



# Inside Indirect Tax

June 2022



## About this Newsletter

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

## KPMG Publications

### **KPMG *TaxNewsFlash* Newsletter on COVID-19 Measures**

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

### **Developments Summary of the Taxation of the Digitalized Economy**

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

### **Global E-invoicing & Digital Reporting Tracker**

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

# Overview of Indirect Tax Developments from KPMG International Member Firms

- **KPMG in Australia** published a [report](#) discussing tax measures in the 2022-2023 budget of the state of Victoria. The report notes that the budget is focused on health infrastructure and supporting the recovery of those sectors that bore the brunt of the pandemic. Further, the budget proposes to (1) grant a 50 percent land tax concession and a full exemption from the “absentee owner surcharge” from January 1, 2022, through December 31, 2031, to eligible “build to rent” developments for up to 30 years; and (2) a stamp duty exemption for first-home buyers if they buy a property for AUD 600,000 (\$424,956) or less, with concessions available for properties valued up to AUD 750,000 (\$531,195).
- **KPMG in Australia** published a [report](#) discussing the state of New South Wales’ State Revenue and Fines Legislation Amendment (Miscellaneous) Act 2022 which received royal assent on May 19, 2022. The law (1) broadens the tax base to include changes in beneficial ownership of dutiable property; (2) provides a refund of surcharge purchaser duty and surcharge land tax for residential land that is used wholly or predominantly for commercial or industrial purposes after acquisition; (3) increases the base penalty tax rate from 25 percent to 50 percent for a significant global entity that has a state tax default; and (4) introduces a promoter penalty regime. A second [report](#) covers guidance for the law that has been released.
- **KPMG in Bahrain** published a [report](#) discussing that the Bahraini government has extended the implementation dates for the digital stamp regime for tobacco and tobacco products as follows: cigarette products imported at customs must have digital stamps starting from July 17, 2022 (extended from May 15, 2022); cigarettes sold in markets must have digital stamps starting from October 16, 2022 (extended from August 14, 2022). In addition, local news reports indicate that a proposal has been submitted by several members of parliament to temporarily suspend the 10 percent VAT and double the monthly anti-inflation allowance for Bahrainis due to an overall increase in global prices and salary stagnation. Finally, the government recently published the results for the first quarter of 2022 on its website, which includes statistics on the number of registered taxpayers, VAT workshops, and stores registered for tourist refunds.
- **KPMG in Belgium** published a [report](#) discussing the extension of the deadline for submitting the third quarter 2022 VAT return from October 20, 2022, to October 25, 2022. However, if the VAT return contains a refundable VAT credit, the deadline for filing the VAT return is October 24, 2022. The VAT payment deadline is not extended and remains October 20, 2022. The extension is intended to spread the VAT filing deadline from the filing deadlines for other taxes (e.g., the individual (personal) and corporate income tax).
- **KPMG in Belgium** published a [report](#) discussing recent VAT developments including changes to the VAT refund procedures and an extension of the 6 percent VAT rate for demolition and reconstruction. On April 10, 2022, Belgium issued a royal decree to replace the existing royal decree issued in December 2009 to modernize the current VAT refund procedures for taxpayers established outside the EU by aligning them with those established in other EU Member States. These new rules are intended to improve efficiency in the tax authorities’ administrative processes in light of the expected increase in refund requests due to Brexit. The new decree applies to refund requests submitted after June 30, 2022.

- **KPMG in Bolivia** published a [report](#) (in Spanish) discussing a tax authority guidance that addresses the registration of billing information systems. Under the guidance, approximately 3,900 taxpayers identified and listed by their taxpayer identification number in an annex to the guidance must adapt and implement their billing information systems pursuant to the rules. The report further discusses requirements for these taxpayers to issue digital tax documents.
- **KPMG in Cambodia** published a [report](#) on the procedure for submitting the VAT self-assessment (reverse-charge) declaration for e-commerce transactions. Under the new Cambodian VAT digital services regime, medium and large taxpayers that receive digital goods or digital services or any e-commerce activities from nonresident taxpayers must submit the monthly VAT return (i.e., “VAT reverse charge”) through the E-Filing system. The return is due by the 25th of the following month. The first taxable month covers April 2022. (For KPMG’s previous discussion on Cambodia’s new VAT digital services regime, click [here](#).)
- **KPMG in Canada** published a [report](#) on the Canadian budget bill which includes tax measures from the 2022 budget. The report notes that the budget received its first reading in Parliament on April 28, 2022. The bill proposes to introduce a new Select Luxury Items Tax Act on certain new aircraft and motor vehicles priced over CAD 100,000 (\$77,500) and certain boats priced over CAD 250,000 (\$194,500). The bill further proposes (1) making all assignment sales for newly constructed or substantially renovated residential housing taxable for GST/HST purposes; (2) expanding the GST/HST health care rebate for charities or non-profit organizations to include certain health care services delivered by nurse practitioners; (3) implementing a new federal excise duty framework for vaping products; and (4) changing the excise tax on wine and beer.
- **KPMG in Colombia** published a [report](#) discussing the extension of the COVID-19 pandemic health emergency through June 30, 2022. This also extends several tax measures under the emergency, including a VAT-exemption for raw materials to produce specified medicines.
- **KPMG in the Czech Republic** published reports discussing recent indirect tax developments. The first [report](#) notes that to mitigate the effects of the energy crisis on fuel prices, the government has proposed temporarily reducing the excise duties on diesel oil and unleaded petrol by CZK 1.50 (\$ 0.06419) per liter from June 1 to September 30, 2022. The second [report](#) discusses the VAT treatment of fuel cards. From a VAT perspective, purchasing fuel is regarded as two consecutive sales of goods (fuel) — the service station operator sells it to the card issuer, and the card issuer sells it to the vehicle operator. An alternative approach was formulated by the ECJ in a situation in which the owner of the fuel card (a parent company) provided the card to their subsidiary acting as a subcontractor for the parent company. The court regarded the transaction between the parent company and the subsidiary to be a financial service exempt from VAT. However, the European Commission’s VAT expert group opined that the ECJ’s conclusion should only be viewed in the context of the very specific situation. A third [report](#) discusses a recent decision of the Supreme Administrative Court on interest on retained excess VAT deductions. The SAC declared unlawful the practice whereby as of July 1, 2017, the tax administrator reduced the interest rate during the interest period of a long-term retained VAT deduction.

- KPMG in Denmark** published a [report](#) discussing a bill that would introduce interest surcharges for tax corrections effective June 15, 2022. The interest surcharge measure is proposed to have an effective date of June 15, 2022, but the Minister of Taxation would be authorized to determine a later effective date for certain measures under the bill (e.g., situations for tax corrections submitted after the date of enactment but before the effective date for a specific provision). The interest surcharge provision would relate to all corrections, including VAT, whether initiated by the taxpayer or by the Danish tax authority and whether the corrections relate to tax periods before the effective date. Currently, the Danish tax authority can make corrections within the standard 36-month period if the tax base for a specific month is incorrect. This applies, for example, when the taxpayer incorrectly assessed a specific sale as being VAT-exempt. With specific regard to VAT corrections, an interest surcharge of approximately 30 percent would apply to corrections relating to the oldest period (i.e., 36 months). The bill includes details about how the proposal would interact with the partial VAT deduction percentage for taxpayers with mixed activities. The goal is that interest surcharges would not be owed for a possible situation when the final VAT deduction percentage is lower than the percentage used by the taxpayer. Corrections that are not due to changes in the deduction percentage would be subject to the proposed interest surcharges. This applies, for example, with regard to corrections that are related to the reclassification of costs (e.g., from directly attributable costs to those that are identified as common costs) as well as established VAT self-assessment obligations.
- KPMG in Greece** published a [report](#) discussing a recent tax authority decision to abolish the obligation to submit annual customers-sellers (MYF) lists. This obligation has been replaced with the requirement to report data related to sales documents, self-billings, and proof of expenditures no later than May 27, 2022. Entities are also required to cross-reference their accounting data (purchases) with the counterparties' submissions and report any discrepancies before October 31, 2022. Failure to comply with these obligations for 2021 triggers an administrative penalty of EUR 100 (\$106), without regard to the volume of transmissions and the content of each transmission.
- KPMG in India** published a [report](#) discussing a recent decision of the Indian Supreme Court in *Union of India v. Mohit Minerals Pvt. Ltd.*, concerning GST payable on GST self-assessment on ocean freight. The Indian Supreme Court affirmed the decision of the Gujarat High Court, which held that no tax is payable by the Indian importer on GST self-assessment on ocean freight services paid by a foreign seller to a foreign shipping line.
- KPMG in Mexico** published a [report](#) discussing a requirement for taxpayers to validate data in e-invoices using a tool on the tax administration service portal. Effective January 1, 2023, all electronic invoices (CFDIs) issued by Mexican taxpayers must comply with the provisions under version 4.0 requiring validation of such items as federal taxpayer registration; name, denomination, or company name; and postal code of the address of the taxpayer. Up to 5,000 lines may be validated simultaneously.
- KPMG in Mexico** published a [report](#) discussing a requirement to include a consignment note complement with electronic invoices. All CFDIs issued by Mexican taxpayers must, as of January 1, 2022, include a consignment note (bill of lading) complement. Taxpayers who issue CFDIs with a consignment note from January to September 2022 will be treated as complying with all applicable provisions, even if such taxpayers do not meet all the requirements mentioned in the filing instructions. However, effective October 2022, taxpayers will have to comply with all the requirements set out in the filing instructions to avoid sanctions and have the right to deduct the costs incurred for tax purposes.

