifies the vendor as the person that renders the service and the service rendered; and the EDP does not authorize the charge to the recipient for the sale, does not authorize the delivery of the service and does not directly or indirectly) set any of the terms and conditions under which the sale is made. In addition, platforms that only process payments, only advertise offers, or only operate as click-through referral platforms are not regarded as having rendered the remote services themselves.

Noncompliant taxpayers may be subjected to a "risk review" (audit). A risk review may result in the ETA registering the taxpayer for Egyptian VAT and issuing an assessment based on the ETA's calculation with additional penalties or registering the VAT debt in a court in the taxpayer's country. The ETA can also ban access to sell in Egypt.

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European Union: Roundup of Recent ECJ Decisions

On March 2, 2023, the Court of Justice of the European Union (ECJ) published its decision in *NEC PLUS ULTRA COSMETICS AG*, Case C-664/21, in which it held that a Member State may prohibit the production of new evidence that establishes the conditions necessary for the zero-rating of intra-EU sale of goods once an administrative proceeding has begun. In the case at hand, the additional documentation was provided after the tax inspection was concluded, but before an assessment was made final. The ECJ held that such limitations can be reasonable as a way of time-limiting tax matters, provided that the principles of equivalence and effectiveness have been complied with.

On March 9, 2023, the ECJ published its decision in *Promo 54*, Case C-239/22, in which it held that the VAT exemption for the sale of an old building (i.e., a building that has been occupied before being sold) or a part of an old building, and of the land on which the old building stands also applies to the sale of a building that was first occupied before being converted for another purpose. In this regard, it does not matter that a Member State has not laid down, in its national law, the detailed rules for applying the criterion of first occupation to conversions of buildings.

On March 9, 2023, the ECJ published its decision in *Generali Seguros*, Case C-42/22, in which it held that the VAT exemption for insurance, reinsurance and related activities does not apply to the resale of parts of written-off cars by an insurance company.

On March 23, 2023, the ECJ published the nonbinding Opinion of its Advocate General (AG) in *Mensing II*, Case C-180/22, in which the AG opined that the VAT amount paid by a taxpayer engaged in reselling art whose subsequent sale is subject to the VAT margin program should be included in the taxable amount of that subsequent sale.

On March 30, 2023, the ECJ published its decision in *Gmina O.*, Case C-612/21, in which it held that a municipality (public authority) implementing a project involving the installation of renewable energy systems is not considered a taxpayer for VAT purposes as it is not engaging in economic activity.

On March 30, 2023, the ECJ published its decision in *Gmina L.*, Case C-616/21, in which it held that a municipality carrying out activities such as the removal of asbestos from residential properties located within that municipality is not considered a taxpayer for VAT purposes when the activities are financed entirely by public funds.

Source: European Union; Slovenia – ECJ Decides on Whether Certain Supplies of Goods Effected Within the EU Are Exempt from VAT: *NEC PLUS ULTRA COSMETICS* (Case C-664/21) (VAT), (March 2, 2023), News IBFD; European Union; Belgium – ECJ Decides on Supply of New Buildings and Application of First-Time Use Criterion in Conversion of Buildings: *État belge and Promo 54* (Case C-239/22) (VAT), (March 9, 2023), News IBFD; European Union; Germany ECJ Advocate General Opines That VAT Shall Be Included on Taxable Amount of Subsequent Supply Under VAT Margin Scheme: Mensing II (Case C-180/22) (VAT), (March 28, 2023), News IBFD; European Union; Poland – ECJ Decides on Possibility of Considering Taxable Person for VAT Purposes Municipality Carrying Out Renewable Energy Projects: *Gmina O.* (Case C-612/21) (VAT), (March 30, 2023), News IBFD; European Union; Poland – ECJ Decides on Possibility of Considering Taxable Person for VAT Purposes Municipality Carrying Out Activities Related to Removal of Asbestos: *Gmina L.* (Case C-616/21) (VAT), (March 30, 2023), News IBFD.

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European Union: Overview of Recent VAT Committee Working Papers

On March 21, 2023, the European Commission (EC) published Working Papers of the EU VAT Committee following its 122nd meeting. The VAT Committee is an advisory body to the EC set up to promote the uniform application of the provisions of the EU VAT Directive.

In Working Paper No. 1058, the VAT Committee discusses the application of the exemption for education services to the transfer of knowledge services provided by lecturers under contracts concluded with higher education institutions. In its preliminary assessment, the EC considers that such services do not fall under the VAT exemption.

In Working Paper No. 1059, the VAT Committee discusses the application of the VAT exemption for sales of goods that are exported in the personal luggage of non-EU travelers. The Working Paper includes the feedback received from certain Member States on the following questions: (i) whether the permanent address or habitual residence of the traveler is being checked systematically (or only the destination or nationality of the traveler); (ii) which other documents, apart from passport and identity card, are used or accepted as proof; (iii) what practical approach is applied in those cases where the permanent address or habitual residence cannot be established with certainty; and (iv) whether tax authorities have or can access the information that travelers may have provided to the travel company on their trip.

In Working Paper 1060, the VAT Committee discusses the VAT treatment applicable to non-fungible tokens (NFTs). The Working Paper notes that while the current majority view is that NFTs are digital services, this is not certain and cannot be generalized to all NFT transactions. Rather, a case-by-case assessment is needed to determine whether the sale of NFTs is a transaction in goods or services from a VAT standpoint and to determine their VAT treatment. Consequently, it illustrates that NFTs may be compared to property titles, vouchers, bundled sales, and electronic services. For more information, please click here.

In Working Paper No. 1061, the VAT Committee discusses the possibility for a lessee of an aircraft to deduct the VAT paid upon the importation of the aircraft, when the lessee is designated as liable for the payment of such VAT given the different approaches taken by Member States and several ECJ decisions. See, for example, Case C-405/19, *Vos Aannemingen* (October 1, 2020), Case C-132/16, *Iberdrola* (September 14, 2017), and Case C-187/14, *DSV Road* (June 25, 2015). In its preliminary assessment, the EC considers that in the specific case of imports of aircraft, Member States should allow the lessee to recover the import VAT.

