Inside Indirect Tax

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About this Newsletter

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

Table of Contents

- Global Rate Changes
- Digitalized Economy Indirect Tax Updates
  - Senegal
  - Angola
  - Belgium
  - Chile
  - Czech Republic
  - Denmark
  - European Union
  - Germany
  - India
  - Latvia
  - Mexico
  - Philippines
  - Spain
  - Saint Vincent and the Grenadines
  - Slovenia
  - Tanzania
  - United Kingdom
- Developments Summary of the Taxation of the Digitalized Economy
- E-invoicing Updates
  - Belgium
  - Paraguay
- Other E-invoicing developments
  - Bolivia
  - Denmark
  - Dominican Republic
  - Egypt
  - France
  - Kenya
  - Mexico
  - Pakistan
  - Zambia
- New! E-invoicing developments timeline
- Other Indirect Tax Developments and News from Around the World
  - Overview of Indirect Tax Developments in the Americas from KPMG International Member firms
    - » KPMG in Bolivia
    - » KPMG in Chile
    - » United States
    - » Mexico
  - Miscellaneous developments in the Americas
    - » Antigua and Barbuda
    - » Bahamas
    - » Chile

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– Overview of Indirect Tax Developments in Europe, Middle East, Africa from KPMG International Member firms
  » KPMG in Bulgaria
  » KPMG in France
  » KPMG in Germany
  » KPMG in Greece
  » KPMG in Italy
  » KPMG in the Netherlands
  » KPMG in Serbia
  » KPMG in Spain
  » KPMG in Sweden
  » KPMG in South Africa
– Roundup of Latest Court of Justice of the European Union Cases
– Miscellaneous Developments in EMEA
  » Angola
  » Azerbaijan
  » Croatia
  » Denmark
  » Egypt
  » European Union
  » Greece
  » Israel
  » Mauritius
  » Norway
  » Rwanda
  » Slovakia
  » Switzerland
  » Turkiye
  » United Kingdom
  » Zambia
– Overview of Indirect Tax Developments in ASPAC from KPMG International Member Firms
  » KPMG in Korea
  » KPMG in Malaysia
  » KPMG in the Philippines
  » KPMG in Vietnam
– Miscellaneous Developments in ASPAC
  » Australia
  » Philippines
  » Sri Lanka
  » Uzbekistan
  » Vietnam

Global Rate Changes

- **Algeria:**[i] On December 31, 2023, Algeria published the Finance Law 2024, which, among other things, extends the VAT exemption for specified internet-related services under the information and communication technology development program through December 31, 2026. The regime applies to fees and charges relating to fixed internet access services, as well as charges relating to the rental of bandwidth intended exclusively for the provision of fixed internet service. It also covers web server hosting costs at data centers in Algeria, website design and development costs, and maintenance and support costs relating to website access and hosting activities in Algeria.
- **Angola:**[ii] On December 28, 2023, Angola's parliament adopted Law No.14/23 which introduced a reduced VAT rate of 5 percent for imports and transmission of widely consumed foodstuffs and agricultural inputs (listed on the new Annexes I and II); and reduced the VAT rate for the imports and transmission of goods subject to the special regime applicable to the Province of Cabinda from 2 percent to 1 percent.
- **Antigua and Barbuda:**[iii] Effective January 1, 2024, the government of Antigua and Barbuda updated the list of goods exempt from sales tax. The updated list no longer includes antiseptics such as rubbing alcohol and hydrogen peroxide, wipes, sanitizers, toilet paper, paper towels, aloe vera gel, and vitamins. However, it does include everyday consumable products such as chicken, fish, vegetables, fresh fruit, eggs, butter, and rice, among others. Books, computers and related equipment, hurricane shutters, and coffins are also exempt.

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Additionally, the government announced the termination of the 2007 administrative decision to delay the imposition of sales tax on tours, excursions, and attractions. Consequently, effective January 2, 2024, all new reservations for tours, excursions, and attractions to be provided on or after June 1, 2024, will be subject to the 17 percent sales tax.

- **Anguilla:**[iv] Effective December 7, 2023, Anguilla's Inland Revenue Department (IRD) introduced a VAT exemption regime for insurance services. Because of the exemption, insurance entities exclusively providing insurance services are not entitled to GST recovery. Further, the IRD requires insurance service providers to file all pending GST returns and settle any outstanding payments before applying for the cancellation of their GST registration.
- **Austria:**[v] The Austrian Federal Ministry of Finance recently published guidance in the form of FAQs on the application of the VAT zero-rate regime for photovoltaic modules. The FAQs clarify that the zero percent VAT rate applies only to photovoltaic modules specifically designed for electricity generation and does not apply to hybrid photovoltaic collectors generating both electricity and heat, photovoltaic systems used for hot water generation, or heat pumps. In addition, to claim the zero percent VAT rate, the delivery or installation of the system must occur between January 1, 2024, and December 31, 2025.
- **Azerbaijan:**[vi] Effective January 1, 2024, Azerbaijan excluded portland and aluminous cements, slag, persulphate, and similar hydraulic cements (dyed or undyed, ready-mixed or in clinker form) from the list of VAT and customs duties exempt products.
- **Burkina Faso:**[vii] Effective January 1, 2024, Burkina Faso introduced a VAT exemption regime for cement and construction materials intended for real estate development programs.
- **Costa Rica:**[viii] Effective December 20, 2023, Costa Rica introduced a 1 percent reduced VAT rate for menstrual hygiene products.
- **Czech Republic:**[ix] The Czech Republic's General Financial Directorate (GFD) recently published a guidance on the VAT rate changes adopted effective from January 1, 2024. (To read KPMG's previous discussion of these rate measures, please click here.) Among other things, the guidance discusses changes to VAT rates on various items and services, including selected beverages, tap water, public transport, catering and accommodation services, medical devices, and food and beverages. It also discusses the tax exemptions for books and reduced rates for construction and social housing. Additionally, it discusses the application of VAT on selected passenger cars, including the definition of selected cars, calculation of maximum VAT deduction, and limitations on VAT deduction for lease companies. To read a report prepared by the KPMG International member firm in the Czech Republic, click here.
- **Ecuador:**[x] On January 11, 2024, Ecuador's National Assembly accepted for consideration a bill, which approved, would increase its standard VAT rate from 12 percent to 15 percent.
- **Ecuador:**[xi] On January 11, 2024, Ecuador published the Law on Energy Competitiveness, which, among other things, clarifies the definition of electric vehicles that are exempt from the special consumption tax or subject to a VAT zero-rate and expands the scope of the VAT zero-rate regime to include solar photovoltaic generation equipment and accessories.
- **Ghana:**[xii] On December 29, 2023, Ghana enacted the tax and customs measures in the 2024 budget into law. The law extends the VAT zero-rate for African prints and locally assembled vehicles for two years and introduces VAT exemptions for imported raw materials for the pharmaceutical industry and locally produced sanitary pads. It also introduces a 5 percent reduced VAT rate for certain immovable properties and a 30 percent penalty for VAT withholding agents who fail to comply. The law removes the VAT exemption for certain

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publications, architectural plans, and scientific works. It expands the environmental excise duty to include plastics and industrial and vehicle emissions. The law also introduces an import duty waiver for commercial electric buses for public transport and local assemblers of electric vehicles. To read KPMG's previous discussion of the Ghanaian 2024 budget, please click here.