- **KPMG in Netherlands** published a [report](#) discussing a new policy statement published on May 12, 2022, updating a 2017 statement on the insurance premium tax (IPT). The new policy statement distinguishes between goods shipped by a contracted shipping company and the “own shipment” of certain goods. It remains unclear whether the insurance of “own shipments” qualifies for full or partial exemption under the IPT. Further, temporary storage qualified for the shipping exemption under certain conditions in the earlier statement, the new policy statement specifies a maximum period of three months of temporary storage to qualify for the shipping exemption. If goods are stored for more than three months, but it is sufficiently plausible that there is a necessary connection between the storage and the shipment, the shipping exemption may still apply. This continues to be subject to the condition that no additional premium is due for the storage. The new policy statement became effective on May 13, 2022, but the changes governing the shipping exemption will not take effect until May 13, 2023.
- **KPMG in New Zealand** published a [report](#) discussing the New Zealand Budget for 2022, which includes a short extension of the fuel tax reduction and public transport subsidies.
- **KPMG in Poland** published a [report](#) discussing tax implications of changes in the state of the COVID-19 pandemic for regulatory purposes. On May 6, 2022, Poland announced a change in “the state of pandemic” to “the state of pandemic threat” effective May 16, 2022. Poland has been under the state of pandemic since March 20, 2020, and Polish tax law has been amended to include various reliefs and preferences to alleviate the effects of the pandemic. Some of the reliefs and preferences are effective until the state of pandemic is revoked, while others remain effective as long as the state of pandemic threat persists, including the deadline for notification on payments to accounts outside the “VAT taxpayer whitelist” will remain extended to 14 days.
- **KPMG in Poland** published a [report](#) discussing a proposed extension of anti-inflation measures, including sales and excise tax exemptions and reductions. The anti-inflation measures include proposals that would exempt households from excise tax, provide a temporary exemption of fuel sales from retail sales tax, and reduce the excise tax on light fuel oil. The bill has passed the third reading stage and is before the senate. It is expected to become effective on July 1, 2022.
- **KPMG in Poland** published a [report](#) discussing recent VAT developments, including the launch of a production version of the KSeF taxpayer application on May 17, 2022. Taxpayers may use KSeF to issue, receive, and preview invoices. To use it, a taxpayer must first authenticate, using a qualified electronic signature (individuals), a qualified electronic seal (other entities), or a trusted profile. Moreover, the report covers a May 11, 2022 decision of the Supreme Administrative Court, in which it ruled that the amount paid by a counterparty for failure to collect and pay for the goods is treated as contractual compensation not subject to VAT. Finally, the report discusses a proposal being considered by the upper house of the Polish Parliament to postpone the effective date of the VAT grouping regime until January 1, 2023.
- **KPMG in Switzerland** published a [report](#) on the VAT treatment of tokenized commodities trading. The report notes that the practice and guidelines around tokens and VAT are still very new (and incomplete) from a Swiss VAT perspective. Every token should thus be analyzed and classified on a case-by-case basis, as even minor differences in the characteristics of the token can lead to a different VAT treatment. In analyzing the VAT treatment, taxpayers should consider whether the token is a payment token or an asset token, is sold to a foreign buyer, and could qualify as a digital service.

- **KPMG in Thailand** published a [report](#) discussing measures to implement the new electric vehicle tax and customs incentives for 2022-2025. The electric vehicle incentives package covers three types of vehicles: passenger cars, motorcycles, and pick-up trucks. The incentives generally consist of customs duty reductions, excise tax reductions, and excise tax subsidies, and are based on the battery size and the suggested retail price of the vehicles.
- **KPMG in Trinidad and Tobago** published a [report](#) discussing tax measures in the mid-year budget review for 2022. One anticipated measure is the implementation of property tax, expected to begin in the calendar year 2022. It is anticipated that the assessments for property tax would apply only to residential property.
- **KPMG in the United Arab Emirates** published a [report](#) discussing revised administrative penalties for violations of tax laws including VAT, effective June 28, 2022. The penalty calculation now does not depend on the taxpayer's or tax authority's overall net balance resulting from the correction, but instead is calculated based on the amount of the correction made in the submitted voluntary disclosure, notwithstanding whether the taxpayer has incurred any tax benefit. Furthermore, if a voluntary disclosure is submitted following notification of a tax audit, the penalty is set at 50 percent of the amount of the disclosed error. Therefore, even if taxpayers are in a refund position, they remain subject to the percentage-based penalties for correcting any errors via voluntary disclosure. The availability of the offset mechanism in the UAE VAT regime justifies the applicability of percentage-based penalties on refund amounts not yet claimed by the taxpayer, as theoretically, the taxpayer could have used such amounts to offset any arising tax or administrative liabilities.
- **KPMG in Vietnam** published a [report](#) discussing a recent tax authority guidance requesting provincial and municipal tax authorities to focus on tax audits and inspection of several high-risk industries and areas. The recommended focal points include e-commerce transactions by nonresident providers, tax refunds, and invoices.

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## Global Rate Changes

- **Belgium:** Belgium recently extended the reduced 6 percent VAT rate for demolition and reconstruction through December 31, 2023.
- **Brazil:**<sup>i</sup> Following its previous announcement in February 2022 to reduce the rate of the federal tax on industrialized products (IPI) by 25 percent, the Brazilian increased the rate of reduction to 35 percent in an announcement on April 29, 2022. The reduced rates do not apply to tobacco products.

- **Guyana:**<sup>ii</sup> On May 6, 2022, the Guyanese Revenue Authority [announced](#) the introduction of a VAT zero rate on cement effective April 29, 2022. Taxpayers who have already paid VAT on cement may use the refund mechanism to reclaim VAT. The refund mechanism requires taxpayers to carry-forward VAT credits for six consecutive months and apply to the tax authority for a refund of the excess credits if they are unable to recoup all the VAT. Taxpayers are allowed to claim the excess of taxes paid when a minimum of 50 percent of the taxable sales are zero-rated for the tax period. Finally, taxpayers that are not VAT registered are allowed to claim a VAT refund equal to the amount payable in cash or credit against the amount owed by the recipient of the sale.
- **Iceland:**<sup>iii</sup> On May 2, 2022, the Icelandic Directorate of Internal Revenue [announced](#) the elimination of the VAT-exemption for the import of commercial hybrid vehicles effective May 6, 2022.
- **Ireland:**<sup>iv</sup> On May 10, 2022, Ireland extended the 9 percent reduced VAT rate for the tourism and hospitality sector through February 28, 2023. The extension will cover the same goods and services as the original measure, including restaurants, tourist accommodations, cinemas, theatres, museums, historic houses, open farms, amusement parks, and hairdressing, as well as certain printed matter such as brochures, leaflets, programs, and catalogs.
- **Italy:**<sup>v</sup> On May 2, 2022, Italy [announced](#) temporary tax relief measures to reduce the cost of fuels from May 3 through July 8. The measures include reducing the VAT rate on natural gas used for transport to 5 percent and reducing the excise tax on petrol, diesel, and liquefied petroleum gas.
- **Sweden:**<sup>vi</sup> Effective July 1, 2022, Sweden has reduced the VAT for repairs of bicycles, shoes, leather goods, clothing, and household linens from 12 percent to 6 percent.
- **Turkey:**<sup>vii</sup> On April 15, 2022, Turkey published [Law No.7394](#), which includes a number of VAT measures for the manufacturing and tourism sectors, effective on the same date. Law No.7394 exempts from VAT goods and service deliveries in relation to construction works within the scope of investment incentive certificates for the manufacturing and tourism sectors until December 31, 2025, as well as engineering services provided to manufacturers of electric motor vehicles in Turkey that are developed exclusively as a result of their research and development activities in Turkey within the scope of investment incentive certificates until December 31, 2023.
- **Uruguay:**<sup>viii</sup> On May 11, 2022, Uruguay further [extended](#) the 13 percent reduced VAT rate for the tourism sector through September 30, 2022. The reduced rate was introduced in 2020 and has been extended multiple times, with the latest extension scheduled to end on April 30, 2022. The VAT rate reduction applies for gastronomic services when provided by restaurants, bars, cafes, and the like, or by hotels, inns, hostels, and similar establishments, provided that the services do not include lodging. The reduced rate further applies to catering services for parties and events, vehicle rentals (without a driver), and mediation services for the leasing of real estate for tourism purposes. For taxpayers subject to the small business tax regime, the reduction is determined by applying a discount of 7.38 percent on the total transaction amount. The reduced VAT is subject to the condition that payment is made through credit cards, debit cards, or electronic money instruments, and similar means.

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# Indirect Tax Developments and News from Around the World

## The Americas

### United States: New Retail Delivery Fee Levied in Colorado

In 2021, Colorado enacted legislation (SB 21-260) that established new sources of funding for the state's transportation system. Specifically, the bill imposes new fees on electric motor vehicle registrations, purchases of gas and diesel, passenger ride services, and short-term vehicle rentals. In addition, the bill requires Colorado-licensed retailers to collect a \$0.27 retail delivery fee from purchasers on every retail sale of tangible personal property that is delivered by a motor vehicle to a purchaser in Colorado effective July 1, 2022. The fee is required to be collected only when the retailer is making a taxable retail sale of the underlying goods. In other words, if the tangible personal property sold is exempt from sales tax (e.g., a sale for resale) or the purchaser is exempt (e.g., a qualified charitable organization), then the retail delivery fee will not apply. If a sale transaction includes both exempt and taxable items, the retail delivery fee will be imposed. The fee applies regardless of whether the motor vehicle used to deliver the goods to the customer is owned by the retailer or a third party. A single order will be subject to only one delivery fee, even if multiple deliveries are required. Prior to remitting the fee, affected retailers will need to register to add

a retail delivery fee to their account profile. Retail delivery fees collected will be remitted to the Colorado Department of Revenue on the same filing and payment schedule as the retailer's state sales tax return but will be remitted on a specific retail delivery fee form (Form DR 1786). A return is required to be filed even if no delivery fees are due for the reporting period. For more information, click [here](#).