In Working Paper No. 1062, the VAT Committee further discusses the VAT treatment of city cards looking to establish whether these would qualify as vouchers and, if so, what type of voucher. The VAT Committee provided its conclusions taking into account the factual circumstances, the Danish law and the ECJ decision in Case C-637/20, *DSAB Destination* Stockholm (April 28, 2022). The Working Paper concludes that city cards should in principle be viewed as multi-purpose vouchers as the services to be provided are unknown at the time of purchase and may be subject to differing VAT treatment. Further, in the absence of sufficient information, third-party vendors in calculating the taxable amount of the sale made in return for the city card would need to rely on the related documentation to determine their part of the monetary value.

In Working Paper No. 924 REV9, the VAT Committee discusses the state of play of the electronic system Centralized Clearance for Import and provides an update on the application by Member States of deferred payment and postponed accounting for the payment of import VAT.

Source: European Union – European Commission VAT Committee Discusses VAT Treatment of NFTs, Transfer of Knowledge Services, Goods Exported in Personal Luggage of Non-EU Travellers, City Cards (March 27, 2023), News IBFD.

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Israel: Proposal to Require Nonresident Digital Services Providers to Register for VAT

On February 15, 2023, the Israeli government introduced a new proposal that would require nonresident vendors of digital services and low-value goods imported into Israel to register for, collect, and remit VAT, if approved. The proposed regime would apply to (1) "Electronic Services"—including the provision of software, entertainment products, books, music, lotteries, games, TV programs, movies, webcasts, and distance learning services; (2) "Communication Services"—including telephone services, fax, access to the Internet, and other similar services; (3) "Tangible low-value goods"—tangible goods on the importation of which no importation taxes are imposed as defined in the Customs Ordinance, except for VAT; and (4) "On-line store"—website, software or service through the internet or an electronic network providing services through which tangible goods are sold by a foreign resident to an Israeli resident.

The obligation to register, charge, and collect VAT would apply to sales made to consumers (B2C). A B2C customer would be an Israeli resident who is not a taxpayer for VAT purposes, a financial institution, or a not-for-profit association. The location of a customer would be determined by, among other things, the place of residence, the means of payment, and the equipment or stationary infrastructure through which the customer receives the service.

It is still unclear if a marketplace will be obligated to charge and collect VAT for sales facilitated on behalf of vendors on its platform. The proposal further does not include any reference to a registration threshold. Finally, it is still unclear whether a VAT registration would have any permanent establishment (PE) consequences given previous circulars published by the tax authority relating to the digital economy. Israel has omitted this proposal in the latest version of its 2023/2024 budget. For more information, please click here.

Saudi Arabia: Guidance on VAT Refund Procedure for Nonresidents

On February 16, 2023, the Zakat, Tax and Customs Authority (ZATCA) issued a circular on the VAT refund procedure in Saudi Arabia for companies that are registered for VAT and are residents of a Gulf Corporation State (GCC state). The circular provides that to claim a refund of VAT incurred on goods and services acquired in Saudi Arabia (KSA), the nonresident taxpayer is required to register and apply through the ZATCA online portal. To be eligible, the nonresident must be established and registered for tax in a country that applies VAT or a similar tax, must be established in a country that allows reciprocal tax refunds for Saudi residents and must not have a place of business or a fixed establishment in Saudi Arabia.

After registration, the taxpayer can submit the refund request if the following conditions are met: (1) the tax paid by the nonresident taxpayer is not a result of the sale of goods or services in any GCC member state; (2) the tax paid by the nonresident taxpayer is for his economic activity relating to the making of taxable sales; and (3) the total tax amount for which the application is submitted should be SAR 1000 or more. The application must be submitted electronically through the ZATCA online portal, together with all supporting documentation within 6 months of the end of the period in question. In addition, ZATCA has the right to request any supporting documents in hard copy, and the supporting tax invoices must be available and meet requirements stipulated in the VAT Executive Regulations, fulfill the provisions of the e-invoicing regulations, and be supported by proof of payment. After processing the application, the ZATCA will issue a decision within 20 days. For approved applications, a refund will be issued within 60 days from the approval decision.

Source: Saudi Arabia; GCC – Zakat, Tax and Customs Authority Clarifies VAT Refund Procedure for GCC Non-residents, (March 7, 2023), News IBFD.

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Spain: National High Court Clarifies VAT Treatment of Cross-Border Head Office to Branch Transactions

On February 22, 2023, the Spanish National High Court published its decision in *Appeal no. 1163/2020*, on the VAT treatment of transactions between Spanish branches and their head offices. In this case, a funds distributor company of an international management group located in Bermuda appointed a Luxembourg company belonging to the group as a sub-distributor of the funds in Europe. In turn, the Luxembourg company performs the funds distribution business in different countries through its foreign branches, including a branch in Spain. The Spanish branch provides support services in the sub-distribution business of the investment funds in Spain carried out by its Luxembourg head office. These support services consist mainly of searching for Spanish financial intermediaries who can enter into the funds distribution agreements with the Luxembourg company. The support services provided by the Spanish branch to the Luxembourg head office were charged on a cost-plus margin basis. They were treated as not subject to Spanish VAT because the branch was not independent of its head office, and the transactions had been performed within the same legal entity (per the ECJ decision in *FCE Bank*, Case C-210/04 (March 23, 2006). The Spanish tax authority disagreed with this treatment arguing that the Spanish branch provided the services directly to the Bermuda-based distributor company rather than to its Luxembourg head office. The services in question should thus be subject to Spanish VAT under the Spanish use and enjoyment sourcing rules as the services should have been qualified as the marketing and promotion services not covered by the VAT exemption provided for the investment funds distribution services.