- **Greece:**[xiii] On January 27, 2024, Greece announced the extension of the VAT exemption for new buildings, initially set to expire on December 31, 2024, to the end of 2025.
- **Guyana:**[xiv] On January 26, 2024, Guyana enacted The Fiscal Enactments (Amendment) Bill 2024, which, among other things, introduces a VAT exemption for port equipment, essential cell phone accessories such as chargers, charging cables, and headphones, as well as phone components for repairs, and fire extinguishers and smoke alarms. If approved, the measures will apply from January 1, 2024. To read a report prepared by the KPMG International member firm in St. Lucia, click here.
- **Italy:**[xv] Italy recently enacted its 2024 budget into law, which includes measures such as (1) increasing the reduced VAT rate for feminine hygiene products and qualifying childcare products from 5 percent to 10 percent, and for children's car seats from 5 percent to 22 percent (the standard rate) and (2) introducing a 10 percent reduced VAT rate for pellets sold in January and February 2024.
- **Malaysia:** On January 22, 2024, the Royal Malaysian Customs Department (RMCD) held a webinar to discuss proposed transitional issues for the proposed increase in the service tax rate from 6 percent to 8 percent, effective from March 1, 2024 Malaysia subsequently approved the service tax rate increase on February 26, 2024. The transitional rules categorize services into three: those provided in full before the effective date, those provided in full after the effective date, and those provided across the effective date. Different tax treatments apply based on these categories and the accounting basis. Services provided before the effective date will be taxed at 6 percent, while those provided after will be taxed at 8 percent. However, the special measure allowing to maintain a 6 percent tax rate for services provided between March 1, 2024 and August 31, 2024 (subject to meeting specific conditions) is no longer applicable, based on the draft Guide issued by RMCD subsequently. To read a report prepared by the KPMG International member firm in Malaysia, click here.
- **Mozambique:**[xvi] On December 31, 2023, Mozambique ended the VAT exemption regime for sugar, cooking (edible) oil, and soap, as well as the raw materials, intermediary products, and equipment and parts used in their manufacture. As such, from January 1, 2025, these goods are subject to VAT at the 16 percent standard rate.
- **Portugal:**[xvii] On January 17, 2024, the Portuguese tax authority clarified that food on restaurant menus can be taxed at a reduced VAT rate of 13 percent, while drinks expressly excluded from the reduced rate should be subject to the standard rate of 23 percent. To apply these different rates, restaurants must separately identify food and drinks on the invoice and specify the applicable VAT rate for each.
- **Suriname:**[xviii] On January 11, 2024, the Suriname tax authority updated the list of goods that are exempt from VAT**.** The updated list no longer includes root vegetables, fresh fruits, unprocessed meat (excluding chicken), oatmeal, sanitary pads, and tampons, as well as a range of other food-related items. The updated list includes fresh vegetables, unprocessed chicken and fish, eggs, flour, bread, and rice, among other everyday necessity items for consumers.
- **Uruguay:**[xix] On January 11, 2024, Uruguay enacted Law No. 20,239, which temporarily reduced the VAT rate to 0 percent for hotel-related services provided to resident tourists from December 15, 2023, to March 31, 2024. The law applies to hotels with an annual income not exceeding 10,000,000 indexed units.

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- **Uzbekistan:**[xx] Effective April 1, 2024, Uzbekistan amended its VAT law. Among other things, the changes terminate the VAT exemption regimes applicable to medical services, veterinary services, medications, veterinary medicines, medical and veterinary products, and raw materials intended for their manufacture.
- **Venezuela:**[xxi] Effective January 1, 2024, Venezuela implemented a temporary 90 percent VAT and customs duties exemption for the import of various merchandise items, which will end on June 30, 2024. It further introduced a full VAT and customs duties exemption for imports by public entities and for priority merchandise, provided a certificate of "no national production" or "insufficient national production" is obtained. Importers must submit a list of exempt goods and the seller's commercial invoice to the customs authority. If an incorrect customs code is declared or if the merchandise corresponds to a non-exempt customs code, the exemption may be lost, and penalties may apply.
- **Vietnam:**[xxii] On January 5, 2024, the Vietnamese Ministry of Finance launched a consultation on a draft proposal to amend the VAT Law. The proposed changes include increasing the revenue threshold for VAT-exempt sales for businesses and individuals from VND 100 million to VND 150 million; applying a 5 percent VAT rate on specific goods; excluding specified cigarettes, alcohol, beer, and cars from the scope of the VAT zero-rate regime; and increasing the VAT rate on sugar and sugar production by-products, entry to cultural activities, exhibitions, gyms and sports facilities, performances, theatres, and the import, distribution, and screening of films from 5 percent to 10 percent.
- **Zimbabwe:**[xxiii] Zimbabwe recently introduced a VAT exemption for basic food products, including bread, milk, cooking oil, and cornmeal and reduced the sugar surtax on specified beverages from $0.02 to $0.001 per gram.

Digitalized Economy Indirect Tax Updates

Senegal: Nonresident Digital Services Providers Required to Register for VAT Effective April 1, 2024

In November 2023, the Ministry of Finance introduced Decree No. 034269, implementing an 18 percent VAT on cross-border digital services. The decree, which comes into effect on April 1, 2024, applies to nonresident entities providing digital services, as well as nonresident intermediaries involved in the sale of services in Senegal. The scope of "digital services" is broad, encompassing transactions such as digital advertising, digital intermediation services, streaming services, Software as a Service (SaaS) or cloud-based software, data provision, electronic data management, and more. The decree does not apply to tangible property imported into Senegal, as the Senegalese customs authority will assess VAT during the customs clearing process.

The VAT regime applies to both businesses (B2B sales) and final consumers (B2C sales) located in Senegal. VAT-registered customers in Senegal are required to self-assess VAT if the nonresident digital services provider is not VAT-registered in Senegal. The customer's location can be determined by several means, including the billing address, the IP address of the device used, bank details, or the mobile country code of the SIM card used by the customer. The decree shifts the VAT obligation from the digital services provider to nonresident digital intermediaries, including digital platforms and online markets that connect vendors and customers.

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The decree allows for a simplified remote registration procedure for nonresident digital services providers, with no VAT registration threshold. Once registered, nonresidents are assigned a tax identification number and access rights to the online filing platform of the tax authority. The decree clarifies that the registration of a nonresident digital services provider does not create a permanent establishment for income tax purposes. While the decree does not explicitly state the requirement for nonresident digital services providers to comply with local invoicing requirements, it is advisable to do so, as B2B customers may face challenges in recovering VAT without a valid invoice. Penalties for non-compliance are in line with provisions in the general VAT law. In addition, failing to declare VAT online through the tax authority's portal can result in the suspension of access to their digital platforms, markets, or online marketplaces used for conducting transactions on Senegalese territory. For more information, click here.

- **Angola:**[xxiv] Effective December 28, 2023, Angola enacted amendments to its VAT law, including measures to provide that goods sold via international e-commerce to customers in Angola are taxable in Angola when the acquirer has its head-office, domicile, or permanent establishment in Angola or when the payment is performed within the national territory (i.e., facilitated by a financial institution established there).
- **Belgium:**[xxv] On December 29, 2023, Belgium published a decree clarifying the DAC7 information reporting requirements. The EU DAC7 Directive requires digital platforms to gather, authenticate, and report annually data on vendors who use their platforms to sell specific goods or offer specific services, such as property rentals, transportation, and personal services. Among other things, the decree clarifies that taxpayers must submit their declaration using an XML file for efficient information exchange among EU Member States. If the same information has already been declared by another operator, the exempted operator platform should communicate the identity of the declarant platform operator. If the platform operator has no information to declare, they must submit a nil declaration. Taxpayers must file an exemption declaration by January 15 following the year to which the request relates. Platform operators requesting an exemption from the obligation must submit detailed information including the year for which an exemption is requested, their legal name, VAT number or KBO number, full address of the registered office, contact person details, commercial name of the platform, the platform's website, and a comprehensive business model description.
- **Chile:**[xxvi] On January 31, 2024, the Chilean tax authority (SII) published Resolution 20/2024, mandating telecommunications companies to submit a new quarterly "Telecommunications Payment Report" effective July 1, 2024. This report requires companies offering internet, mobile telephony, and paid television services to disclose payments made to nonresident sellers and service providers in Chile. The reporting deadlines are as follows: for the first quarter (January – March) on the last working day of May; for the second quarter (April – June) on last working day of August; for the third quarter (July – September) on the last working day of November; and for the fourth quarter (October – December) on the last working day of February.
- **Czech Republic:**[xxvii] On January 15, 2024, the Czech Republic's tax authority issued a notice clarifying the DAC7 information reporting requirements. The notice provides that underlying sellers using a platform are required to assist the reporting platform operator in the screening and identification process. Reporting platform operators must submit a Notification of the Reporting Activity Carried Out by the Notified Seller for the first time by January 31, 2024, for the 2023 reporting period. Underlying sellers who fail to comply will have their accounts closed and be prevented from re-registration or receiving payment. Further, the reporting obligation under DAC7 does not affect income taxation methods or the obligation to file a tax return. The reporting requirements do not apply to sales made through online advertising platforms where sellers only publish advertisements.