The Colorado Department of Revenue has further issued additional information, including Form DR 1786, on the new retail delivery fee. Prior to remitting the fee, retailers must have registered for a retail delivery fee account separate from their sales tax accounts. As a courtesy, all holders of a retail license that have remitted sales tax after January 1, 2021, will automatically be registered for the fee. In addition, retailers may set up a retail delivery account by going to Revenue Online or by completing the initial Form DR 1786 (the form used to report the fee). The Department's website indicates there will also be an option to sign up for an account on the state's State and Use Tax System (SUTS). For more information, click [here](#).



## Chile: Overview of Recent Indirect Tax Developments

On April 28, 2022, the Chilean Tax Administration (SII) issued [Letter No. 1414](#), in which it clarified the VAT and stamp tax treatment of forming a new company to support the other members of a group company. In the matter, members of a group company wished to form a new company to facilitate the administrative and accounting services of the other group company members. The taxpayer sought clarification as to the application of stamp taxes and VAT to the newly formed company. The SII clarified that stamp taxes will apply to financial and credit transactions unless an exemption applies, and VAT will not apply if the newly formed company is not open to the general public.

On April 28, 2022, the SII issued [Letter No. 1422](#), in which it clarified the VAT treatment of services provided to the staff of a public body. In the matter, a company provided services to the staff of a public body and treated the services as VAT-exempt. The company asked the SII to clarify the VAT treatment of these services and to identify any sanctions for issuing VAT-exempt invoices for the services that were subject to VAT. The SII clarified that the services provided by the company were not VAT-exempt, and the company must issue invoices subject to VAT. Further, the issuance of VAT-exempt invoices for the services subject to VAT is punishable by a fine.

On April 29, 2022, the SII issued [Letter No. 1439](#), in which it clarified the VAT treatment of income from a property development project. In the matter, a property manager and a property owner were considering forming a joint venture to subdivide and develop a plot of land. The property manager and the owner sought clarification as to the application of VAT to the property developments, and to future sales of the property. The SII clarified

that while the land itself is not subject to VAT, developments to the land become subject to VAT once they qualify as improved real property. Sales of the property by the owner which include construction from the joint venture will be subject to VAT.

On May 13, 2022, the SII released [Resolution SII N°46/2022](#) intended to further regulate the collection of VAT from nonresident vendors of digital services to consumers in Chile. Under current rules, nonresident vendors of digital services are required to register in Chile to collect and remit the VAT applicable to their sales to final consumers or entities not registered as VAT taxpayers. (For KPMG's previous discussion on Chile's nonresident VAT digital services rules, click [here](#).) However, the tax code also provides that if such vendors do not register or, after doing so, do not collect VAT, the SII will include them in a list used by financial institutions to withhold the applicable VAT on sales of digital services. Resolution 46/2022 establishes an official registry or list of nonresident vendors that will be subject to the withholding of the VAT, which are referred to as "*Contribuyentes IVA SD Afectos a Cambio de Sujeto*" (VAT taxpayers without domicile subject to withholding). Accordingly, all the local financial institutions issuing credit or debit cards, or any other instrument used to transfer payments to the foreign vendors, will be required to withhold VAT. The first list of nonresident vendors subject to VAT withholding was published on the SII website on June 1, 2022; it can be accessed [here](#). Going forward, the SII will add new taxpayers to the list annually on December 15. Nonresident vendors may challenge their inclusion on the list with a legitimate reason, such as selling only to Chilean VAT-registered businesses. Alternatively, they may proceed to register for VAT and collect and remit the VAT, interest, and penalties applicable to

previous transactions. In those cases, the SII will proceed to exclude those taxpayers on a quarterly basis. Banks and other financial entities will be required to declare the withholdings made between January 1 and June 30 of the year and file a report called "*Reporte Retenciones IVA SD*" by the last working day of August. Transaction carried out between July and December should be reported the last working day of February of the next year. For 2022, the withholding applicable to entities included in the first list

published in June will become mandatory on August 1, 2022.

Source: Chile Tax Agency Clarifies VAT-exemption on Services Provided to Institution Staff, Bloomberg Law News, May 6, 2022; Chile Tax Agency Clarifies VAT, Stamp Tax Treatment on Newly Formed Company, Bloomberg Law News May 10, 2022; Chile Tax Agency Clarifies VAT on Property Development Joint Venture, May 6, 2022, Bloomberg Law News, May 5, 2022; KPMG US

## Peru: Overview of Recent Indirect Tax Developments

On April 8, 2022, the Peruvian tax authority (SUNAT) published [Administrative Guidance 000018-2022-SUNAT/7T0000](#), in which it clarified the VAT-exemption for financial companies providing trustee services. According to the guidance, services provided by financial companies under the scope of the Peruvian Banking Law, as a trustee (*fiduciario*) in a Peruvian trust (*fideicomiso*), are not subject to VAT.

On April 30, 2022, the Peruvian government published [Supreme Decree No. 083-2022-EF](#) regulating VAT recovery for the sale of specific items of the basic food basket (e.g., basic foodstuffs such as bread, sugar, pasta, poultry meat, and eggs). Peru grants a temporary VAT-exemption for the sale or importation of products included in the basic food basket until July 31, 2022. Peru further provides for the temporary use of the VAT incurred by merchants of exempted goods upon the acquisition and importation of the main products required in the productive process of such exempted goods. The new decree provides the list of such products that, when acquired, will allow the merchant to claim the VAT incurred as a credit. The detailed list of the tariff products as provided in the decree is divided by the type of exempted goods (i.e., products required to produce poultry meat (fresh, chilled, or

frozen) of the species *Gallus domesticus*, and products required for the production of sugar). In addition, the decree states that the sale of exempted products in the basic food basket are not considered "non-taxable transactions" when computing the VAT credit under the VAT apportionment method. Where a taxpayer simultaneously carries out taxable and non-taxable transactions, the credit is computed under a general apportionment rule, which prescribes a formula for determining the percentage of VAT creditable against VAT collected when a taxpayer carries out both taxable and exempt transactions. The amount of the VAT credit is based on the ratio the gross receipts from taxable transactions bear compared to the total gross receipts in each calendar year, excluding VAT.

On April 28, 2022, the SUNAT issued [Administrative Guidance 000022-2022-SUNAT/7T0000](#), in which it clarified the validity of travel tickets issued effective October 1, 2021, by authorized companies to transport passengers within the Peru ("*empresas de transporte nacional de pasajeros*") who have been designated as issuers of e-invoices ("*comprobantes de pago electrónicos*"). SUNAT clarified that the issuance of travel tickets instead of an e-invoice is valid for tax purposes provided that: (1) the authorized company is not able

to issue e-invoices on a specific date for no fault attributable to them; and (2) prior to being designated as an issuer of e-invoices, the company had already been issuing travel tickets (i.e., prior to October 1, 2021).

Source: Peru-Tax Authority Clarifies Exclusion from VAT Obligations for Financial Companies Providing Trustee Services, News IBFD May

2, 2022; Peru - Peru Regulates Tax Credit for Merchants of Products in Basic Food Basket for VAT Purposes, News IBFD May 3, 2022; Peru - Tax Authority Clarifies Validity of Travel Tickets as a Substitute to E-Invoices, News IBFD, May 12, 2022.

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## Europe, Middle East, Africa (EMA)

### European Union: Roundup of Recent ECJ Cases

On May 5, 2022, the European Court of Justice (ECJ) published the nonbinding Opinion of its Advocate General (AG) in *HA.EN.*, [Case C-227/21](#), in which the AG opined that the [EU VAT Directive](#) and the principle of fiscal neutrality prohibits an EU Member State from denying a taxpayer the right to deduct VAT if that person, when acquiring items of immovable property, knew (or should have known) that the seller, due to his or her insolvency, would not pay (or would not be able to pay) the VAT to the tax authority. However, it is for the referring court to decide whether the taxpayer (recipient of the sale) in the present case was really charged with VAT collected from it by the seller. This is not possible if the recipient of the sale has never made the funds available to the tax debtor for payment of the VAT debt.

On May 12, 2022, the ECJ published its decision in *U.I. (Représentant en douane indirect)*, [Case C-714/20](#), in which the ECJ ruled that the indirect customs representative is only liable for the customs duties due on the declared goods and not also for the import VAT due for the same goods. The indirect representative is not jointly or severally liable with the importer for import VAT in the absence of national provisions which, explicitly and unambiguously,

designate or recognize it as being liable for this tax.

On May 12, 2022, the ECJ published the nonbinding Opinion of its AG in *O. Fundusz Inwestycyjny Zamkniety reprezentowany przez O S.A.*, [Case C-250/21](#), in which it the AG opined that the VAT-exemption for granting, negotiating and managing credit does not apply to the provision of services under a sub-participation agreement wherein the sub-participant agrees to pay to the originator an upfront amount in return for obtaining the proceeds of the receivables of the principal loan granted to the principal debtor throughout the agreement. The VAT directive does not cover the credit risk transferred by the originator to the sub-participant, which, subject to verification by the referring court, is an essential part of the sub-participation agreement.

On May 12, 2022, the ECJ published the nonbinding Opinion of its AG in *Raiffeisen leasing*, [Case C-235/21](#), in which the AG opined that a written agreement should be considered to be an invoice for VAT purposes, provided that the agreement contains sufficient elements for the tax authorities to either check the payment of the VAT due or, depending on the circumstances, the existence of the right to deduct VAT. The

written agreement should be regarded as an invoice for VAT purposes even though it did not include all the elements of an invoice listed in the VAT directive.

Source: CCH, Global VAT News & Features, ECJ AG Calls Into Question Lithuanian VAT Refund Restrictions, (May 9, 2022), European Union - ECJ Decides on Joint and Several Liability of Importer's Indirect Representative to Pay Import VAT: U.I. (Représentant en douane indirect) (Case C-714/20); European Union - ECJ Advocate General Opines on

Whether VAT-exemption Relating to Credit is Applicable to Sub-Participation Agreement: Szefer Krajowej Administracji Skarbowej v. O. Fundusz Inwestycyjny Zamkniety reprezentowany przez O (Case C-250/21) (VAT); European Union; Slovenia - ECJ Advocate General Opines on Whether Written Agreement Can Be Regarded as Invoice for VAT Purposes: RAIFFEISEN LEASING (Case C-235/21) (VAT), News IBFD May 12, 2022.