The National High Court disagreed with the tax authority. It held that to determine if the Luxembourg company has been carrying out the sub-distribution services to the Bermuda company through its Spanish branch or directly with the support of the branch, the corresponding service level agreement should be analyzed. According to the court, there is no indication that the sub-distribution services have not been performed by the Luxembourg company to the Bermuda distributor. Therefore, it rejected the notion that sub-distribution services have been provided by the Spanish branch to the Bermuda company. In addition, the *FCE Bank* case establishes an initial presumption that the branch and the head office constitute a single taxpayer. Therefore, if the tax authority deems that the branch is independent of its head office, it should duly justify such independence, which was not the case here. Further, the fact that the branch has sufficient human and material resources to perform the distribution activity independently is not relevant. The important matter is to demonstrate that the branch is carrying out an independent economic activity, i.e., that it bears responsibilities and the economic risk arising from its business. For more information, please click here.

United Kingdom: Overview of Recent Indirect Tax Developments

On March 3, 2023, the UK tax authority (HMRC) published a Policy Paper on VAT and value shifting consultation update – apportionment of consideration in which it announced that it will not propose VAT law changes to the rules for bundled transactions. Bundled transactions are goods or services with different VAT liabilities that are sold for a single price as part of a package. Rather than a law change, HMRC issued guidelines including guidelines for compliance and Help with VAT apportionment of consideration, which outlines HMRC's recommended approach to apportionment of the consideration and helps businesses understand approaches HMRC sees as increasing or lowering tax compliance risk. In addition, HMRC has published corresponding minor amendments to VAT Notice 700 and updates to HMRC manual VATVAL03000 – apportionment of monetary consideration.

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According to HMRC, the changes encourage businesses to first consider a selling price method, where appropriate and available, before considering a cost price method or other alternative.

On March 6, 2023, the UK's Upper Tribunal (Tax and Chancery Chamber) published its decision in *The Prudential Assurance Co. Ltd*, [2023] UKUT 54 (TCC), regarding whether the VAT grouping rules apply to performance fees paid by an insurance company (Company A) to another company (Company B) after Company B left the VAT group of which they were both members. In this case, after the buyout of Company B, Company B no longer provided Company A with investment management services, and Company A ceased payment of any management fees. However, performance fees based on a benchmarked rate of return were invoiced by Company B after it left the group, and Company A paid performance fees between January 2015 and July 2016. Under UK VAT law, when companies are treated as members of a VAT group, any business carried out by a member of the group is treated as carried out by the representative member, and any sales made by a member of the group to another are disregarded. In addition, under Regulation 90 of the UK VAT regulations, continuous services are provided for VAT purposes each time that a payment for the sales is received by the vendor or each time that the vendor issues a VAT invoice for the sales. On this basis, HMRC assessed VAT on the performance fees arguing that Company B's investment management services qualified as continuous provision of services, and these services were considered provided when invoices were due, or payments were made. In an initial decision, the First-tier Tribunal (FTT) held that VAT was not due because the VAT grouping rules applied to the performance fees, which should not be subject to continuous provision of services rules. On appeal, the Upper Tribunal agreed with HMRC's construction of the time of sale rules for VAT purposes and held Regulation 90 must first be applied to determine the timing of the provision of services. According to the Upper Tribunal, the investment management services were continuously provided and took place every time Company B provided Company A with an invoice. Therefore, the performance fees at issue should be subject to VAT.

On March 7, 2023, the FTT published its decision in *Allegion (UK) Ltd*, [2023] UKFTT 273 (TC), on the requirements for claiming VAT bad-debt relief under HMRC guidance. In this case, HMRC denied the taxpayer's claim for bad debt relief losses the company incurred between April 1989 and March 1997, arguing that the claim was unacceptable because of the taxpayer's retention of title (ROT) clauses in its contracts. However, the FTT held that the ROT clause in the taxpayer's standard terms and conditions would not have prevented a bad debt relief claim. Further, the evidence showed that it was more likely than not that the taxpayer's standard contract terms and conditions did not, during the claim period, contain an ROT clause. While the FTT did not support HMRC's reasoning regarding the ROT clause, it agreed that the appellant cannot properly evidence its claim and discharge the burden of proof. While claims established that far in the past are not subject to the same evidentiary requirements, there still must be sufficient evidence to show a valid claim. The FTT further rejected the taxpayer's assertion that the testimony of its chartered management accountant previously employed as a controller at the taxpayer should be regarded as providing high-quality evidence because of their intimate knowledge of accounting and contract practice.

On March 8, 2023, HMRC updated its guidance on charging VAT when using an online marketplace to sell goods to customers in the UK. The guidance clarifies when a digital platform qualifies as an online marketplace to sell goods in the UK. It also addresses whether a taxpayer is considered an overseas seller, or a seller established in the UK for VAT purposes. The guidance further clarifies the VAT treatment of sales of goods: (1) when the goods are located in the UK, (2) when the goods are located outside the UK, and (3) when using an agent.

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On March 15, 2023, the HMRC launched a consultation on proposed reforms to expand the scope of the VAT relief for installations of energy-saving materials in residences. The proposal would include specific additional technologies that qualify for VAT relief, restore the VAT exemption for energy-efficient materials used in construction intended solely for a charitable cause, and reform VAT relief to operate more efficiently and effectively.

On March 29, 2023, HMRC launched a consultation on the Value Added Tax (Amendment) Regulations 2023, setting out the rules that will apply to sales of drinks under the new "Drink Deposit Return Scheme (DRS)," which becomes effective bottled and canned drinks effective August 1, 2023. Under the DRS, which only applies in Scotland – to containers of VAT standard-rated beverages, vendors will be required to charge a deposit on the sale of drinks. This deposit would be added to the price of the goods by the person who first sells a covered drink (e.g., a manufacturer or importer) and on any subsequent sales (e.g., by wholesalers or retailers). Once the drink has been consumed, if the container is returned, the deposit will be refunded. Under existing VAT accounting rules, VAT is chargeable on the price payable for goods and services including any deposit added to the price. If part of the price is refunded to the customer, the VAT is adjusted to ensure that the net amount of VAT paid to HMRC reflects the amount paid. To avoid complexity for businesses, the new measure removes the need to account for VAT on the value of the deposit when the drink is sold at each stage in the supply chain. Instead, the manufacturer or importer will be required to account for VAT on the value of the deposits for DRS containers that have not been returned in exchange for a deposit refund.