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- **Denmark:**[xxviii] On January 18, 2024, the Danish tax authority published Executive Order No. 52/2024 amending the DAC7 information reporting requirements. The order includes provisions that allow qualified reporting platform operators, who are not entities, to report specific information such as their name and registered office address, in relation to real estate leasing and transport rentals. It also permits them to report such information on sales of goods if they report real estate leasing. The order establishes registration requirements for operators who opt to report this information and imposes fines on operators who intentionally or negligently submit inaccurate, misleading, or incomplete reports, unless a higher penalty is applicable under the Tax Control Act. The order sets a deadline of February 15 for certain operators to submit reports for the 2023 calendar year regarding sellers and lessors.
- **European Union:**[xxix] The European Commission recently launched infringement procedures against Cyprus, Ireland, and Romania for failing to transpose into domestic law, the new reporting requirements for payment services providers. Under this requirement, payment service providers in EU Member States are obligated to report certain information about cross-border payments they facilitate. This information typically includes details about the payer, the payee, the amount of the payment, and the date of the transaction. The information is then shared by EU Member States through the Central Electronic System of Payment Information (CESOP). By collecting and analyzing this data, authorities can more effectively identify and investigate potential instances of VAT fraud. EU Member states were required to transpose the requirements into domestic law and communicate to the EU Commission measures implementing the rules by a December 31, 2023, deadline.
- **Germany:**[xxx] The German Federal Central Tax Office recently extended the deadline for the first reporting under the DAC7 information reporting requirements. While these rules generally require reporting by January 31 of the following year, for the reporting period corresponding to the calendar year 2023, the deadline has been extended to March 31, 2024.
- **India:** The Indian Central Board of Direct Taxes issued guidelines clarifying the application of the tax deduction at source (TDS) obligations of e-commerce platform operators (ECO). Among other things, it clarified that when multiple ECOs are engaged in a single transaction, the TDS obligation will be on the ECO that ultimately makes the payment to the seller of the goods. To read a report prepared by the KPMG International member firm in India, click here.
- **Latvia:**[xxxi] On January 8, 2024, the Latvian State Revenue Service published a guidance on the special VAT regimes for e-commerce. Among other things, the guidance clarifies the definition of e-commerce, the VAT treatment for remote sales of goods and services, the VAT treatment for goods imported from non-EU territories or countries, including the VAT treatment applicable to consignments valued up to EUR 150. It also explains the requirement for taxpayers to register under the special VAT regime and the related compliance obligations.
- **Mexico:** On January 18, 2024, the Mexican tax authority published an updated list of nonresidents providers of digital services that are registered in Mexico. As of December 31, 2023, 201 taxpayers are registered under Mexico's VAT on digital services rules. To read a report prepared by the KPMG International member firm in Mexico, click here.
- **Philippines:**[xxxii] Effective January 11, 2024, the Philippines introduced a new one percent withholding tax on one-half of the gross remittances of electronic marketplace operators and digital services platforms to business users on their platforms. The levy applies to the online sale of goods, as well as to food delivery services and short-term accommodation rentals. The levy shall not apply if the annual gross remittances to an online seller or merchant has not exceeded PHP 500,000 in the past year, or if the cumulative gross remittances in a year has not yet exceeded PHP 500,000 from a platform, less any fees paid to the platform and any returns from customers.

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- **Spain:**[xxxiii] Effective January 1, 2024, Spain implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. Under this requirement, payment service providers in EU Member States are obligated to report certain information about cross-border payments they facilitate. This information typically includes details about the payer, the payee, the amount of the payment, and the date of the transaction. The information is then shared by EU Member States through the Central Electronic System of Payment Information (CESOP). By collecting and analyzing this data, authorities can more effectively identify and investigate potential instances of VAT fraud.
- **Spain:**[xxxiv] Spain recently approved a decree transposing the EU DAC7 reporting requirements into national law. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information.
- **Saint Vincent and the Grenadines:**[xxxv] The government of St. Vincent and the Grenadines recently announced a proposal to collaborate with accommodation platforms to address tax loopholes and enhance awareness of VAT collection obligations.
- **Slovenia:**[xxxvi] On January 22, 2024, the Slovenian government issued a guidance on taxpayer obligations under the DAC7 information reporting requirements. The guidance stipulates a March 31, 2024, deadline for sellers to file tax returns declaring revenue earned in 2023 through online platforms. This includes revenue from real estate rentals, personal services, sales of goods, and rentals of any mode of transportation. It also provides registration requirements, forms, and instructions, and clarifies that platform operators must report identification data on sellers, compensation received, commissions, fees, and taxes deducted, the number of activities performed, information on financial accounts to which compensation has been transferred, and additional information on properties generating rental income.
- **Tanzania:** The Tanzanian Revenue Authority recently issued a public notice outlining the VAT and DST obligations of nonresident providers of cross-border electronic services. According to the notice, all nonresident providers of electronic services must register for VAT and DST voluntarily using a simplified registration framework developed by the TRA. The notice also provides a registration manual for this purpose. For more information, click here. To read KPMG's previous discussion of Tanzania's VAT and DST obligations for nonresidents, please click here.
- **United Kingdom:**[xxxvii] The UK tax authority recently began contacting UK VAT-registered businesses selling goods through online marketplaces to verify whether they are established in the UK. In particular, the tax authority has been contacting businesses registered at their agent's address, or a service office contacted to provide evidence of their UK establishment or to confirm their status as a non-established taxpayer (NETP). The initiative aims to ensure correct VAT administration by online marketplaces, as VAT should be withheld by these platforms on sales made by NETPs and remitted directly to HMRC. The GBP 85,000 VAT registration threshold does not apply to NETPs; they must register for VAT as soon as they make sales to UK recipients.

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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 where discussion of the taxation of the digitalized economy is anticipated.

E-Invoicing Updates

Belgium: Mandatory E-Invoicing Mechanism to Be Introduced in 2026

On February 1, 2024, the Chamber of Representatives of Belgium approved Bill No 3743/004, mandating business-to-business (B2B) electronic invoicing (e-invoicing) starting from January 1, 2026.The bill, which aligns with the structured e-invoice in EU Directive 2014/55/EU, now awaits the king's signature before it is officially gazetted and becomes law. The implementation of this law is also conditional upon the Kingdom of Belgium obtaining authorization from the Council of the EU.

The mandatory e-invoicing will apply to all taxpayers established in Belgium invoicing transactions taking place in Belgium to recipients VAT registered in Belgium. Exceptions may apply for those under simplified tax regimes, those in bankruptcy proceedings, and those making only exempt transactions without VAT recovery right. For more information, click here.

Paraguay: Amendments to E-Invoicing Mandate

On December 19, 2023, Paraguay implemented Decree 872/2023, redefining and expanding the regulatory framework for its e-invoicing system effective January 1, 2024. According to the Decree, effective January 1, 2024, all B2C invoices for transactions over PGY 35 million must include the buyer's identification. This requirement will apply to transactions over PGY 7 million effective January 2025.

The Decree further introduces three new types of electronic documents: the Electronic Exchange Invoice, supporting credit transactions and tradable by the issuer; the Resimple Electronic Receipt, a simplified invoice for small taxpayers under the “Resimple” tax regime; and the Electronic Receipt for Public Shows, a simplified receipt for public event entry.

The Decree also introduces new electronic documents, including the Electronic Voucher of Revenues IRP, for individuals not registered under the system who make occasional sales or receive taxable dividends; the Electronic Voucher for Donations, for public and non-profit entities receiving donations; the Electronic Voucher for Imports, formerly known as the electronic import invoice; the Electronic Voucher for Withholdings and Perception, documenting tax withholdings and perceptions; the Electronic Receipt for Cash, for installment payments or money reception; and the Electronic Note for Deliveries, an e-waybill for certain product shipments within the country.

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Finally, the Decree mandates taxpayers to submit invoices to the tax administration for approval and validation within 72 hours of electronic signing. The tax administration, however, reserves the right to impose a shorter timeframe or a pre-validation requirement, depending on the taxpayer's profile.