## European Union: Reports from Group on the Future of VAT in Europe

On May 6, 2022, the EU's Group on the Future of VAT (GFV) held its 38th meeting to discuss the VAT treatment of returned goods in the context of distance sales of goods, the Import One-Stop Shop (IOSS) VAT identification number abuse after the implementation of the e-commerce package, the VAT treatment of the platform economy, and the need for e-invoicing as part of the VAT in the Digital Age. The GFV is an informal European Commission expert group, composed of representatives of national tax administrations, that provides the Commission a forum for consulting VAT experts from Member States on pre-legislative initiatives. Following this meeting, the GFV published the following papers.

In [GFV 118](#), the GFV discusses the VAT treatment of returned goods in the context of distance sales of goods imported from third territories or third countries. It concluded that when the IOSS is used, VAT can be reimbursed if the correction is reflected in the IOSS VAT return, and there are no consequences for the customs processes.

In [GFV 119](#), the GFV discusses use of the IOSS VAT identification number and securing use of the IOSS process. According to the GFV, there is a risk of IOSS VAT identification numbers being misused if the trader is not IOSS registered, yet fraudulently uses the IOSS number of a legitimate IOSS registered trader to falsely benefit from the

VAT-exemption upon importation. The paper proposes some solutions including using the uniquely generated transaction number as a new element for controlling the importation of low-value consignments, upgrading the IOSS monthly listing to include the EU Member State of final destination, giving access to the IOSS database to customs authorities, or to legislate measures to effectively mitigate IOSS abuse such as providing additional information to customs authorities.

In [GFV 120](#), the GFV discusses the use of a single VAT registration (SVR) for transfer of own goods within the EU. The GFV presented three options for integrating the transfer of own goods into an SVR: (1) Digital Reporting Requirements (DRR) and the abolition of the "transfer of own goods" as a taxable event (or the exemption of the intra-EU acquisition); (2) extending the One-Stop-Shop (OSS) to include the transfer of own goods; and (3) extending the deemed seller provision complemented by a "transfers" module in the OSS. The paper includes the advantages and disadvantages for each option as well as questions for further consideration.

In [GFV 122](#), the GFV discusses the VAT treatment applicable to the platform economy. The paper discusses several topics, including: (a) the new mechanism on the deemed seller regime and the small enterprises (SME) changes which will be effective in January

2025; (b) platforms becoming the seller and being required to determine whether the customer, who is the person receiving the underlying service, is a taxpayer or not; (c) whether and how a gross receipt threshold below which the deemed seller regime would not apply should apply to platforms themselves; and (d) the interaction of the deemed seller regime and the travel agents' program and the relationship between the deemed seller model and other e-commerce rules, especially with regard to record-keeping obligations.

In [GFV 123](#), the GFV discusses e-invoicing and the need for EU standards and interoperability. The paper refers to the study carried out on

the Digital Reporting Requirements (DRR) as part of the VAT in the Digital Age, concluding that the policy options providing the biggest benefits are the partial and total harmonization of DRRs across the EU. The paper includes some questions to the delegates to further define how to implement a reporting system based on e-invoicing.

Source: European Union - Group on the Future of VAT in Europe Discusses Distance Sales of Goods, IOSS Abuse and VAT Treatment of Platform Economy in Its 38th Meeting, May 17, 2022, News IBFD.

## European Union: Overview of Recent Indirect Tax Developments

On April 6, 2022, the EU adopted an [Implementing Regulation](#), which provides essential details for payment service providers (PSPs) relative to reporting payment data transmitted by EU Member States in a harmonized format and establishes the functionalities of the Central Electronic System of Payment information (CESOP) that will start operating on January 1, 2024. In 2020, the European Council adopted a legislative package to request PSPs to transmit information on cross-border payments originating in EU Member States and on the beneficiary (the payee) of these cross-border payments. Under this package, PSPs offering payment services in the EU must monitor the payees of cross-border payments and transmit information on those who receive more than 25 cross-border payments per quarter to the EU Member States administrations. This information is intended to be centralized in a European database, the CESOP, where it will be stored, aggregated, and cross-checked with other European databases. All information in the CESOP will then be made available to anti-fraud experts of the Member States via a network called Eurofisc. The only information to be transmitted to the tax authorities is information related to payments linked to an economic activity. Information on consumers and on the reason underlying the payment will not be part of the transmission.

On April 7, 2022, the European Commission published its triennial report on [Screening and Diagnostic Report of VAT Administration](#) in the EU. The report contains a series of recommendations to help Member States improve their VAT revenue collection, control procedures, and processes. The report highlights strategies that tax administrations could adopt to improve the interaction with taxpayers and the processes for both tax authorities and businesses. The report further outlined 39 recommendations for EU Member States, including: calculate and analyze the national VAT gap and its different components (e.g., missing trader intra-EU fraud, e-commerce, etc.); inform taxpayers online about their VAT-related obligations and provide for online registration; improve automatic exchange of information between tax administrations and other national bodies; maintain an accurate and complete VAT database; perform legal and identification verifications and systematic preliminary checks based on risk indicators; keep a record of applicants to whom registration has not been granted; cross-check the information held in the VAT registration database against third-party information sources; have processes to detect taxpayers who fail to register and focus on the specific economic sectors with a significant number of unregistered businesses;

integrate a risk assessment procedure in the registration process; perform a follow-up check on VIES registration numbers and analyze the possibility of the suspension or removal of the VIES number in the event of fraud; and link the IT registration information system with other subsystems of the tax administration, such as filing and payment, collection and audit.

On April 26, 2022, the European Council authorized the European Commission to open negotiations to amend [the EU-Norway Agreement on administrative cooperation, combating fraud and recovery of claims in the field of VAT](#), after the Commission recommended strengthening collaboration through new administrative cooperation and information exchange tools. The negotiations will focus on (1) analyzing other means to exchange information than by using the standard forms; (2) administrative inquiries carried out jointly (i.e., joint audits); (3) enhancement of the Eurofisc network through reinforced governance (e.g., joint processing and analysis of data); and (4) updating references included in the current EU-Norway agreement to the provisions of [Directive 95/46/EC](#) on the protection of natural persons with regard to the processing of personal data and the free movement of such data, since this Directive was repealed by [Regulation 2016/279](#). Despite the intention for closer cooperation, the negotiations should not lead to Norway having access to the databases of EU Member States. The amendments aim to reinforce cooperation in the fight against VAT fraud and assist in the recovery of VAT claims that could potentially benefit all EU and European Economic Area (i.e., Iceland, Lichtenstein, and Norway) Member States.

On May 23, 2022, the Directorate-General for the Taxation and Customs Union of the European Commission [announced](#) VAT revenue figures after the first six months of implementation of the [EU VAT e-commerce package](#) effective July 1, 2021. In the first six months of operation, Member States collected EUR 6.8 billion (\$7.1 billion) in VAT revenues via the expanded one-stop shop (OSS) portals. In

addition, over EUR 2 billion (\$2.1 billion) in VAT revenue was collected on imports of low-value consignments not exceeding EUR 150 (\$157). Of the revenues on low-value consignments, more than half – approximately EUR 1.1 billion (\$1.156 billion) – was collected via the import OSS. Almost EUR 700 million (\$736 million) represented new VAT revenue generated by the abolition of the VAT-exemption that previously applied to imports of low-value goods not exceeding EUR 22 (\$23) and which was highly susceptible to fraud. Separately, an estimated additional EUR 270 million (\$283 million) in VAT was collected as a direct result of the import OSS's capacity to counter fraud and VAT losses due to undervaluation.

On May 23, 2022, the EU issued [Council Decision No. 7137/22](#), in which it approved a proposal to extend the application of the VAT self-assessment mechanism to combat VAT fraud. The application of a self-assessment mechanism is intended to tackle missing trader intra-EU fraud. Since exports between Member States are zero-rated while domestic transactions are standard rated, fraudsters often import small, high-value goods into a Member State and resell the goods at a discount to the domestic market, collecting the VAT and disappearing before remitting the sum. By switching the obligation to account for VAT from the seller to the VAT-registered recipient, the self-assessment mechanism is intended to ensure that another trader's VAT is never passed up the sale chain, removing the requirement for the seller to collect and remit VAT, and thereby eliminating the potential for missing trader fraud and other permutations of the scheme. The measure allows Member States to quickly tackle missing trader fraud by providing Member States an option of applying the VAT self-assessment mechanism for listed sales and by offering a faster procedure for the introduction of the VAT self-assessment mechanism in case of sudden and massive fraud, under the "quick reaction mechanism" (QRM). Prior to the introduction of the QRM, a Member State that wanted to counteract VAT fraud through measures not provided for under EU VAT legislation would have to

formally request a derogation to do so. The Commission would then draw up a proposal and submit it to the European Council for unanimous adoption before the measure to counteract the fraud could be implemented which was time-consuming allowing for continuing fraud and VAT revenue loss. With the QRM, Member States are permitted to not wait for the conclusion of this formal process to apply anti-fraud measures. Instead, they can temporarily apply a VAT self-assessment mechanism to the affected transactions. The option to apply a VAT self-assessment mechanism was first introduced to apply from 2010 through 2015 and extended to 2018 and the QRM from 2013 through 2018. Both measures were subsequently extended to June 30, 2020, to coincide with the initially foreseen date on which the VAT definitive system would enter into force on July 1, 2022. However, the EU has noted that it is not possible that the definitive system will start operating from that date and has extended the application of the measures through December 31, 2026.