Source: CCH -Global VAT News & Features, HMRC Updates VAT Guidance On Mixed Supplies,(Mar. 6, 2023); Taxnotes, Prudential Owes VAT on Investment Services, U.K. Tribunal Finds, March 8, 2023; Taxnotes, U.K. Tribunal Rejects Claim for Decades-Old Bad Debt, March 14, 2023; United Kingdom Tax Agency Updates Guidance on VAT Obligations for Direct, Online Marketplace Sellers, March 13, 2023, Bloomberg Law News; United Kingdom Tax Agency Seeks Comments on Expanded VAT Relief for Installation of Energy-Saving Materials, Bloomberg Law News, March 20, 2023; CCH, Global VAT News & Features, UK Consults On Improving VAT Breaks For Energy Saving Materials,(Mar. 17, 2023); CCH, Global VAT News & Features, HMRC Issues VAT Regulations Governing Sales Of Drinks From August, (Mar. 30, 2023); United Kingdom – United Kingdom Seeks Views on Drink Deposit Scheme VAT Regulations, (March 30, 2023), News IBFD.

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Trade & Customs (T&C)

Switzerland: New Goods Traffic System for Digital Processing of Customs Procedures

On June 1, 2023, the Swiss Federal Office of Customs and Border Security (FOCBS) will begin operation of the first version of "Passar," the new goods traffic system for the digital processing of customs procedures in Switzerland. It will be rolled out in phases, starting with transit and exportation. Import and special procedures will be implemented with Passar 2.0 and Passar 3.0.

The FOCBS's goal is to have all processes related to transit, exportation, importation, special customs clearance, and the collection

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of other levies simplified, harmonized, and fully digitalized by the end of 2026. Effective June 1, 2023, Passar 1.0 will modernize the processing of transit and export. The recording of a transport declaration is still optional with Passar 1.0, but it is recommended to speed up the border process. With Passar 1.0, the self-care principle is also introduced, which means that one can manage their data independently, (i.e., goods and transport declarations can be modified without restrictions before the arrival at the border). They only become legally binding when activated at the time of border crossing. However, a one-time registration with the ePortal is required. Accompanying documents for transit and exportation can be submitted directly in Passar. Assessment decisions by the FOCBS will be available in the ePortal.

By November 2023, the opening of transit declarations in the computerized transit system (NCTS) will no longer be possible, and e-dec Export (the Swiss customs system for "cargo processing") will be decommissioned in mid-2025 (extended by one year). In addition, Passar 1.0 does not affect companies that exclusively import goods into Switzerland until 2025. They can continue to use the e-dec Import and e-dec Web applications until mid-2025. The launch of Passar 2.0 is planned for January 1, 2025 and will start with a parallel operation for importation. For private individuals and tourists, the "QuickZoll" application will continue to be available. For more information, please click here.

United States: U.S. Trade Court Clarifies the Determination of the Country of Origin

On February 27, 2023, the Court of International Trade (CIT) published its decision in *Cyber Power Systems (USA) Inc.*, Slip-Op. 23-24, on whether the country of origin of imported uninterruptible power supplies (UPS) and surge voltage protectors (SVP) assembled in the Philippines from a majority of Chinese components, should be the Philippines or China for both marking and Section 301 tariff purposes. U.S. Customs and Border Protection (CBP) Regulations provide that further work or material added to an article in another country must effect a substantial transformation to render such other country the "country of origin." Courts have defined a "substantial transformation" as occurring when an article emerges from a manufacturing process with a name, character or use that differs from those of the original materials subjected to the process.

In deciding this case, the CIT acknowledged the difficulty in applying the substantial transformation test. The court reiterated its rejection of two alternative approaches to the "change in name, character, or use" test: (1) an "essence" – based approach that looks only to whether the essential or critical component of a product had been transformed, and (2) a "component-by component" based approach that per se bases a substantial transformation on determining whether each discrete component had changed in name, character, or use.

The court concluded that only one of the five models of UPS devices (i.e., model no. CP600LCDa) was substantially transformed to confer a Philippine origin. The country of origin for the remaining four UPS models and the SVP, remains China. The court's opinion seemed to focus on the printed circuit board assembly (PCBA) component and its production operations. The court noted that for five of the six devices, it was undisputed that the main PCBAs were manufactured in China, whereas the main PCBA for the CP600LCDa was manufactured in the Philippines and employed the following operations: Surface Mount Technology, Auto-Insertion, and Dual in-line packaging.

The opinion further notes that the CP600LCDa's firmware was designed and coded in Taiwan and loaded in the Philippines. After concluding that the PCBA for the CP600LCDa originated in the Philippines, the court then determined that the "entirety"

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of the CP600LCDa's production occurred in the Philippines (i.e., including both the multi-phase assembly of its main board/PCBA, and assembly, testing, and packaging of the UPS device itself). Accordingly, the court declined to decide whether the assembly process of the UPS device alone was sufficient to effect a substantial transformation. The court concluded that the entirety of the operations in the Philippines resulted in a "new and different article" under the change in name, character, or use test. It also made clear that the underlying U.S. policy objectives of the Section 301 tariffs should not influence technical origin outcomes. For more information, please click here.