Source: Presidencia de la Republica del Paraguay (DECRETO POR EL CUAL SE REGLAMENTA LA EMISIÓN ELECTRÓNICA DE COMPROBANTES DE VENTA Y OTROS DOCUMENTOS TRIBUTARIOS, A TRAVÉS DEL SISTEMA INTEGRADO DE FACTURACIÓN ELECTRÓNICA NACIONAL (SIFEN).) (December 19, 2023)

Other Developments

- **Bolivia:**[xxxviii] On January 5 and 9, 2024, the Bolivian tax authorities issued resolutions RND 10240000002, 10240000003, 10240000004, and 10240000005, establishing the start dates for the seventh through tenth groups of taxpayers to begin issuing e-invoices, with the seventh group starting on July 1, 2024, the eighth group on October 1, 2024, the ninth group on December 1, 2024, and the tenth group on February 1, 2025.
- **Denmark:**[xxxix] Effective January 1, 2024, Denmark requires businesses in certain sectors with an annual turnover of less than DKK 10 million to implement a new electronic sales registration system that meets new legal standards. These sectors include cafes, pubs, nightclubs, pizzerias, fast food bars, ice cream parlors, grocery stores, 24-hour convenience stores, and restaurants. To comply, businesses may need to update their current electronic sales registration system or purchase a new one. Businesses that do not meet the sales registration system requirements will face fines. Each compliance check revealing non-compliance will result in a fine increase of DKK 10,000. The fines are DKK 10,000 for the first visit, DKK 20,000 for the second visit, and DKK 30,000 for the third visit. Furthermore, businesses may incur daily fines of at least DKK 1,000 until they comply with the requirements.
- **Dominican Republic:**[xl] On January 10, 2024, the Dominican tax authorities revised the list of "Local Large Taxpayers" mandated by Law 32-23 to adopt e-invoicing by May 15, 2025. This list currently includes 8,674 entities. The tax authorities also updated the list of national large taxpayers whose systems have already received certification. These taxpayers are required to comply with the mandate by May 15, 2024. The tax authorities routinely update and publish these lists, following the taxpayer classification and schedule outlined in Article 37 of the law.
- **Egypt:**[xli] On January 9, 2024, as part of the fourth phase of the e-invoice system implementation, the Egyptian Tax Authority published a new list of taxpayers required to comply with the e-receipt requirement starting February 1, 2024.
- **France:**[xlii] On January 5, 2024, the French tax authorities revised the Frequently Asked Questions document related to the e-invoice and digital reporting mandate. This update includes changes concerning the new implementation deadline, the definition of business size for determining the implementation deadline, and several clarifications about the transactions covered by the mandate, including e-commerce operations.
- **Kenya:**[xliii] On December 27, 2023, the Kenya Revenue Authority (KRA) reminded all business operators, including those not registered for VAT, that they must generate and send their invoices electronically to the KRA. This process uses the electronic Tax Invoice Management System (eTIMS) and has been mandatory since September 1, 2023. The KRA also noted that starting January 1, 2024, businesses cannot deduct expenses from their income taxes without a valid electronic tax invoice. To help businesses comply, the KRA will allow non-VAT registered taxpayers to join the eTIMS platform until March 31, 2024. During this onboarding period, the KRA will not impose penalties for failing to issue electronic tax invoices on these non-VAT registered taxpayers.

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- **Mexico:**[xliv] On December 28, 2023, Mexico published the new Miscellaneous Fiscal Resolution for 2024 (RMF 2024), which extends the deadline for using version 2.0 of the e-waybill, also known as *Complemento de Carta Porte*, until March 31, 2024. As a result, the mandatory use of version 3.0 will now commence on April 1, 2024, instead of January 1, 2024. The RMF 2024 further delays the compulsory use of the Fiscal mailbox by taxpayers until January 1, 2025. Other minor changes introduced by the resolution pertain to the use of the Factura SAT Movil application for validating and downloading CFDI, as well as the introduction of new catalogs. To read a report prepared by the KPMG International member firm in Mexico, click here.
- **Pakistan:**[xlv] On January 10, 2024, Pakistan's Federal Board of Revenue (FBR) confirmed that e-invoicing requirements for importers, manufacturers, and wholesalers of "fast-moving consumer goods" will commence on February 1, 2024. The FBR also defined "fast-moving consumer goods" as "consumer goods sold in retail marketing to satisfy daily consumer demand, excluding durable goods." The FBR had previously announced in December that these businesses must issue real-time e-tax invoices for their products, which they must retain for six years. The FBR first detailed these e-invoicing expectations in November 2023 and plans to gradually include more categories under these rules.
- **Zambia:**[xlvi] Zambia recently enacted the 2024 Budget laws, which, among other provisions, introduce the Smart Invoice e-invoicing system to replace the existing Electronic Fiscal Devices (EFDs). The Zambia Revenue Authority initiated the Smart Invoice project in 2022. Under the new legislation, the Authority plans to fully implement the system by July 1, 2024. As a result, taxpayers currently using EFDs will need to switch to the Smart Invoice system following its rollout.

E-invoicing developments timeline

The world of taxation and compliance is constantly becoming more digitalized and governments are continuously issuing new regulations and requirements for taxpayers. To help businesses stay up-to-date with tax administration developments in e-invoicing, digital reporting, and real-time reporting, we have created this e-invoicing developments timeline which will be regularly updated.

Other Indirect Tax Developments and News from Around the World

The Americas

Overview of Indirect Tax Developments in The Americas from KPMG International Member Firms

- **KPMG in Bolivia** published a report discussing a recent guidance from the tax authority providing the procedure for zero-rate VAT billing. Among other things, the guidance provides that invoices must be issued through the online web portal, specifically the "Zero Rate VAT Billing Law No. 1546" option in the "Billing System" module of the "Integrated Tax Administration System (SIAT)", available on the tax authority website. This option allows taxpayers to subscribe to this billing modality and add the economic activity "Zero Rate VAT Law No. 1546 (Incentives Taxes for the Agricultural, Industrial, Construction and Mining Sectors)" to the National Taxpayer Registry. This billing option and the subscription to this service will be available until December 31, 2024.

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- **KPMG in Bolivia** published a report discussing a recent decree that clarifies the application of VAT incentives for the import and marketing of capital goods and industrial plants, introduced as part of the 2024 general state budget. Effective from January 1, 2024, through December 31, 2024, these incentives include a VAT exemption for importation and a zero VAT rate for domestic sales of certain goods intended for the agricultural, industrial, construction, and mining sectors. To qualify for these incentives, the goods must be less than or equal to 10 years old, with documentation required to prove this. If such documentation is not available, an affidavit signed by the importer will suffice. Public institutions and companies with full state participation at the central level may import the goods, provided they are new and under the responsibility of the Bolivian Highest Executive Authority (MAE).
- **KPMG in Chile** published a report discussing recent tax developments in the country, including tax authority guidance on claiming export VAT refunds for international cargo shipping services, the VAT treatment of acquiring software licenses from abroad, and the VAT exemption relating to healthcare, and the update of the list of non-resident digital services providers for which financial intermediaries are required to withhold VAT.

United States: Courts in South Carolina and Washington Address Pre-Wayfair Marketplace Collection

The South Carolina Court of Appeals has affirmed an Administrative Law Court (ALC) decision, which had held that an online marketplace facilitating sales for third-party merchants was required to collect sales and use tax on sales to South Carolina customers. The tax period at issue was January 1, 2016 through March 31, 2016, which pre-dated the Wayfair decision. The tax period at issue also coincided with the expiration of a sales tax exemption for businesses that built distribution centers in South Carolina. After the exemption expired, the marketplace collected and remitted tax on its own sales. However, the agreements the marketplace had with merchants at the time generally required the merchants to be responsible for the collection, reporting and payment of taxes on their sales. Upon audit, the South Carolina Department of Revenue argued that the marketplace was a "retailer" with respect to sales it facilitated for third-party merchants and was therefore required to collect and remit sales and use taxes on such sales to South Carolina customers. After the South Carolina Administrative Law Court concluded that the marketplace was in the "business of selling" tangible personal property at retail because a customer's interaction was almost entirely with the marketplace and the marketplace accepted money in exchange for products, this appeal followed.