Source: European Union – European Commission Adopts Implementing Regulation to Combat VAT Fraud in E-Commerce, May 2, 2022, News IBFD; European Union - European Commission Reports on VAT Registration and Publishes Recommendations to Improve VAT Collection, May 2, 2022, News IBFD; European Union; Norway - European Council Greenlights Negotiations to Strengthen EU's Cooperation with Norway in Fight Against VAT Fraud, May 4, 2022, News IBFD; European Union - European Commission Announces Successful VAT Revenue Figures After the First 6 Months of Application of the E-Commerce Package, May 23, 2022, News IBFD; CCH, Global VAT News & Features, EU Lawmakers Agree Extension For VAT Reverse Charge Rules,(May 11, 2022); European Council Approves Extension of VAT Reverse Charge Mechanism to Combat EU Intra-Community Fraud, Bloomberg Law News May 26, 2022; Orbitax, European Commission Notes Success of New EU VAT Rules for E-Commerce, May 26, 2022.

## France: Revised Guidelines on VAT-exemption for Insurance and Related Services

On April 27, 2022, the French tax authorities published modified guidelines for the VAT-exemption for insurance and related services, effective January 1, 2023. The revised guidelines reflect the definition of an insurance operation or transaction as defined in 2001 by the ECJ in *Skandia*, [Case C- 240/99](#). There, the ECJ held that the essentials of an insurance transaction generally are that the insurer undertakes, in return for prior payment of a premium, to provide the insured with the service contracted for in the event of materialization of the risk covered. This assumes a risk carried by the insurer and a contractual link between the insurer and the insured person. This means that a delegation of an insurance portfolio management between two insurers would no longer be covered by the VAT-exemption if it does not contain a risk transfer (such as in a co-insurance or reinsurance context) or is not related to a delegation of distribution.

Considering the nuanced distinction regarding ancillary or separate insurance services, the revised guidance maintains the tax authorities' former position regarding when insurance transactions or operations must be considered on a standalone basis and must be exempt. The tax authorities confirmed that optional insurance services (or those facilitating such services) must be considered separate and thus VAT-exempt with no possibility to bundle such transactions with a taxable service or goods, and made reference to the ECJ cases *BGZ Leasing*, [Case C-224/11 \(January 17, 2013\)](#), and *Mapfre*, [Case C- 584/13 \(July 16, 2015\)](#), and French court cases. Further, for the first time, the French tax authorities are considering that the insurance "cover" can consist of providing a service instead of a cash payment by referring explicitly to assistance services that were analyzed as exempt insurance services by the ECJ in *Card*

*Protection Plan, Case C-349/96 (February 25, 1999)*, and *Commission v. Greece Case C-13/06 (December 7, 2006)*.

As the exemption depends on the transactions and operations, the French tax authorities confirmed that the insurance exemption does not rely any longer on the regulated status of the provider. By adopting this standard, the tax authorities formally withdrew their prior position. Although this interpretation was relaxed over time by several exceptions included in prior guideline due to the evolution of the ECJ and French case law (i.e., collective insurance, group insurance when a holding company is insuring its subsidiaries), the regulated status remained until now a key factor in granting an exemption (thereby allowing to exempt the insurance delegation between insurers).

The revised guidelines further include a comment regarding the exemption applicable to services relating to insurance. The definition of broker or insurance intermediary is interpreted by the French tax authorities with a focus on the nature of the services and is no longer based on the regulated status of the provider. The guidelines elaborate on the two cumulative conditions for the exemption to apply as set by the ECJ in *Aspiro, Case C-40/15 (March 17, 2016)*. First, the intermediary must be in a relationship with the insurer and the insured person, although this connection or link may be indirect. Aside from examples provided by the prior guidelines (co-brokerage, sub-brokerage), the position of the French tax authorities is in favor of the VAT-exemption for wholesale brokers (*courtiers grossistes*) that are designing products for the insurer but who outsource the distribution of insurance coverage to agents doing the distribution tasks. Second, the services must be linked to the essential aspects of the work of an insurance broker or agent which consists of finding of prospective clients and

making an introduction to the insurer with the goal to conclude insurance contracts. The French tax authorities recognized that this condition is to be interpreted broadly and provided a list of examples covering, inter alia, the renegotiation of existing contracts, the distribution of a different insurance policy to an existing insured person, the distribution of an extension of an existing guarantee. Unlike the definition of insurance transaction or operation, the definition of insurance-related services falling within the scope of eligible insurance-related services would be not interpreted on a strict basis. The updated guidelines consider that this definition encompasses all transactions or operations that reflect a link with an insurance or reinsurance operation (such as delegation of policy issuance, premiums collected and management of insurance contracts, new subscriptions, claims management). The revised guidelines describe various situations in which the exemption can be gained although the services providers are not regulated as insurance companies (such as associations, credit institutions, mutual companies operating under the social security rules).

Finally, reflecting the position of the ECJ case of *Arthur Andersen, Case C-472/13 (March 3, 2005)*, the updated guidelines do not allow the VAT exemption to apply to back-office services if they are not linked to an insurance operation or when they are not provided by an insurance broker or intermediary. From the examples provided, it appears that the back-office operations need to be related to the policies placed by an insurance intermediary acting as such, to benefit from the exemption. To read a report prepared by the KPMG international member firm in France, please click [here](#).



## Ireland: Guidance on VAT Treatment of Online Gaming

On May 21, 2022, the Irish Revenue (IR) issued [eBrief No. 112/22](#), in which it announced an update to the Tax and Duty Manual on the [VAT Treatment of eGaming Services](#) to clarify the taxable amount for Irish VAT purposes. The guidance defines “gaming” as playing a game (whether of skill or chance or partly of skill and partly of chance) for stakes hazarded by the players. This contrasts with bets on the outcome of sports events and does not include the acceptance of bets, which is VAT-exempt. The provision of games including games of chance (“eGaming”), delivered over the internet or an electronic network are regarded as electronically supplied services or “eServices”. The tax treatment of eGaming services to consumers is determined by the place where the consumer is established, has a permanent address, or usually resides. It further reconfirms that eGaming services are exempt without deductibility in some Member States, but they are taxable in Ireland at the standard rate. With regards to the taxable amount in respect of gaming machines, the guidance cites the ECJ’s opinion in *H.J. Glawe Spiel, Case C-38/93*, in which the ECJ ruled that: “the taxable amount does not include the statutorily prescribed proportion of the total stakes inserted which corresponds to the winnings paid out to the players”.

Further, for random generator games (i.e. roulette, bingo, blackjack, etc.), the guidance reconfirms that the IR understands that these eGames are generally operated by a random number generator (RNG), which randomly selects numbers based on a mathematical algorithm which leads to a winning or losing combination, the probability of which is disclosed. The certified RNGs operate the games and have a set probability of winning/losing combinations, which is effectively a predetermined pay-out. For these games, the IR considers that the taxable amount should be calculated by identifying two components. The first component is the value of the stakes

entered by the players into the common pool from which winnings are paid out. The second component is the value of the stakes retained by the e-gaming operator. When these games are played across tax jurisdictions the net revenue from Irish players’ stakes must be identified by the operator and taxed at the standard rate in Ireland. The net revenue is the total value of Irish stakes less the percentage of those stakes which represent the Irish players’ contribution to the common pool from which winnings are paid out. The taxable amount is not linked to the winnings or losses of the players in Ireland. Even if a player in Ireland wins the pot, the components remain the same. Bonus plays, free plays and other forms of promotional discounts are excluded from any calculation of the consideration on which VAT is due. In addition, for pooled gaming, in which individuals compete against each other for a prize fund, such as in a poker tournament, the guidance states when an operator provides pooled games to customers, the operator earns a tournament participation fee (the “rake”) from a customer. The consideration for pooled games that is subject to Irish VAT is the rake that the e-gaming operator receives which is attributable to Irish players minus the relevant portion for any top up which the operator has made to the jackpot. Finally, it concludes by providing that subject to a EUR 10,000 (\$10,515) turnover threshold, eGaming businesses can make use of the One Stop Shop (OSS) mechanism which allows vendors of B2C e-services to submit returns and pay the relevant VAT due to all Member States through the web portal of one Member State. OSS simplifies a vendor’s obligations by removing the requirement to register and submit returns in several Member States.

Source: Orbitax, Irish Revenue Publishes Updated Guidance on VAT Treatment of eGaming Services, May 24, 2022; CCH, Global VAT News & Features, Ireland Clarifies VAT Calculation Rules For E-Gaming Services, (May 25, 2022)

## Ireland: Overview of Recent Indirect Tax Developments

On April 27, 2022, the Irish Revenue issued Revenue eBrief No. 095/22 to update its guidance on the taxation of crypto asset transactions. Concerning VAT, the guidance refers to the ECJ's decision in *Hedqvist*, C-264/14 (October 22, 2015), in which the ECJ held that Bitcoin constitutes a currency for VAT purposes. The guidance reconfirms that financial services consisting of the exchange of bitcoins for traditional currency are exempt when the company performing the exchange acts as principal (i.e., buys and sells crypto assets acting as the owner of the virtual asset). VAT is due in the normal manner from vendors of any goods or services sold in exchange for Bitcoin or other similar cryptocurrencies. The taxable amount for VAT purposes will be the Euro value of the cryptocurrencies at the time of the sale. Income received from cryptocurrency mining activities will generally be outside the scope of VAT on the basis that the activity does not constitute an economic activity for VAT purposes.