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In Brief

- **Antigua and Barbuda:**[xix] On March 2, 2023, the Antiguan Ministry of Finance published the 2023 budget statement. If adopted, it would (1) broaden the sales tax (ABST) base; (2) strengthen tax administration and close tax avoidance loopholes; (3) suspend non-statutory tax exemptions across the board; (4) require the ABST, revenue recovery charge, and environmental levy to be paid in all cases; (5) allow only a 50 percent import duty exemption when a strong case is presented; and (6) allow the Investment Authority to monitor and report on projects granted tax concessions and exemptions.
- **Argentina:**[xx] On March 14, 2023, the Argentinean tax authority published General Resolution 5333 establishing a new VAT withholding regime for the mining sector. Under the regime, mining companies that are registered for VAT, and companies that manage mining projects or provide engineering or construction services to mining companies, are obligated to act as collection agents on their purchases of products and services. Vendors to the mining sector will be subject to withholding by the collection agents regardless of whether they are VAT-registered or not. Transactions subject to this withholding regime are excluded from any other VAT withholding regime. Companies owned by the state and collection agents under the general VAT withholding system are also excluded from the withholding. The applicable VAT withholding rates are 10.5 percent for sales made by vendors that are registered as VAT taxpayers and included in the Fiscal Registry of Mining Activities or 21 percent for sales made by vendors that are not registered in the. For transactions taxed at the 10.5 percent reduced VAT rate, the applicable withholding rates will be reduced by 50 percent. Collection agents are obligated to consult the tax authority's records before making the relevant payments to their vendors and to report the amounts withheld to the tax authority monthly.
- **Argentina:**[xxi] On March 22, 2023, the Argentinean tax authority published General Resolution 5334 reducing the scope of the new VAT advance collection system effective April 1, 2023. The resolution provides that advance collection applies to purchases between VAT-registered taxpayers, provided that the purchaser resells the products without any transformation. Previously, purchases were always subject to advanced collection irrespective of whether the products were to be resold, consumed, or transformed. The advance collection applies if the amount to be collected exceeds ARS 3,000. (The general collection percentage is 3 percent, making transactions subject to advance collection if the taxable amount is greater than ARS 100,000.) To read KPMG's previous discussion of the VAT advance collection system, please click here.
- **Australia:**[xxii] Australia recently increased the general interest rate applicable to late payments from 10.06 percent to 10.46 percent effective April 1, 2023.

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- **Belgium:**[xxiii] On March 23, 2023, the Belgian government submitted to parliament a law transposing into Belgian law the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. Under the Directive, payment service providers offering payment services in the EU will be required to transmit information on those who receive more than 25 cross-border payments per quarter to the Member States. This information will be compiled in the Central Electronic System of Payment Information (CESOP) where it will be stored, aggregated, and cross-checked with other European databases. Information in CESOP will be available to anti-fraud experts of Member States via the Eurofisc network.
- **Denmark:**[xxiv] On March 3, 2023, the Danish Tax Council published Case No. 22-0757927, in which it held that the sale of virtual gambling coins does not fall within the scope of the VAT exemption relating to currency, bank notes, and coins used as legal tender.
- **Ecuador:**[xxv] On February 15, 2023, the tax authority of Ecuador published Resolution No. NAC-DGERCGC23-00000004, which clarifies that to benefit from the reduced VAT rate for tourism activities, taxpayers must issue sales receipts and complementary documents beginning with the dates determined through presidential decrees.
- **European Union:**[xxvi] On March 28, 2023, the European Parliament Permanent Subcommittee on Tax Matters (FISC) held an exchange of views with the European Chief Prosecutor from the European Public Prosecutor's Office (EPPO) on improving the tools available in fighting VAT fraud in the European Union, discussing the legal and administrative obstacles in combatting carousel fraud, and opportunities for the European Parliament and the EPPO to cooperate in eliminating VAT fraud. This follows the publication of the EPPO's Annual Report on March 1, 2023, highlighting that VAT fraud caused 47 percent of the overall estimated damages in EU public revenue for 2022, costing around EUR 50 billion annually in tax losses to Member States.
- **European Union:**[xxvii] On March 3, 2023, the European Data Protection Supervisor (EDPS) issued its opinion regarding the VAT in the Digital Age (ViDA) Initiative. If adopted, ViDA would (1) require mandatory e-invoicing and digital reporting, (2) introduce VAT collection obligations for online platforms facilitating the sale of accommodations and personal transportation, and (3) broaden the scope of the EU-wide single registration mechanism. The opinion welcomes the initiative, recommends amendments to highlight compliance with EU Regulations and principles on data protection and guarantee an adequate level of security in the exchange of information between national tax authorities and the central VAT Information Exchange System (VIES). To read KPMG's previous discussion of the ViDA proposal, please click here.
- **European Union:**[xxviii] On March 17, 2023, the European Commission announced a call for evidence to evaluate the EU Directive on e-invoicing in public procurement. The objective of the evaluation is to determine the extent to which the Directive is achieving its main goal of facilitating the use of e-invoicing by economic operators for the sale of goods and services to public authorities (i.e., business-to-government (B2G transactions)). The evaluation also aims to examine the extent to which the use of B2G e-invoicing has led to an increase in the use of e-invoicing for business-to-business (B2B) transactions and investigate the internal consistency of the Directive and its consistency with other relevant EU initiatives, such as the VAT in the Digital Age proposal. The evaluation period covers April 2019 through December 2022. The results of the evaluation will be included in the Commission's final report to the European Parliament and the Council of the European Union.