The court rejected the taxpayer's position that the state sales tax law was ambiguous as to the requirements imposed on marketplace facilitators for tax collection. By finding the law was unambiguous, the court was not required to resolve any doubt in this matter in the marketplace's favor. The court next affirmed the ALC's holding that the marketplace was a person engaged in the business of selling tangible personal property at retail and was therefore required to collect and remit sales tax on such sales. The court further held that the marketplace was a seller under South Carolina law. In fact, the marketplace was the only party a buyer encountered and interacted with during a sale transaction. Although the goods sold were owned by a third party, the law did not require that a "seller" own the goods that it sold. The court also rejected the constitutional arguments made by the marketplace. Notably, the marketplace asserted that the Department's attempt to collect sales taxes on third-party sales was an attempt to retroactively apply the 2019 marketplace facilitator amendments without fair notice. The court disagreed, noting that the Department applied the sales tax law that was in place at the time. As such, after the taxpayer built a distribution center in the state and established a physical presence, the Department required it to collect as a "retailer" after the exemption expired.

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In Washington State, an appeals court addressed a slightly different issue that involved the same marketplace. The issue was whether two merchants that utilized the marketplace were required to collect sales and use tax and pay retailing B&O tax on sales facilitated by the marketplace for tax years before the state's marketplace law became effective. The marketplace stored the sellers' goods in Washington State during the audit period, which the Department argued created nexus for the sellers. In response, the sellers argued that they did not know that they had a tax-collection responsibility to Washington state once they had goods in the state. The sellers also alleged that the marketplace should have collected and remitted taxes on their behalf as a consignee. The court rejected the consignment argument, noting that the marketplace's website did not list the marketplace as the seller, and there was no evidence a consignment agreement was in place. Further, the court observed that the merchants could not rely on ignorance or a lack of understanding. "Ignorance of the law excuses no one." In addition, the court called out certain provisions of the contract between the marketplace and sellers that placed full responsibility for all taxes related to the transactions on the seller. Finally, the court noted that it must presume that the legislature does not engage in vain and useless acts. If the marketplace was required to collect taxes during the reporting periods at issue, the legislature would not have needed to enact a new law specifically requiring such entities to collect. For more U.S. States sales tax updates, click here.

Mexico: Application of Zero-Rating to Export Services Clarified by Court

In August 2023, the Mexican Federal Circuit Court delivered a decision on the application of the VAT zero-rate to commission services provided by a Mexican company to a foreign shipping company. The case involved a Mexican taxpayer acting as an agent for a foreign shipping company under a commission agreement. The agent's primary responsibility was to hire third-party vendors to carry out logistical operations in Mexican ports on behalf of the foreign principal. The taxpayer applied a VAT zero-rate to these services and sought a refund for overpaid VAT, but the Mexican tax authority denied this request.

According to Mexican VAT law, exported services can be zero-rated if the "enjoyment" of the service occurs abroad. The VAT Regulations further stipulate that an exported service could be rendered in Mexico or abroad, and the location of the service provider is not the determining factor. However, there have been conflicting court opinions on this matter. In 2015, the Second Chamber of the Supreme Court ruled that it is necessary to verify that a service is enjoyed abroad to apply the zero percent VAT rate. The term "enjoyment" should not be understood broadly or from the perspective of potential economic gain for a foreign resident. The court emphasized that the "enjoyment" of the service and its provision occur simultaneously. The ruling confirmed that merely meeting the requirements in the VAT Regulations is insufficient to access the 0 percent VAT rate. It also suggested that a case-by-case analysis is necessary to determine where the benefit of the service is enjoyed.

In the 2023 case, the federal tax court sided with the tax authority, stating that the taxpayer failed to prove that the services were used abroad. The taxpayer then filed an amparo claim (constitutional appeal) in the circuit court against the tax court's decision. The circuit court upheld the tax court's stance. The ruling emphasized that the taxpayer bears the burden of proof and is responsible for demonstrating that its services are used abroad. The circuit court also examined the commission agreement and noted that some services provided by the commissionaire (Mexican company) on behalf of the principal (foreign shipping company) were related to the import and shipment of goods into Mexico. Therefore, the circuit court agreed with the tax court's opinion that the taxpayer failed to prove that its commissionaire services were used abroad.

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Furthermore, regarding the taxpayer's argument that the 2015 Supreme Court's ruling was based on facts that occurred before the VAT Regulations were issued, and therefore, should not apply to periods after the VAT Regulations introduced a "definition" of what it means for a service to be used abroad, the circuit court maintained the application of the 2015 Supreme Court ruling. The court argued that the VAT Regulations merely provide a list of factors that taxpayers might find useful in determining where specific services are used, but they should not be interpreted as anything more. Finally, the ruling states that the zero percent VAT rate applies to commission services if such services are used abroad, which in the case under review, the taxpayer failed to prove. For more information, click here.

Miscellaneous Developments in the Americas

- **Antigua and Barbuda:**[xlvii] Effective February 1,2024, the Antigua and Barbuda Inland Revenue Department announced that promoters must charge sales tax on their ticketed, paid entrance and club or bar events. This change comes as the government plans to phase out the current entertainment tax, which is charged at varying rates depending on the event's gross receipts.
- **Bahamas:**[xlviii] The Bahamian Department of Inland Revenue launched a consultation on a draft VAT guidance for the cruise line industry and private islands. Among other things, the guidance covers the sourcing rules, VAT liability, VAT registration, sales to employees, standard rating of on-island services, and pricing for on-island versus onboard sales. The guidance is scheduled to become effective from March 1, 2024.
- **Chile**:[xlix] On January 10, 2024, the Chilean Tax Administration published Resolution No. 6/2024, clarifying the requirements that must be met by cultural organizations to be eligible for VAT exemption on cultural services rendered, effective January 1, 2024. The resolution defines "cultural services" as those directly linked to the research, training, mediation, management, production, creation, and dissemination of cultures, arts, and heritage. It also sets out eligibility criteria for cultural associations, distinguishing between those solely composed of natural persons and other entities, with a stipulation that a maximum of 35 percent of income can come from non-cultural activities. To access the VAT exemption, taxpayers must register in the Registry of Cultural Associations by submitting a sworn declaration to the tax authority, confirming they meet the substantive requirements of being a "cultural association" rendering "cultural service."

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Europe, Middle East, Africa (EMEA)

Overview of Indirect Tax Developments in EMEA from KPMG International Member Firms

- **KPMG in Bulgaria** published a report discussing amendments to the VAT law effective from January 1, 2024. These amendments include an increase in the VAT registration threshold, an extension of temporary reduced VAT rates, the introduction of a VAT deferred payment regime in cases of centralized clearance upon the importation of goods, changes to the rules for VAT recovery, and new rules for documenting sales by taxpayers who are not registered for VAT.
- **KPMG in France** published a report discussing tax measures in the French 2024 Finance Law, including the adjustment of the timetable for phasing out the Contribution on Companies' Added Value (*cotisation sur la valeur ajoutée des entreprises*—CVAE) between 2024 and 2027.
- **KPMG in Germany** published a report discussing recent indirect tax developments. These include a recent federal tax court ruling regarding the revocation of the permission to use cash accounting due to abuse and recent tax authority guidance on the application of the VAT zero-rate regime for certain photovoltaic systems, the VAT treatment of parking management contracts, and the sourcing rules applicable in the case of a loss adjustment.
- **KPMG in Greece** published a report discussing tax provisions in a new law, including measures extending the period of eligibility for the e-invoicing incentives and the extension of reduced VAT rate measures.
- **KPMG in Italy** published a report discussing tax amendments effective from January 1, 2024, including the postponement of the plastic tax and sugar tax to July 1, 2024 and the changes to the VAT rates for food, baby, and feminine hygiene products.
- **KPMG in the Netherlands** published a report on a December 14, 2023 Decree clarifying the VAT treatment of immovable property sales and rentals, effective from January 1, 2024. Among other things, the Decree includes an approval to retroactively apply options for VAT-taxed leasing of immovable property, changes in VAT treatment of the lease of solar panels, service charges, and related utility services, and clarifications on the definition of a building site for VAT purposes, the VAT regime for the supply of apartment rights, and when refurbishment essentially concerns the creation of a new building. The decree also clarifies the VAT treatment for holiday homes.
- **KPMG in Serbia** published a report discussing amendments to the Rulebook on VAT (Rulebook), effective from January 1, 2024. These amendments include measures related to the tax exemption for goods under customs warehousing procedures in the case of advance payment, the process for issuing an invoice for multiple transactions, and the VAT treatment of fiscal invoices issued at the request of a public sector entity.
- **KPMG in Spain** published a report discussing the considerations for the financial and insurance industries when calculating the VAT recovery apportionment for 2023, due to changes in the VAT use and enjoyment rules. Spain excluded financial and insurance services rendered to businesses from application of the use and enjoyment sourcing rules. The report notes that this could significantly impact the VAT deductibility regime for entities providing financial and insurance services to non-EU entrepreneurs or professionals, potentially resulting in substantial VAT savings. In particular, for financial entities contracting derivatives with non-EU counterparties, these operations could be included in the VAT pro-rata calculation, thereby increasing the amount of recoverable VAT. To read KPMG's previous discussion of the changes to the Spanish use and enjoyment rules, click here.