On May 23, 2022, the Irish Revenue issued Revenue eBrief No. 113/22 announcing a new guidance for the VAT treatment of depositary services and global custody services provided in respect of Irish special investment funds. The guidance provides that an Irish-regulated investment fund must appoint a depositary located in Ireland. A depositary is required to supervise the investment activities of the fund and to report to the shareholders/unitholders annually as to whether the fund has operated in accordance with its founding documentation and the applicable regulations. This is often referred to as an "oversight" role. In addition, depositaries typically provide a package of services that are often referred to as "global custody" such as safekeeping of assets, security settlement, income collection, corporate action processing, cash management, and securities lending services. The service of an oversight role undertaken by a depositary is subject to the standard VAT rate (currently 23 percent). Further, the guidance cites the ECJ

decision in *Abbey National*, Case C-169/04 (May 4, 2006), in which it ruled that the fund management exemption does not cover the functions of a depositary of undertakings for the collective investment in transferable securities (UCITS) as those functions are not considered as "management" of UCITS but involve the "control and supervision of their activities, the aim being to ensure that undertakings for collective investment are managed in accordance with the law. Revenue accepts that a global custody service, which includes taxable elements, such as physical safe-keeping and oversight, can constitute a composite sale of VAT-exempt financial services in cases if the taxable elements are incidental. The VAT chargeable on a composite sale is at the rate appropriate to the principal sale, but if that principal sale is an exempt activity, VAT should not be chargeable in respect of that composite sale. Therefore, when the "principal" component of a global custody service (which includes oversight) is a VAT-exempt financial service, the entire sale would be VAT-exempt. This will be a question of fact in each case, based on the services provided. The guidance states that when the oversight function is the only service provided, it is taxable at the standard rate. Moreover, if a composite sale is provided but the oversight function is the predominant sale, the composite sale is taxable at the standard rate. However, if a composite sale is provided when the "global custody" function is the predominant sale, the composite sale is VAT-exempt. Finally, if the sale comprises separate sales of oversight services and global custody services, the former will be taxable, and latter will be VAT-exempt.

In May 2022, the Irish Revenue updated its VAT guidance on Postponed Accounting. The guidance covers the use of postponed accounting arrangements by accountable persons who import goods into Ireland. Such arrangements enable an "accountable person" to self-account for VAT on imports on their VAT return so that import VAT may, subject to the usual rules on deductibility, be reclaimed

at the same time as it is declared on a VAT return. This will result in a straightforward VAT self-assessed transaction, without the need to pay the import VAT at the point of importation. Postponed accounting arrangements may be applied to all imports from all non-EU countries, including Great Britain. The update is intended to provide clarity that it is the importer (consignee) that is obligated to account for Postponed Accounting. Additional information links to the Revenue website have also been added to the Tax and Duty Manual.

Source: CCH, Global VAT News & Features, Ireland Clarifies VAT On Services Provided To Investment Funds (May 25, 2022); CCH, Global VAT News & Features, Irish Tax Agency Clarifies VAT Postponed Accounting Rules (May 16, 2022); CCH, Global VAT News & Features, Ireland Releases New Guide On Crypto-Assets Taxation (May 2, 2022).

## Ukraine: Overview of Recent Indirect Tax Developments

On May 8, 2022, the Ukrainian State Fiscal Service (SFS) issued a guidance letter clarifying the VAT implications of the acquisition, sale, and shipping of goods abroad. The guidance was issued in response to an inquiry by a taxpayer who intended to buy goods abroad and deliver them to a nonresident outside Ukraine. The taxpayer asked the SFS to clarify whether the acquisition and subsequent delivery of goods outside Ukraine's customs territory without importation to Ukraine and the shipping services provided abroad are subject to VAT in Ukraine. The SFS clarified that services generally are considered to be provided in the place of registration of the service provider, while goods are generally taxable based on the actual location of the goods at the time of their delivery and the place where the goods are located at the time of the commencement of their shipment. Therefore, no Ukrainian VAT should apply on the sale of goods performed abroad and the shipping services provided by a nonresident.

On May 8, 2022, the SFS issued a guidance letter clarifying the VAT treatment of losses on goods destined for export. The SFS issued the letter in response to a Ukrainian resident legal entity that exports goods by sea. It delivers the goods to the customs terminal and files periodic customs declarations. In the period between the dates of delivery of

the goods to the terminal and the loading of the goods onto a ship, the company incurred a loss of part of the goods. It asked the SFS to clarify the VAT regime for exports of goods outside Ukraine's customs territory and the application of VAT to a write-off for a loss of goods during their customs clearance. According to the SFS, a taxpayer must determine its VAT liabilities for exports on the date of execution of the customs declaration certifying the crossing of Ukraine's customs border. On the date on which its VAT liability occurs, a VAT payer must draw up a VAT invoice in electronic form and register it in the Unified Register of VAT Invoices. Therefore, periodic customs declarations do not confirm the export of goods outside Ukraine's customs territory; they only confirm the declarant's obligation to submit additional declarations for goods mentioned in the periodic customs declarations. The fact that the goods are exported outside Ukraine's customs territory is confirmed by an additional declaration containing information about the goods declared under the periodic customs declarations. A taxpayer must repay VAT that it deducted on the acquisition of goods, services, and fixed assets if it ceases to use those goods, services, or fixed assets in its business activities. Goods that are written off because of their loss during customs clearance cannot be used in the taxpayer's business activities. Therefore, when writing

off those goods (for which VAT was deducted at the time of the initial acquisition), the taxpayer must repay that VAT no later than the last day of the VAT reporting period in which the goods were written off.

On May 12, 2022, Ukraine's parliament adopted a law that introduces several tax measures. According to the law, for February, March, April, and May, VAT taxpayers may claim a temporary VAT credit for purchases of goods or services for which they failed to enter VAT invoices in the Unified Register of VAT Invoices. The law further adjusts the VAT refund deadlines for the February-June reporting periods to consider the deadlines for conducting in-house audits of VAT returns and the adjustment calculations filed for those periods. Moreover, the law reintroduces a taxpayer's obligation to file VAT returns electronically and clarifies that no tax audits will be initiated during the period in which martial law is in effect. Tax audits that started before the implementation of the martial law are canceled, except for the following: in-house audits; unscheduled document-based audits that are carried out at the request of the taxpayer or if the taxpayer is reorganized, dissolves, closes a stand-alone division, initiates bankruptcy proceedings, or claims a

VAT refund; unscheduled document-based audits of taxpayers suspected of violating currency legislation; and audits carried out at the taxpayer's place of business. Finally, the law clarifies that during the period in which the martial law is in effect, taxpayers that are unable to pay taxes and other mandatory charges, file tax reporting documentation, or timely register their VAT invoices will be exempt from tax fines if they fulfill their tax obligations within six months after the termination or cancellation of martial law. Taxpayers who become able to fulfill those tax obligations before the termination or cancellation of martial law must fulfill the obligations within 60 calendar days from the first day of the month following the month in which they became able.

Source: Ukraine Parliament Considers Bill to Exempt VAT, Excise Tax on Specific Products Due to War, Bloomberg Law News, May 16, 2022; Taxnotes, Ukrainian Parliament Considering Draft Law Amending Tax Code, May 5, 2022; Taxnotes, Ukraine Issues Guidance Clarifying Cross-Border VAT Issues, May 18, 2022.

## United Kingdom: Overview of Recent Indirect Tax Developments

On May 9, 2022, the UK tax authority, HMRC, released [guidance](#) on the new interest and penalties rules for VAT non-compliance. For the late payment of tax due, the new rules will introduce penalties calculated on the amount of tax outstanding and how long the payment is overdue. For the late submissions of tax returns, a new points-based penalty system will apply. Under the new regime, a penalty of GBP200 (\$ 246) for late submissions will only be issued when the relevant points threshold is reached. Points will accrue separately for instances of VAT non-compliance and income tax self-assessment. More leniency will be granted to those required to file regularly: five points for monthly filers; four points for

quarterly filers; and two points for annual filers. Taxpayers will be able to reset their points to zero by submitting all returns before the due date for: 24 months, for annual filers; 12 months, for quarterly filers; and 6 months, for monthly filers. They must also have filed all outstanding returns for the previous 24 months. Initially, the new regime for VAT was to enter into effect from April 1, 2022. However, the regime is now being introduced for accounting periods starting on or after January 1, 2023. More detailed guidance about the changes to VAT late submission penalties, late payment penalties, and VAT interest charges will be published in December 2022.

On May 11, 2022, the UK's Supreme Court issued its decision in *Zipvit Ltd* regarding whether a taxpayer can deduct VAT on expenditures if VAT was not charged and payments were not made because the services were incorrectly classified as VAT-exempt. In the case, the taxpayer that sold vitamins and minerals, used Royal Mail's mail-order service between January 1, 2006, and March 31, 2010. Royal Mail did not charge VAT for its services and only invoiced the company for the commercial price because Royal Mail presumed the services were VAT-exempt under the EU VAT Directive's exemption for public postal services, relying on HMRC guidance which also provided that the services were exempt. However, in 2009 the ECJ held in *TNT Post UK Ltd.*, [Case C-357/07](#), in which the ECJ ruled that while universal postal services are exempt from VAT, individually negotiated postal services are taxable. Thus, the services provided to the taxpayer should have been taxed at the standard VAT rate. Following this decision, the Royal Mail decided not to ask each of its customers for the unpaid VAT, and HMRC did not seek to recover from the Royal Mail the VAT because the Royal Mail had a legitimate expectation that HMRC's interpretation of the law was correct. Although the invoices provided by Royal Mail said "E" for exempt, the taxpayer claimed two separate VAT deductions that totaled GBP 415,746 (\$511,787), plus interest. HMRC subsequently denied the company's claim, reasoning that the company could not provide invoices from its vendor that followed the formal requirements under the VAT directive. The UK Supreme Court initially referred the case to the ECJ, which ruled on January 13, 2022, that the taxpayer cannot claim a VAT deduction for a tax that was never charged or paid, on the grounds that the EU VAT Directive provides that taxpayers may deduct VAT "due or paid"

for services provided and in this case the tax was not due or paid in fulfillment of that condition. [Case C-156/20](#). The UK Supreme Court agreed with the ECJ and consequently dismissed the claim.

On May 19, 2022, following consultation on the implementation of the OECD's Model Reporting rules for digital platforms, HMRC [announced](#) that reporting rules for digital platforms based on the model rules will be introduced from January 1, 2024. This will give platforms and their advisors time to prepare for the implementation of the new rules, with the collection of information starting from January 2024 and submission of the first reports due by the end of January 2025. HMRC is further considering the comments and issues that have been raised by consultation respondents. It is aiming to publish the government's response to the consultation, draft regulations giving details of the new rules, and an update on interactions with EU rules, at the next legislation day in summer 2022. Finally, HMRC will be engaging with platforms and their advisors before the new rules come into effect to make sure they are implemented proportionately and effectively.