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- **European Union:**[xxix] On March 14, 2023, the EU's VAT Expert Group held its 33rd meeting, during which it discussed, among other things, (1) an update on the status of the negotiations of the ViDA legislative proposal and a presentation of each part of the proposal; (2) the latest developments on the 2020 Tax Action Plan with an update on the travel and tourism package and financial services; and (3) an update on the work undertaken to address the concerns resulting from the ECJ's decision in *Vega International*, Case C-235/18, (May 15, 2019), in which the ECJ held that the provision of fuel cards by a parent company to its subsidiaries, enabling those subsidiaries to refuel the vehicles they transport, may, under certain circumstances, be classified as a VAT exempt service granting credit.
- **Ghana:**[xxx] Ghana announced that it intends to complete implementation of an e-invoicing regime by the end of 2024. The Ghana Revenue Authority hopes to have completed the first phase of a pilot program involving 600 of the country's largest taxpayers and those considered higher risk by mid-2023. The second phase will include all medium-sized taxpayers starting December 2023. All remaining taxpayers will be brought into the regime by the close of 2024.
- **Greece:**[xxxi] On March 28, 2023, Greece extended, through fiscal year 2023, the application of certain tax incentives for companies opting for e-invoicing for tax years on or after January 1, 2020. These incentives include reducing the statutory period for issuing a VAT assessment from 5 to 2 years, making VAT credit refunds within 45 days of the application (instead of 90 days), and deducting the costs of producing and submitting e-invoices.
- **Italy:**[xxxii] On March 21, 2023, the European Commission approved a Council Implementing Decision authorizing Italy to increase its annual VAT registration threshold from EUR 65,000 to EUR 85,000 from January 2023 through December 2024.
- **Kazakhstan:**[xxxiii] On March 20, 2023, Kazakhstan introduced a new special retail tax regime. The retail tax regime was initially introduced on January 1, 2021, as a temporary anti-crisis measure to reduce the tax burden on small and medium-sized enterprises caused by the COVID-19 pandemic. Effective January 1, 2023, the regime may be applied by entrepreneurs with fewer than 200 employees and an income that does not exceed 600,000 times the Monthly Calculation Index (MCI) per calendar year. The tax is levied at the rates of 4 percent on sales to individuals and 8 percent on sales to legal entities. The business activities eligible for this tax regime is to be determined by the government. Taxpayers under the special retail tax regime are not subject to VAT, and there is no VAT registration obligation for taxpayers in the public catering sector that submitted a notification for transition to the retail tax regime between January 1, 2023, to May 1, 2023. The MCI value as of January 1, 2023, is KZT 3,450, resulting in an annual income threshold of KZT 2.07 billion ($5.9 million) for the special retail tax regime. The MCI values are available from the Kazakhstan government on the egov website.
- **Kenya:**[xxxiv] Kenya recently announced that it would reduce its VAT gap through the implementation of the Tax Invoice Management System (eTIMS). In addition, the Kenyan president stated that the country would align its digital-services levies with the two-pillar model being developed by the OECD and would repeal the application of VAT on exported services effective July 1, 2023.
- **Lesotho:**[xxxv] On February 27, 2023, Lesotho announced plans budget to introduce e-invoicing requirements and e-filing for VAT and other taxes.
- **Lithuania:**[xxxvi] The Lithuanian parliament is considering draft law XIVP-2452, which would increase the annual VAT registration threshold from EUR 45,000 to EUR 65,000, effective January 1, 2024.

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- **Malaysia:**[xxxvii] On March 1, 2023, Malaysia published Order Nos. P.U.(A) 54 and P.U. (A)56, amending the tourism tax regulations for hotel accommodation providers and digital platform service providers furnishing online booking. The orders include measures (1) specifying what information must be provided on invoices, receipts, credit notes, and debit notes; (2) requiring that accommodation providers file and pay the tax, including penalties and surcharges, electronically or however prescribed by the tax authority; and (3) clarifying that no filing or payment extension is granted to digital platform service providers, for tax or penalties, if a deadline falls on a federal holiday in Malaysia or in the country in which a foreign registered taxpayer is located. The orders were effective March 2, 2023.
- **Netherlands:**[xxxviii] On February 27, 2023, the Dutch Ministry of Finance opened a consultation on a draft bill to amend a law that allows for the transfer of new immovable property through a share transaction without VAT or transfer tax liability. The draft bill includes measures that would impose the general 10.4 percent real estate transfer tax rate on these transactions, at a minimum. The law would enter into force on January 1, 2024.
- **Netherlands:**[xxxix] On March 16, 2023, the Dutch parliament passed a law to transpose into Dutch VAT law, the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Nigeria:**[xl] Nigeria recently announced a proposal to introduce a carbon tax policy and carbon budgetary system to regulate entities producing carbon emissions in Nigeria.
- **Poland:**[xli] On March 13, 2023, the Polish president signed amendments to the Administrative Enforcement Law introducing mechanisms that allow forced VAT recovery from taxpayers who have not paid taxes and from nonresident taxpayers who have settled VAT payments under the one-stop-shop mechanism for digital services providers.
- **Russia:**[xlii] On January 11, 2023, the Russian Ministry of Finance clarified in Guidance Letter 03-07-08/878, that construction work performed by a Russian company in connection with immovable property located in a foreign country under an agreement concluded in Russia, is not subject to VAT in Russia, regardless of whether the Russian company entered into a work contract with a foreign company or another Russian resident.
- **Russia:**[xliii] On January 17, 2023, the Russian Ministry of Finance clarified in Guidance Letter 03-07-08/2772, that consulting services provided by a Russian company to a nonresident company are not considered to have been rendered in Russia and are not subject to VAT in Russia. Thus, advance payments received for those services are not subject to VAT in Russia.
- **Saudi Arabia:**[xliv] The Saudi Arabia tax authority, Zakat, Tax and Customs Authority (ZATCA) published draft updates to the e-invoicing documentation for public consultation. The key proposed changes would (1) add fields to accommodate prepayments; (2) update the other buyer ID description to state that the field is required only if the buyer is not VAT registered; (3) add a reason and code for document level and line level allowances; (4) add related fields for additional charges at the document level and line level including amount, percentage, and base amount; (5) add a rounding field to be used to indicate the amount which must be added to the total to round off the payment amount, and (6) add prepayment fields including prepayment ID, code, etc. To read KPMG's previous discussion of Saudi Arabia's e-invoicing measures, please click here.
- **Saudi Arabia:**[xlv] The Board of Directors of the ZATCA approved amendments to the excise tax regulations regarding the licensing of a designated place for the destruction of non-consumable excise goods and refunding excise tax related to such goods. For more information, please click here.