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- **KPMG in Sweden** published a report discussing a recent request for preliminary ruling from the Supreme Administrative Court (SAC) to the Court of Justice of the European Union (ECJ) on the revaluation of the tax base for VAT purposes for group-wide services. The questions concern whether it is compatible with the EU VAT Directive to consider that services provided by a parent company to its subsidiaries are unique services whose market value cannot be determined by comparison. The second question asks whether it is compatible with the EU VAT Directive to consider a parent company's entire cost mass, including capital acquisition and shareholder costs, as the cost for services provided to its subsidiaries, especially when the parent company's only activity is the active management of the subsidiaries, and the company has made deductions for all included VAT attributable to its acquisitions.
- **KPMG in Sweden** published a report discussing a recent decision of the SAC on the application of the optional VAT liability regime in the context of jointly managed rental properties. Under Swedish VAT law, the lease of whole buildings and specific premises is generally exempt from VAT. However, landlords can opt to charge VAT on the lease when the premises are used in a tenant's VAT-liable business. This option allows landlords to recover VAT on costs related to the letting, such as capital and operating expenses for the building. In the case at hand, a company built a new building to be jointly rented by three parties and claimed VAT recovery on the costs. The company leased the building to one party with optional VAT liability, who then subleased to the other two parties, also with optional VAT liability. The Swedish tax authority rejected the VAT recovery claim, arguing that the building's joint use meant it could not be continuously used in a VAT-liable business. However, the SAC sided with the company, ruling that the premises could be considered continuously used in a VAT-liable business despite multiple tenants, thus meeting the criteria for optional VAT liability.
- **KPMG in South Africa** published a report discussing a recent guidance from the South African Revenue Service (SARS) introducing an estimated assessment functionality for VAT. The new regime allows SARS to issue an estimated assessment if a vendor does not provide the requested material promptly and to send a notice to the vendor. If the vendor disagrees with the assessment, they have 40 business days from the date of the notice to submit the required material or request an extension. Vendors can submit the material through e-filing, at a SARS branch, or via the SARS Online Query System. While taxpayers cannot dispute an estimated assessment, they can request a suspension of payment if the assessment results in a payable amount.

Roundup of Latest Court of Justice of the European Union Cases

On January 18, 2024, the ECJ published its decision in *Hauptzollamt Braunschweig* Case C-791/22, regarding whether the import VAT liability follows the Customs liability. In the case, a Polish resident purchased 43,760 cigarettes from Poland with Ukrainian and Belarusian tax stamps and sold them in Germany without notifying customs. The German customs office considered that VAT was due in Germany in accordance with the customs law. The ECJ held that the provisions of the EU Customs Code do not apply in determining the sourcing rules for import VAT.

On January 30, 2024, the ECJ published its decision in *P Sp. z o.o.,* Case C-442/22, in which it held that if an employee issues a fraudulent invoice under their employer's name and identity without their knowledge or consent, the employee is considered the person who enters the VAT. This is unless the employer did not exercise the necessary due diligence to monitor the employee's conduct.

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Miscellaneous Developments in EMEA

- **Angola:**[l] On December 28, 2023, the Angolan parliament adopted amendments to its VAT law. Among other things, the amendments extend the period in which the right of deduction can be exercised. Previously, this right could be exercised in the VAT return of the period or the following period in which the invoice or the receipt of the VAT payment on the imports was issued, typically within 2 months. However, with the amendments, the right of deduction can be exercised if the VAT return is submitted up to 12 months after the issuance of the invoice or the receipt of the VAT payment on the imports. Furthermore, the amendments clarify the responsibility for VAT payment. If VAT is not withheld by a buyer subject to the VAT withholding regime, the responsibility for paying the VAT reverts to the supplier (issuer of the invoice) until the last working day of the month following VAT receipt. Finally, the amendments establish that, for the purpose of determining the taxable value of the transfer of goods and the provision of services, commercial discounts or rebates specified on the invoice issued are excluded from the taxable amount, except for bonuses or rebate discounts.
- **Azerbaijan:**[li] On January 10, 2024, the Azerbaijani Ministry of Taxes clarified that under recent amendments to the VAT law, both leasing companies and lessees can offset the VAT they incurred from the acquisition of leasing assets. Additionally, the income of leasing companies from loan interests continues to be treated as VAT-exempt financial services. If leasing companies acquire assets without paying VAT, both the asset value and the full loan interests will remain VAT-exempt when provided to business entities within the framework of financial leasing. Furthermore, if a lessee transfers their rights and obligations under a financial leasing contract to another person, the relationship between the lessor and the new buyer is considered as a continuation of the previous financial leasing contract. However, if a financial leasing contract is terminated prematurely and this operation does not comply with statutory requirements, such operation will not be considered as financial leasing and will be subject to general rules.
- **Croatia:**[lii] On January 2, 2024, Croatia published amendments to its VAT law. The amendments include measures: (1) increasing the threshold for VAT-exempt gifts from EUR 21 to EUR 22; (2) allowing tax base reductions related to discounts, revocations, and inability to collect overdue receivables; (3) increasing the threshold to qualify for quarterly VAT reporting from EUR 106,178 to EUR 110,000; and (4) increasing the VAT registration threshold from EUR 39,816 to EUR 40,000. To read KPMG's previous discussion of the above measures, please click here.
- **Denmark:**[liii] On December 1, 2023, the Danish Supreme Court ruled that a taxpayer, who was wrongly charged VAT by a vendor that subsequently went bankrupt without remitting the VAT to the tax authority, could not claim a refund directly from the tax authority. Case No. BS-52793/2022-HJR. The Supreme Court held that Danish VAT law only governs the relationship between the person who incorrectly indicates VAT on an invoice and the tax authorities, not third parties who have paid the VAT to the invoice issuer.
- **Denmark:**[liv] On January 9, 2024, the Danish tax authority published Tax Council Binding Answer No. SKM2024.20.SR concerning the deductibility of VAT incurred for the renovation of a parking lot. In the case, a taxpayer had incurred costs for the renovation of a parking lot at their production site, which is used by visiting business guests, customers, and the company's employees for their personal motor vehicles. The Tax Council denied the VAT deduction for the costs of constructing parking spaces for the employees' personal motor vehicles, citing a deduction limit for the operation of personal motor vehicles.