Source: CCH, *Global VAT News & Features, HMRC Explains New VAT Penalty And Interest Rules From 2023*, (May 10, 2022); Taxnotes, *U.K. Supreme Court Denies Vitamin Company's VAT Appeal*, May 12, 2022; Orbitax, *UK Introducing Reporting Rules for Digital Platforms from January 2024*, May 24, 2022; *United Kingdom - No Input VAT Can Be Deducted Without Invoice Documenting That VAT Was Charged*, UK Supreme Court Rules, May 25, 2022, News IBFD.

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### Taiwan: Overview of Recent Indirect Tax Requirements

On April 26, 2022, the Taiwanese Ministry of Finance (MoF) [clarified](#) the VAT treatment of the resale of real property by businesses. The MoF held that if a business owner purchases a pre-sale house from a builder and resells it before obtaining the ownership registration, the VAT exemption is not applicable. This is because the object of sales is the right to transfer a premises' ownership registration, not the sales proceedings in itself. If business owners want to resell the pre-sale house before they have obtained ownership, they should issue a taxable uniform invoice to the buyer and pay the VAT based on the full amount of the resale price.

On May 3, 2022, the MoF [clarified](#) the VAT treatment of underreported VAT on imported goods. According to the MoF, taxpayers cannot deduct the amount of VAT imposed by customs due to the underreporting of the taxable value of imported goods. Taxpayers must make a supplementary declaration if

a business operator discovers it mistakenly declared non-deductible VAT. The MoF further held that interest rates may be increased without penalty for taxpayers who pay the evaded tax before an audit or investigation by the tax authority.

On May 25, 2022, the MoF [clarified](#) the VAT deduction disallowance for expenses incurred on gifts for shareholders. According to the MoF, companies gifting souvenirs to shareholders during shareholder meetings cannot deduct the VAT paid on the gifts since they do not qualify as business expenses.

Source: Taiwan MOF Clarifies Treatment of Underreported VAT on Imported Goods, Bloomberg Law News May 6, 2022; Taiwan MOF Explains VAT on Resale of Real Property by Businesses, Bloomberg; Taiwan MOF Explains Non-Deductibility of Input VAT for Expenses Incurred for Shareholder Gifts, Bloomberg Law News, May 27, 2022.

### Vietnam: Update to VAT Obligations for Nonresidents

On April 28, 2022, the Vietnamese General Directorate of Taxation (GDT) [published](#) a letter on its website, which among other things, requests foreign providers promptly complete all procedures and fulfill obligations of the VAT digital services regime. The first quarterly return deadline under the requirements was

April 30, 2022. The letter also suggests that the GDT's view is that nonresident vendors of digital services must register under the regime; there is no optional registration model. (For KPMG's previous discussion on the e-commerce rules in Vietnam, click [here](#).)

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### South American States Agree to Joint Authorized Economic Operator Program

Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Guatemala, Peru, Paraguay, the Dominican Republic, and Uruguay recently signed an agreement on jointly operating an Authorized Economic Operator (AEO) program. Businesses securing AEO status, for having a record of compliance and cooperation with member customs authorities, will secure a number of benefits, including customs

simplifications and priority and preferential treatment. The 11 signatory countries have a total of 2,009 companies certified as AEOs. The benefits of its domestic program will be extended to these additional companies.

Source: CCH, Global VAT News & Features, 11 South American States Agree Joint AEO Program (May 25, 2022).

### European Union: European Union Suspends Import Duties on Imports from Ukraine

On May 24, 2022, the Council of the European Union approved the European Commission's proposal to suspend all duties on imports from Ukraine. This follows approval in the European Parliament on May 19. The measures include the full removal of import duties on industrial products, entry duties on fruit and vegetables, and anti-dumping duties, and safeguard measures on steel imports for one year. The regulation will be signed and published in the

Official Journal, before entering into force on the day following its publication in the Official Journal of the European Union.

Source: Orbitax, Council of the European Union Approves One-Year Suspension of Duties on Imports from Ukraine, May 26, 2022; CCH, Global VAT News & Features, European Parliament To Vote On Removing Ukrainian Trade Tariffs (May 18, 2022).

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## In Brief

- **Armenia:**<sup>ix</sup> Armenia recently proposed several tax reform measures with the support of the International Monetary Fund (IMF) including reforming the mining tax regime by moving gradually away from ad-hoc export duties and introducing more progressive fiscal regime that automatically adjusts to capture a higher share of revenues under high mineral prices.
- **Australia:**<sup>x</sup> On May 5, 2022, the Australian tax office (ATO) announced "Operation Protego," which is a new enforcement campaign targeting those creating fake businesses to claim false refunds. Through the campaign, the ATO is investigating around AUD 850 million (\$598 million) in potentially fraudulent payments made to around 40,000 individuals, with the average amount fraudulently claimed being AUD 20,000 (\$14,081).

- **Azerbaijan:**<sup>xi</sup> On May 13, 2022, Azerbaijan [issued](#) an approved list of paper and printed products (excluding e-books) that are exempted from import VAT. The list of products includes newspaper paper in rolls or sheets; non-chalk paper and cardboard used for writing, printing, or other graphic purposes in different sizes; paper and cardboard covers for bookbinding; newspapers, magazines, and other periodicals with or without illustrations, with or without advertising material; books-pictures, children's books for drawing or painting; and atlases, wall maps, topographic plans, geographical and hydrographic maps or all kinds of similar maps printed in the form of books.
- **Belarus:**<sup>xii</sup> On April 29, 2022, the Belarusian Ministry of Finance [clarified](#) the VAT treatment of mass media services, including that VAT at 26 percent applies to data transmission services. It also provided the instructions on computing VAT and filing returns.
- **Belgium:**<sup>xiii</sup> On April 22, 2022, Belgium's Federal Public Service (SPF) issued a [notice](#) on the VAT-exemption regime for small businesses. The notice provides that if a taxpayer is operating under the normal VAT regime and their gross receipts subject to VAT did not exceed EUR 25,000 (\$ 26,288) in the 2021 calendar year, they may opt for the exemption regime, provided certain other qualifying conditions are met. For this purpose, taxpayers with gross receipts not exceeding EUR 25,000 received a letter in May 2022 that provides further information on the terms and conditions of the VAT-exemption regime and were allowed to submit a request to change to the exemption regime by June 10, 2022
- **Brazil:**<sup>xiv</sup> On May 25, 2022, Brazil's lower house passed a bill that determines a cap between 17 percent or 18 percent for state-level ICMS tax on fuel, natural gas, electricity, communications, and public transportation considered essential goods and services. The measure is now pending a Senate vote.
- **Bulgaria:**<sup>xv</sup> Bulgaria's tax authority recently announced that it is probing more than 2,000 companies that reported "illogically high" inventory values in their balance sheets for 2020. According to the tax authority, at the end of 2021, it sent warning letters to 11,600 companies due to "illogically high material stocks" totaling over BGN 9 billion (\$4.8 billion). As a result of the campaign, many of the companies made appropriate adjustments by charging VAT due on missing or discarded goods and by adjusting their annual corporate tax returns for 2021. It is now ramping up these efforts, with enforcement efforts focused on companies engaged in the sale of clothing and footwear, household appliances, industrial goods, and spare parts for cars, among others.
- **Bulgaria:**<sup>xvi</sup> On May 18, 2022, the Bulgarian government [proposed](#) a package of various anti-crisis measures to combat inflation. The proposed measures include (1) introducing a temporary zero percent VAT rate for bread (currently subject to the standard 20 percent VAT rate); (2) introducing a reduced 9 percent VAT rate for heating, hot water, and natural gas for domestic use; and (3) increasing the threshold for mandatory VAT registration from BGN 50,000 (\$26,882) to BGN 100,000 (\$53,764) from January 1, 2023.
- **China:**<sup>xvii</sup> On April 29, 2022, China's Ministry of Finance [announced](#) a temporary VAT exemption for express delivery services that was approved by China's State Council along with other policy measures on April 27, 2022. Between May 1, 2022, and December 31, 2022, express delivery services for essential goods are VAT-exempt.
- **China:**<sup>xviii</sup> On May 23, 2022, China announced that it will allow large enterprises in the manufacturing industry and other industries that were eligible to claim a VAT refund in the October 2022 filing period to now do so starting from the tax filing period in June 2022. The policy had been previously introduced in March for small and medium-sized enterprises. (For KPMG's previous discussion of the VAT refund policy, please click [here](#).)