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- **Saudi Arabia:**[xlvi] On March 24, 2023, the ZATCA published Administrative Decision No.54252 setting the threshold for the implementation of the third phase of the e-invoicing requirement at gross receipts of SAR 250 million or greater from October 1, 2023 to 1 February 2024. All taxpayers meeting the criteria will be informed directly by the authority. For more information, click here.
- **Seychelles:**[xlvii] Effective January 1, 2023, Seychelles introduced a 2 percent tax on accommodation gross receipts for operators in the tourism industry. The tax applies to tourism accommodation operators whose annual gross receipts equal or exceed the SRC 25 million liability threshold (1.8 million USD). Covered taxpayers include operators of hotels, guesthouses, self-catering establishments, yachts, and cruise ships. The tax is payable on the monthly gross receipts of a person during the current year of payment on or before the 21st day of the month following the month in which the liability falls due.
- **Suriname:**[xlviii] On March 1, 2023, the Suriname tax authority issued instructions on applying for a VAT fiscal unity (i.e., VAT group). The request for a VAT fiscal unity must be submitted via email and include the following information: (1) an overview of all entities and their tax identification numbers to be included in the VAT fiscal unity; (2) details of the business activities of the entities involved; (3) substantiation of the entities' interconnection from a financial, organizational, and economic standpoint; (4) which entity will act on behalf of the VAT fiscal unity and its email address; and (5) the VAT fiscal unity's bank account. Furthermore, the tax authority clarified how to keep a VAT fiscal unity's financial administration in a foreign currency (USD or EURO) for VAT purposes. Finally, the tax authority published guidelines on how to claim a 2022 VAT deduction on VAT paid upon the purchase of products that are now subject to VAT upon sale or use, as well as how to e-register for VAT purposes.
- **Sweden:**[xlix] On March 2, 2023, the Swedish tax authority clarified the information reporting obligation of digital platform operators effective January 1, 2023. The clarification includes which operators are required to submit control data and the submission deadline for different taxpayers.
- **Sweden:**[l] On March 24, 2023, the Swedish tax authority clarified the VAT treatment of sales made to employees for compensation. The tax authority clarified that a sale of goods or services to an employee can be considered taxable if the employer receives compensation from the employee related to the sale. The employer may be entitled to recover VAT on the expenses if the goods or services are part of the employer's usual economic activities. Finally, the tax authority clarified that if the employer receives remuneration lower than the market value, the tax base must be calculated using the market value.
- **Tanzania:**[li] On February 28, 2023, the Tanzanian Revenue Authority issued a public notice informing registered nonresident digital service providers that they are required to use the new online simplified return filing and payment portal. The notice explains that electronic filing is due for these taxpayers monthly for the digital service tax (DST), from July 2022 onward, and monthly for VAT, starting with the February 2023 returns with due dates on or before March 7. Penalties and interest are waived for late filing of these specific returns.
- **Türkiye:**[lii] On March 12, 2023, Türkiye introduced a voluntary tax base increase regime. Taxpayers may pay an additional 3 percent, 3 percent, 2.5 percent, 2 percent, and 2 percent VAT for tax years 2018, 2019, 2020, 2021, and 2022, respectively. Taxpayers making such a payment will not be subject to any tax audits and additional assessments for the years they have raised their tax base, provided that the estimated tax amounts are paid in the payment period. To benefit from the tax base increase, taxpayers must submit an application by May 31, 2023. Taxpayers can pay in one lump sum or installments (maximum of 12 equal

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installments in monthly periods). If the taxpayer prefers to make a payment in installments, the first installment must be paid by May 31, 2023. If the taxpayer prefers to make a payment in one lump sum, the payment must be made by June 30, 2023.

- **Türkiye:**[liii] Effective September 1, 2023, Türkiye will require invoices and certain other documentation bear QR codes. The new rules were set out in a publication released by the Turkish tax authority, in Turkish only, titled Karekod Standardi Kilavuzu, or "QR code standard guide" in English. The guidance sets out the information that should be available to taxpayers upon scanning the QR code, including identifying information, issue date, and information regarding the consideration for the sale and tax liability, among other things. The requirement applies to eight categories of electronic documents, including e-way bills, e-Fatura invoices, and e-Arsiv invoices.
- **Uganda:**[liv] On March 30, 2023, the Ugandan government presented a package of tax amendment bills. Among the proposals, the most important is the introduction of a 5 percent DST on nonresidents providing digital services to customers in Uganda. Regarding VAT, the government proposes to deny VAT credits on membership entertainment expenses and to nonresident digital services providers registered for VAT. The package would further widen the scope of the nonresident VAT digital services rules to include cab-hailing, cloud storage, data warehousing, and advertising platforms. Finally, the package would remove certain VAT exemptions such as those for production inputs for iron ore smelting, cotton seed cake, production inputs necessary for the processing of hides and skins into finished leather products in Uganda, and leather products wholly made in Uganda while exempting from VAT adult diapers, animal concentrates and seed cake, and the sale of all liquefied gas and denatured fuel ethanol.
- **Ukraine:**[lv] On March 21, 2023, the Ukrainian State Tax Service (STS) clarified that since the right of ownership does not change within a legal entity, the transfer of fixed assets on the balance sheet of the taxpayer from one branch to another, or from the main office to another branch, or vice versa, is not subject to VAT, provided that the main office is a registered VAT taxpayer and keeps records of its economic activity and the economic activity of the branch as one VAT taxpayer. As such, since the separate subdivision (branch) does not constitute a legal entity or a business entity, there are no grounds for the tax authorities to register the branch as a VAT taxpayer.

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i. Azerbaijan – Azerbaijan, Amends List of VAT-Exempt Imported Raw Materials and Supplies, (March 21, 2023), News IBFD

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iii. Belarus – Belarus Exempts Cryptocurrencies from Various Taxes, (March 29, 2023), News IBFD

iv. Belgium – Chamber of Representatives Adopts Bill to Permanently Reduce VAT Rate on

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Electricity, Natural Gas and Heating Networks, (March 20, 2023), News IBFD; Belgium – Belgium Enacts Bill to Permanently Reduce VAT Rate on Electricity, Natural Gas and Heating Networks, (March 29, 2023), News IBFD

v. Bulgaria – Bulgaria Proposes to Limit Scope of Application of Reduced 9% VAT Rate, (March 21, 2023), News IBFD

vi. Croatia – Government Proposes to Prolong Application of Reduced VAT Rate on Heating Products, (March 15, 2023), News IBFD; Croatia Gazettes Law Extending Reduced VAT Rate on Heating-Related Supplies, Bloomberg Law News, March 29, 2023

vii. Egypt – Ministry of Finance Amends Procedure for Payment of VAT on Import of Machinery and Equipment, (March 20, 2023), News IBFD

viii. Greece – Greece Enacts Reduced VAT on Specified Items, Super-Reduced VAT on Medical Equipment Through 2023, (March 30, 2023), News IBFD

ix. CCH, Global VAT News & Features, Grenada Implements Budget Tax Changes,(Mar. 8, 2023)