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- **Denmark:**[lv] On January 25, 2024, the tax authority launched consultation on a draft temporary guidance to clarify the VAT treatment fuel cards in line with the EU VAT Committee's position on this issue. The draft guidance provides that a fuel card issuer can be considered to have supplied the fuel, if the invoice issuer and seller share an identify, or if the invoice issuer is a middle man, who can be considered as commission agent for VAT purposes. To read KPMG's previous discussion of the EU VAT Committee's guidelines on the VAT treatment of the fuel card regime, click here.
- **Egypt:**[lvi] The Egyptian Tax Authority (ETA) recently mandated that all businesses subject to VAT must register each of their branches separately and obtain a VAT registration certificate for each branch. The ETA also requires that VAT registration certificates be displayed in a place visible to the public in both the main office and any branches. This obligation also applies to all secondary establishments and depots, and to all premises or places of business owned or rented and where business activities are carried out. The taxpayer may be prosecuted for tax fraud if they fail to register for VAT.
- **European Union:**[lvii] On January 9, 2024, the European Commission released a provisional list of National Competent Authorities (NCAs) for the Carbon Border Adjustment Mechanism (CBAM) from the 27 EU Member States. The CBAM requires each EU Member State to designate an NCA responsible for authorizing importers to access the CBAM Transitional Registry for reporting purposes. During the CBAM transitional phase, traders must report the embedded emissions of imported goods under the CBAM's scope but are not required to pay for any adjustment. The first reporting period for importers ends on January 31, 2024. The final list of NCAs will be published in the Official Journal of the European Union, and the provisional list will be regularly updated as notified by Member States. To read KPMG's previous discussion of the EU's CBAM, click here.
- **European Union:**[lviii] The European Parliament and the EU Council reached a provisional agreement to strengthen CO_2 emissions standards for new heavy-duty vehicles (HDVs) entering the EU market from 2030. The agreement sets CO_2 reduction targets of 45 percent for 2030-2034, 65 percent for 2035-2039, and 90 percent from 2040, compared to 2019 levels. Under the agreement, the EU Commission will review the regulation's effectiveness and impact by 2027. The proposal will involve revising the Renewable Energy Directive and the EU emissions trading and Energy Taxation Directives to promote renewable and low-carbon fuels. The agreement needs to be formally approved by the European Parliament and Council to become effective.
- **European Union:**[lix] According to news reports, the EU proposal to reassign certain indirect tax preliminary rulings from the ECJ to specialized judges on the General Court may be implemented in October 2024. Due to the growing volume and complexity of preliminary ruling requests, in December 2022, the ECJ asked the European Parliament and the EU Council to allow the General Court of the European Union to handle certain preliminary ruling requests related to VAT, excise duties, customs, passenger compensation, and greenhouse gas emissions allowance trading. To read KPMG's previous discussion of this proposal, click here.
- **Greece:**[lx] Greece recently implemented a new "climate resilience tax" on tourist accommodations, replacing a previous tax on hotel stays. The tax will be higher during the peak season from March to October, reaching up to EUR 10 per night for five-star hotels and EUR 4 for off-peak times. The lowest tax rate is EUR 1.50, or EUR 0.50 during the low season. This tax will also apply to one- or two-star hotels and short-term property rentals booked online.

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- **Israel:**[lxi] On December 31, 2023, the Israeli Tax Authority announced revised thresholds for VAT invoicing, periodic reporting, and associated penalties. The revisions encompass a new exempt dealer gross receipts threshold of ILS 120,000; a minimum threshold of ILS 338 for buyers to necessitate invoices from covered sellers; and a purchase value threshold of ILS 27,183 for added VAT collection, payment, and invoicing requirements. Additionally, it sets a threshold of ILS 20,279 for the periodic reporting of specified recoverable VAT amounts, effective from January 1, 2024. Penalties for delayed reporting and insufficient recordkeeping will be effective from July 1, 2024.
- **Mauritius:**[lxii] On January 6, 2024, Mauritius published ruling VATR113 clarifying the VAT treatment of labor costs reimbursements. The ruling concerns a domestic and a global business company, both owned by the same taxpayer, which share a pool of employees. The domestic company claimed reimbursement for labor costs for time its employees spent working for the global company. The tax agency clarified that a 15 percent standard VAT rate applies to the reimbursement of these labor costs.
- **Mauritius:**[lxiii] On January 6, 2024, Mauritius published ruling VATR 114 clarifying that a taxpayer providing a "concierge" package service, which includes assistance with hotel bookings, transport arrangements, restaurant reservations, planning, etc., can recover its VAT expenses incurred from providing these services.
- **Norway:**[lxiv] On January 19, 2024, the Norwegian tax authority clarified that services related to securities trading are not subject to VAT as they are classified as VAT-exempt financial services. Additionally, any services bundled with these are also considered VAT exempt if securities trading services are the main object of the transaction. Furthermore, any fees incurred during the integration phase of a contract for securities trading services are deemed as prepayment for future delivery of financial services.
- **Norway:**[lxv] On December 8, 2023, the Norwegian tax authority clarified that construction contributions relating to safety and stabilizing measures against quick clay are not subject to VAT. In Norway, construction contributions are charges that property developers are required to pay to the local municipality when they are granted a building permit. These fees are used to cover the costs of developing and maintaining public infrastructure and services that are necessary due to the new construction, such as roads, water and sewage systems.
- **Rwanda:**[lxvi] On December 22, 2023, the Rwandan Supreme Court ruled that the VAT exemption for transportation services, provided by taxpayers with a transportation license, only applies to those taxpayers whose main business activity is providing such services. Therefore, when transportation services are offered as an accessory to the sale of goods, these services will not qualify for that VAT exemption, even if the seller holds a transportation license. Nonetheless, the services may be exempt from VAT if the goods themselves are exempt from VAT.
- **Slovakia:**[lxvii] The Slovakian government approved a draft bill to implement the EU VAT mechanism for small businesses, and changes to the sourcing rules for virtual events, effective January 1, 2025. Under the VAT mechanism for small businesses, EU member states will be allowed to maintain small business exemptions, which cannot exceed EUR 85,000 (maximum exemption threshold). However, these thresholds remain at the discretion of individual member states. Additionally, the exemption will be available to small businesses established in other EU member states, not just the one in which the VAT is due. The changes to the sourcing rules for virtual events stipulate that when services and ancillary services relate to activities that are streamed or made virtually available, the place of taxation will be where the customer is located. (For more information on the EU small business VAT reform, please click here.) Furthermore, in line with ECJ case law, the

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bill includes measures to amend the tax treatment of leasing contracts with an option to purchase, to narrow the application of the VAT exemption on services provided by an organization (association or political party) to its members, and proposes to extend the taxpayer's obligation to pay VAT on goods which were stolen and for which the VAT has been fully or partially deducted**.**

- **Switzerland:**[lxviii] On January 4, 2024, published an updated VAT guidance to clarify the application of changes to the VAT law, effective January 1, 2024. Among other things, it covers the implementation of the VAT rate changes, and provides an overview of domestic tax, group taxation, tax liabilities for companies, exemptions, and VAT deductions.
- **Türkiye:**[lxix] Türkiye recently launched a consultation on a draft communique clarifying recent changes to the VAT law. Among other things, it clarifies that the VAT self-assessment limit has been set as the annually updated invoicing limit, which is TRY 6,900 for 2024. It also states that any VAT credit from transactions leading to a refund cannot be offset against the tax liability accrued in the VAT tax return No. 2 due to VAT self-assessment. Additionally, it states that some services provided to public economic enterprises are now included in the scope of the VAT self-assessment mechanism.
- **United Kingdom:**[lxx] On January 9, 2024, the UK adopted The Taxation (Cross-border Trade) (Miscellaneous Amendments) Regulations 2024, set to be effective from January 31, 2024. Among other things, the regulations remove temporary customs easements for goods which are imported into Great Britain from the Republic of Ireland so that the customs requirements will be the same as those for goods imported from other EU countries. The regulations also eliminate customs declaration and notification requirements for qualifying Northern Ireland goods moving to Great Britain via the Republic of Ireland, except in certain cases. The measures also include technical changes to customs requirements and updates to excise goods arrangements.
- **United Kingdom:**[lxxi] The United Kingdom launched a consultation on its new penalty regime. The regime provides that for VAT accounting periods that commence on or after January 1, 2023, taxpayers who fail to make timely payments will be charged late payment interest. This interest will accrue from the first day the payment is overdue until the day it is fully paid. If a payment remains outstanding after 15 days, a late payment penalty will be applied. The consultation is open to selected taxpayers through March 25, 2024. To read KPMG's previous discussion of the UK's new penalty regime, please click here.
- **United Kingdom:**[lxxii] On January 10, 2024, the UK's First-Tier Tribunal (Tax Chamber) (FTT) published its decision in *Walkers Snack Foods Limited*, [2024] UKFTT 31 (TC), regarding the applicable VAT rate for the product, "Sensations Poppadoms," a potato-based snack. Under UK VAT law, food for human consumption is generally zero-rated for VAT. However, potato chips and products that were like, or made from products involving potatoes are excluded from the zero-rate regime. In the case, the taxpayer argued that the snacks were not like potato chips because the flavors are distinct from traditional potato chips and should qualify for the zero-rate regime. It also argued that to hold that it does not qualify for the zero-rate regime would violate the EU VAT principle of fiscal neutrality, which prohibits discrimination between similar products. The FTT reasoned that it is not in dispute whether the snacks were specifically potato chips, but whether the snacks were like, or made from products involving potatoes. Since the snacks were potato-based, they were excluded from the scope of the zero-rate regime, and the standard VAT rate should apply.

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- **United Kingdom:**[lxxiii] On January 29, 2024, the UK's Upper Tribunal (Tax and Chancery Chamber) published its decision in *Hippodrome Casino Ltd*., [2024] UKUT 27 (TCC), regarding the recovery of VAT on overhead expenses by reference to floorspace (the floor space attribution method). UK VAT law generally allows taxpayers to opt out of using the standard gross receipts-based method for calculating recoverable VAT if the attribution differs substantially from an alternative method. In the case, the taxpayer, who runs a casino, claimed that the economic use of its overhead expenses differed substantially from the attribution prescribed under the standard method. HMRC rejected that argument, stating that the casino had dual uses: taxable hospitality and entertainment services and non-taxable gaming services. The FTT agreed with the taxpayer, stating that the floor space method used for VAT recovery was more accurate. However, the Upper Tribunal upheld HMRC's denial of the claims, stating that the casino's hospitality and entertainment areas were also used for the VAT-exempt gaming business. The tribunal concluded that the floor space attribution method used by the taxpayer did not provide a more precise representation than the standard attribution method for calculating recoverable VAT expenses.
- **Zambia:**[lxxiv] Effective January 1, 2024, Zambia implemented several tax measures as part of its 2024 budget. These include: (1) extending the period for businesses to claim a refund on VAT incurred on eligible goods from 4 to 7 years for hydroelectricity generation; (2) removing customs duty on machinery and equipment for geothermal energy activities, and on the importation of motorcycles and tricycles in knock-down form for local assembly; (3) introducing new measures for implementing an e-invoicing system; and (4) introducing a new levy on mobile money transfers between individuals. To read KPMG's previous discussion of Zambia's 2024 budget, please click here.

Overview of Indirect Tax Developments in ASPAC from KPMG International Member Firms

- **KPMG in Korea** published a report discussing a recent court decision on the VAT treatment of sales support services provided to nonresident related entities. In the case, the taxpayer, a Korean subsidiary of a German company, involved in automobile parts and electric tools, treated the sales support services it provided to its parent company as a zero-rated exported service. The taxpayer argued that the parent company, which had no physical presence in Korea but had registered a Permanent Establishment (PE) there, was the actual recipient of the services, making the fees subject to a zero rate of VAT. The tax authority claimed these fees should be subject to the 10 percent standard rate as the services were provided to the Korean PE. However, the court agreed with the taxpayer, ruling that the service fees were subject to the VAT zero-rate because the parent company was the actual recipient of the services, not the Korean PE
- **KPMG in Malaysia** published a report discussing new indirect tax guidance that includes the Indirect Tax (Amendment) Regulations and Indirect Tax New and Amendment Orders, which were announced on December 29, 2023, and became effective on January 1, 2024. The amendments include updates to the circumstances and conditions under which a registered manufacturer can issue a credit or debit note, the addition of Regulation 6A to allow registered sellers to issue prescribed credit or debit notes, and the discontinuation of Form JKDM No 2. The form and manner of these changes will be determined by the Director General. Moreover, amendments were made to Regulation 6, which pertains to prescribed ports. The new and amended orders include the Sales Tax (Persons Exempted

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from Payment of Tax) (Amendment) (No 3) Order 2023 and the Sales Tax (Goods Exempted from Tax) (Amendment) (No 2) Order 2023. These cover exemptions for goods shipped from licensed warehouses and free zones, and updates to the list of milk products that qualify for exemption. The Sales Tax (Rate of Tax for Low Value Goods) Order 2023 sets the sales tax rate for low value goods at 10%. Lastly, the Excise Duties (Amendment) (No 3) Order 2023 increases the excise duty rate for certain goods and introduces a new excise duty for chewing and sucking tobacco.

- **KPMG in Malaysia** published a report discussing recent tax authority guidance on sales tax exemptions for manufacturing aids and cleanroom equipment. Among other things, the guidance clarifies that the exemption applies to specified manufacturing aids used directly or indirectly in the manufacturing process, as well as equipment used directly in the cleanroom. Manufacturing aids are goods used in the manufacturing process to accelerate or improve the manufacturing process of finished goods, but do not become part of the finished goods. A cleanroom is a facility in a regulated factory where pollutants are reduced to a minimum level.
- **KPMG in the Philippines** published a report discussing tax measures in a new law, the Ease of Paying Taxes (EOPT), enacted on January 5, 2024, to simplify the tax compliance system. With respect to VAT, the EOPT clarifies that VAT on the sale of goods, properties, services, or the use or lease of properties will be based on gross sales. Moreover, the EOPT introduces a VAT bad debt relief, simplifies the invoicing form for sales of goods and services, and allows taxpayers to deduct VAT if certain invoicing elements are missing. Finally, the tax authorities will classify VAT refund claims into risk categories leading to potential audits.
- **KPMG in the Philippines** published a report discussing a recent court decision regarding whether a reduction in Accounts Receivable (AR) results in a VAT deficiency. In the case, the taxpayer, a general professional partnership, was assessed a VAT deficiency for reductions in AR that the tax authority treated as collections. The taxpayer argued that the reduction was due to the write-off of uncollectible accounts, which should not be considered as receipts subject to VAT. The tax authority argued that tax assessments are presumed correct, and the taxpayer has the burden to prove otherwise. It also claimed the write-off did not comply with the mandatory requirements for bad debts to be allowed as deductions from gross income. The court held that the presumption that a tax assessment is correct only applies when the assessment is based on facts, not mere presumption, and is not arbitrary and capricious. It further held that changes in the AR balance do not necessarily pertain to collections subject to VAT and that the mandatory requirements cited by the tax authority for bad debts to be allowed as deductions from gross income pertain to income tax, not VAT deficiencies.
- **KPMG in Vietnam** published a report on proposed VAT law changes. The proposed changes include measures to clarify (1) the scope of goods and services that are not subject to VAT, including securities trading activities, capital transfer transactions, and the sale of debt; (2) the scope of the VAT rate regimes, including zero-rated exports, and the 5 percent reduced VAT rate; and (3) cases eligible for VAT refunds. The proposed amendments are scheduled to be submitted to parliament in May 2024, and approved in October 2024.

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Miscellaneous Developments in ASPAC

- **Australia:**[lxxv] Effective January – March 2024, Australia increased its general interest rate, which applies to late payments, from 11.15 percent to 11.38 percent.
- **Philippines:**[lxxvi] On January 16, 2023, the Philippines' Minister of Finance called for a study on carbon pricing instruments as part of a goal to develop a carbon tax and emissions trading system (ETS).
- **Sri Lanka:**[lxxvii] On January 4, 2024, the Sri Lanka Revenue Department published Circular No. SEC/2024/E/01, outlining the VAT registration requirements for vendors of tea, rubber, and coconut products. This follows recent amendments to the VAT Act, effective January 1, 2024, that removed prior VAT exemptions that applied to these goods. As such, sellers of these goods must register for VAT if their taxable sales reach or are expected to reach the VAT registration threshold of LKR 20 million per quarter. To read KPMG's previous discussion of recent changes to the Sri Lankan VAT law, click here.
- **Uzbekistan:**[lxxviii] Effective April 1, 2024, Uzbekistan amended its VAT law, which, among other things, expand the scope of nonresident vendors who are subject to registration requirements in Uzbekistan, now including individuals registered as entrepreneurs under foreign laws.
- **Vietnam:**[lxxix] On January 23, 2024, Vietnam published a circular providing instructions on the implementation of recent changes to the VAT law. Among other things, the circular introduces rules specifying the time of determining VAT, maintains provisions of the current VAT Law including scope, taxable subjects, and calculation methods, and explains the VAT rate for imports and exports. It also amends regulations on VAT deductions, refunds and refund procedures, calculation prices, tax-exempt individuals, and tax rates. It also repeals certain provisions regulating invoices and documents and provides examples.

About *Inside Indirect* Tax

Inside Indirect Tax is a monthly publication from the KPMG U.S. Indirect Tax practice. Geared toward tax professionals at U.S. companies with global locations, each issue will contain updates on indirect tax changes and trends that are relevant to your business.

Footnotes

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