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xi. Kazakhstan – Kazakhstan Temporarily Exempts Imported Works of Art from VAT, (March 20, 2023), News IBFD

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xvi. Netherlands Lower House Considers Bill to Temporary Apply Zero-Rated VAT on Food Products, Bloomberg Law News, March 23, 2023

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xxi. Argentina – Tax Authority Reduces Scope of VAT Advance Collection System on Purchases of Food Products, (March 28, 2023), News IBFD

xxii. CCH, Global VAT News & Features, Australia Hikes Tax-Related Interest Rates,(Mar. 7, 2023)

xxiii. Belgium – Government Submits Bill to Implement Directive on VAT Data Reporting Obligation for Payment Service Providers, (March 1, 2023), News IBFD

xxiv. Taxnotes, Virtual Gambling Coins Are Subject to VAT, Danish Council Says, March 6, 2023

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xxv. Ecuador – Tax Authority to Require Issuance of Sales Receipts On Authorized Dates to Qualify for Reduced VAT Rate for Tourism Sector, (March 1, 2023), News IBFD

xxvi. European Union – European Public Prosecutor's Office Highlights Huge Financial Damages Due to Cross-Border VAT Fraud, (March 3, 2023), News IBFD; European Union – European Parliament and European Chief Prosecutor to Exchange Views On Tools To Fight VAT Fraud, (March 14, 2023), News IBFD

xxvii. European Union – European Data Protection Supervisor Opines on Proposals in Relation to VAT in the Digital Age Initiative, (March 7, 2023), News IBFD

xxviii. European Union – European Commission Launches Call for Evidence in Respect of Electronic Invoicing in Public Procurement, (March 20, 2023), News IBFD

xxix. European Union – VAT Expert Group Publishes Minutes of its 33rd Meeting, (March 28, 2023), News IBFD

xxx. CCH, Global VAT News & Features, Ghana Aiming To Complete E-Invoicing Rollout By 2025,(Mar. 29, 2023)

xxxi. Greece – Greece Proposes Extension of VAT Incentives Through 2023 for Companies Opting for E-Invoicing, (March 16, 2023), News IBFD; Greece – Greece Enacts Extension of VAT Incentives Through 2023 for Companies Opting for E-Invoicing, (March 29, 2023), News IBFD

xxxii. CCH, Global VAT News & Features, EU Approves Hike To Italian VAT Registration Threshold,(Mar. 24, 2023)

xxxiii. Kazakhstan – Kazakhstan Introduces Retail Tax Regime, (March 20, 2023), News IBFD; Orbitax, Kazakhstan Introduces New Special Retail Tax Regime, March 22, 2023

xxxiv. CCH, Global VAT News & Features, Kenya Sets Out Tax Policy Priorities In 2023 Budget,(Mar. 6, 2023); Kenya to Align Digital Levies with OECD Global Minimum Tax Deal, Bloomberg Law News, March 30, 2023

xxxv. CCH, Global VAT News & Features, Lesotho Releases 2023 Budget,(Mar. 6, 2023)

xxxvi. Lithuania – Lithuania Proposes to Increase VAT Registration Threshold, (March 8, 2023), News IBFD

xxxvii. Malaysia Gazettes Orders Amending Tourism Tax Regulations for Accommodation, Online Booking Providers, Bloomberg Law News, March 6, 2023

xxxviii. Netherlands MOF Seeks Comments on Bill to Close Real Estate Transfer Tax, VAT Loophole, Bloomberg Law News, March 2, 2023.

xxxix. Netherlands – Parliament Adopts Bill to Implement Directive on VAT Data Reporting Obligation for Payment Service Providers

xl. Nigeria – Nigeria Plans to Introduce Carbon Tax Policy, Carbon Budgetary System, (March 15, 2023), News IBFD

xli. Poland – Poland Introduces Enforcement Mechanism for VAT Recovery Under EU Special Schemes for Electronically Supplied Services, (March 15, 2023), News IBFD

xlii. Taxnotes, Russia Issues Guidance on Cross-Border VAT Issues, March 12, 2023

xliii. Taxnotes, Russia Issues Guidance on Cross-Border VAT Issues, March 12, 2023

xliv. The Zakat, Tax, and Customs Authority of Saudi Arabia

xlv. KPMG TaxNewsFlash, Saudi Arabia: Amendments to excise rules, March 27, 2023

xlvi. Saudi Arabia; GCC – Zakat, Tax and Customs Authority Sets Amount Threshold for Companies Required to Use Third Phase of Electronic Invoicing System, (March 28,

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2023), News IBFD

xlvii. Seychelles – Seychelles Introduces Accommodation Turnover Tax, (March 16, 2023), News IBFD

xlviii. Suriname – Tax Authorities Provide Guidance on Request for VAT Fiscal Unity, Financial Administration in Foreign Currency, VAT Input Deduction, (March 10, 2023), News IBFD

xlix. Sweden Tax Agency Clarifies Information Reporting Obligations of Digital Platform Operators, March 7, 2023

l. Sweden Tax Agency Clarifies VAT Treatment of Supplies to Employees for Compensation, Bloomberg Law News, March 28, 2023

li. Tanzania Tax Agency Issues Notice on Mandatory E-Filing of Certain Returns by Nonresident Digital Suppliers, Bloomberg Law News, March 2, 2023.

lii. Türkiye – Türkiye Introduces Voluntary Tax Base Increase Against Tax Audits, (March 13, 2023), News IBFD

liii. CCH, Global VAT News & Features, Turkiye To Require QR Codes On E-Invoices From September,(Mar. 15, 2023)

liv. Uganda – Uganda to Tax Non-Resident Providers of Digital Services, (March 31, 2023), News IBFD

lv. Ukraine – State Tax Service: Transfer of Assets from Main Office to Branch Not Subject to VAT, (March 31, 2023), News IBFD

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