- Colombia:**<sup>xix</sup> On April 8, 2022, the Colombian tax authority published [Administrative Regulation 85 of 2022](#), in which it modified the requirements for the circulation and registration of e-invoices as negotiable titles. E-invoices may be used as negotiable titles if they are registered in the RADIÁN, a platform administered by the tax authority for consulting and tracing negotiable e-invoice. The regulation introduces the following: (1) a definition of direct users of the RADIÁN and indirect users of the RADIÁN (i.e., users with software allowing the creation, transfer, and registration of events at the RADIÁN and users acting through an agent); (2) the obligation for users of the RADIÁN to register the transfer of economic rights contained in e-invoices, in addition to the events provided by the regulation (e.g., electronic endorsements of e-invoices, guarantees, and agency agreements on the e-invoice); and (3) the seller or the transferor of an e-invoice are included in the list of users of the RADIÁN. The regulation further provides the procedure for requesting access to the registry. In addition, the tax authority stated that persons not obliged to issue invoices may register as issuers of e-invoices for the purpose of acting as users of the RADIÁN, without this involving any changes in their status. Finally, the regulation specifies that the obligation for purchasers of goods and services to send e-messages confirming receipt of the corresponding e-invoice will enter into force within 3 months following the publication of the regulation.
- Czech Republic:**<sup>xx</sup> On May 13, 2022, the European Council [authorized](#) the Czech Republic to apply a EUR 85,000 (\$89,380) VAT registration threshold until December 31, 2024.
- Denmark:**<sup>xxi</sup> On May 21, 2022, the Danish government [reached](#) an agreement with a majority in the Danish parliament on a new media deal, which will introduce a “culture contribution” tax of 6 percent on the gross receipts of digital streaming services in Denmark to be implemented in 2024. The proceeds of the proposed tax will go to both Danish public broadcasters and Danish filmmakers.
- Ecuador:**<sup>xxii</sup> On May 11, 2022, the tax authority of Ecuador (SRI) published [Resolution DGERC GC22-00000020](#), in which it amended the procedures for direct vendors of exporters, and of companies owned by exporter entities, to request a VAT refund. Taxpayers requesting a refund are required to meet the following requirements: (1) have an active tax identification (*Registro Único de Contribuyente*, RUC); (2) carry out the pre-validation process, which consists of verifying the validity of sales receipts within the required timeframe; (3) maintain a registration in the VAT Reimbursement System and sign the online agreement; (4) submit the VAT return for the period in which a refund is being requested; and (5) submit the Simplified Transactional Annex - ATS (if applicable). There are two mechanisms for requesting a VAT refund: the provisional automatic refund and the exceptional refund. The amount of the provisional automatic refund may vary between 50 percent and 100 percent depending on certain tax risk indicators detected by the SRI in its analysis. VAT reimbursements will be delivered through the issuance of a dematerialized credit note, regardless of the mechanism followed. For direct vendors of companies that are owned by the exporting companies, the VAT reimbursement will apply as applies effective December 2021. The VAT refund is applicable to VAT paid on the acquisition of goods, raw materials, sales, services, and fixed assets used in the manufacture and marketing of goods that are transferred to the exporter that is linked to the export activity. The refund request must be filed monthly.
- Estonia:**<sup>xxiii</sup> On May 2, 2022, the Estonian Parliament accepted a [bill](#) that proposes to reduce VAT on press publications from 9 percent to 5 percent effective August 1, 2022. If approved, the reduced 5 percent rate will apply to both physical and electronic publications.

- **Finland:**<sup>xxiv</sup> On May 19, 2022, Finland [proposed](#) to introduce a temporary VAT exemption on the domestic free of charge sales of goods and intra-EU acquisitions intended to persons fleeing Ukraine and intra-EU acquisitions. If approved, the measure will apply retroactively from February 24, 2022, and remain in force until December 31, 2022.
- **Germany:**<sup>xxv</sup> On April 26, 2022, the German Ministry of Finance issued [Letter No.2022/0442171](#), in which it clarified the VAT treatment of airport lounge access services. The letter clarifies that the lounge access service acquired together with the flight service is considered a dependent ancillary service for VAT purposes.
- **Germany:**<sup>xxvi</sup> On May 6, 2022, the German Federal Tax Court published [Tax Court Decision No. XI R 13/19](#), in which the federal tax court clarified the VAT deduction rules for the purchase of input services. In the case, a German investment company provided input services to clients by managing real estate funds. The taxpayer deducted the VAT incurred, which the tax agency disallowed. On appeal, the federal tax court rejected the taxpayer's claim, explaining that VAT paid for input services is not deductible if the expenses are part of VAT-exempt management services, and the taxpayer failed to fulfill the legal requirements to claim the VAT deduction.
- **Germany:**<sup>xxvii</sup> On May 19, 2022, the German Federal Tax Court published [Tax Court Decision NO. XI B 2/21](#), in which the federal tax court clarified the application of the reduced VAT rate for spa and restaurant services provided by a hotel. In the case, the taxpayer, a hotel operator, offered spa and restaurant services in addition to the overnight accommodations provided by the hotel. The taxpayer charged customers a reduced VAT rate for the spa and breakfast services. The federal tax court explained that the taxpayer may apply the reduced rate on these additional services only if the services are directly attributable to the hotel accommodation provided, and if they are considered ancillary to the overnight accommodations.
- **Iceland:**<sup>xxviii</sup> Effective May 6, 2022, Iceland removed the VAT relief measures for zero or low-emission vehicles. These relief measures included a VAT zero-rate for sale, and importation of various fuel-efficient vehicles and passenger buses as well as the leasing of emission-friendly vehicles by rental car agencies and leasing companies. The European Free Trade Association Surveillance Authority initially approved the tax reliefs, limiting o the relief to 15,000 imported units which was reached on April 29, 2022.
- **Indonesia:**<sup>xxix</sup> On March 30, 2022, the Indonesian Ministry of Finance issued a [regulation](#), on the VAT rules applicable to nonresident digital services providers, which is effective April 1, 2022. The regulation updates a previous regulation primarily by clarifying that the new VAT rate is 11 percent and will rise to 12 percent from January 1, 2025. (For KPMG's previous discussion on Indonesia's nonresident VAT digital services rules, click [here](#).)
- **Indonesia:**<sup>xxx</sup> On May 17, 2022, the Directorate General of Taxation (DGT) published Notice No. SP-30/2022, which lists another batch of global companies that meet the criteria for collecting VAT on digital goods and services sold to consumers in Indonesia.
- **Jordan:**<sup>xxxi</sup> On April 17, 2022, the Jordanian government published a [decision](#) to implement a system for the granting of invoice-related prizes and bonuses to individuals. The proposed system aims to encourage citizens and taxpayers to ask for an invoice for sales transactions. To be eligible, individuals must submit the corresponding invoice electronically via a special platform on the tax authority's website. Prizes or bonuses may be either in cash or in kind. The government will further establish a special supervision commission to oversee the execution of the proposed system.

- **Latvia:**<sup>xxxii</sup> On May 2, 2022, the Latvian Parliament accepted a [bill](#) for consideration that proposes to introduce a VAT zero-rate for specific food products effective June 15, 2022.
- **Lithuania:**<sup>xxxiii</sup> On April 27, 2022, the Lithuanian Parliament accepted a [bill](#) for consideration that proposes to introduce a reduced VAT rate of 9 percent for catering and takeaway food services provided by restaurants, cafeterias, and similar catering establishments from January 1, 2023, to December 31, 2023.
- **Mexico:**<sup>xxxiv</sup> On May 11, 2022, Mexico [published](#) an updated list of nonresident digital services providers that are compliant with its registration requirements. As of April 29, 2022, 154 entities are registered.
- **Norway:**<sup>xxxv</sup> On May 12, 2022, the Norwegian government announced several indirect tax proposals in its revised 2022 budget. The proposed measures include (1) the transition from VAT exemption to subsidy-based scheme for purchases of electric vehicles; (2) the phase out of the temporary declaration exemption for goods with a value of less than NOK350 (\$36) by 2023; and (3) an increase of NOK 46.5 million (\$4.7 million) in VAT compensation for the construction of sports facilities.
- **Oman:**<sup>xxxvi</sup> On May 5, 2022, the Omani Tax Authority (OTA) issued a [guide](#) to clarify the VAT treatment of the financial services sector. The guide gives a general description of the main transactions carried out by financial institutions (both conventional and Islamic) and explains the VAT treatment applicable to each. Generally, financial services that are provided in Oman for an explicit fee, commission, or commercial discount are subject to VAT at the standard rate of 5 percent, unless they qualify for the zero-rate (such as the export of services). The guide further explains that the list of exempt financial services in the regulations is not exhaustive, and that the exemption would apply on a case-by-case basis to other implicit margin-based transactions entered into by financial institutions. Further, the guide clarifies that financial services provided under an Islamic financial arrangement are granted the same treatment as their equivalent conventional products to the extent that a person authorized to conduct Islamic financial services is among the parties. Payments of a punitive nature (such as penalties for late payment, and termination fees) are subject to VAT if they are charged by a conventional financial institution, whereas the payments would be outside the scope of the tax if they are charged by an Islamic financial institution. The rationale here is that such payments are included in the revenues of the financial institution and are regarded as part of the “broader scope of services.” For Islamic financial institutions, the fees are not earned by the Islamic financial institution because they must be given to charity. The guide further contains a detailed list of the services provided by conventional financial institutions as well as a description of the typical instruments under Islamic financial arrangements together with their VAT treatment., methods to calculate the due date of VAT payment, invoicing and reporting requirements, record-keeping and auditing rules, application of VAT deductions to financial services, and penalties for noncompliance.

- Oman:**<sup>xxxvii</sup> The OTA recently published a [guide](#) clarifying the VAT treatment of capital assets. Capital assets are tangible and intangible assets forming part of the business assets of the taxpayer that are allocated for long-term use as a business instrument or means of investment. The deduction of VAT on the acquisition of capital assets by purchase, import, or construction is generally allowed if the capital assets are used to perform taxable transactions for VAT purposes, whether standard or zero-rated. If a capital asset is used partially for taxable sales (i.e., mixed-use), the deduction of VAT is proportionally allowed. This is generally determined by dividing the value of taxable sales by the total value of taxable and exempt sales, although other methods for determining the amount of deductible VAT may be allowed. VAT deducted on the acquisition of the capital asset will be subject to adjustment over a period of 10 years for long-term capital assets (such as immovable property) and 5 years for other fixed assets in case the percentage of use of the asset for taxable sales changes over the said period. The VAT deduction will be reduced, or increased, if such a percentage reduces, or increases. The guide further clarifies the conditions and limits (if any) of the initial VAT deduction; the cases when an adjustment is needed and the amount of adjustment; and certain particular cases such as the disposal or loss of the capital assets, their disposal as part of a going concern, and the non-deduction of the VAT upon the acquisition of the asset.
- OECD:**<sup>xxxviii</sup> On May 23, 2022, the Organization for Economic Cooperation and Development (OECD) conducted a public consultation meeting on the Crypto-Asset Reporting Framework (CARF) and Amendments to the Common Reporting Standard at its conference center in Paris. The event was scheduled to discuss key questions identified in the consultation document on the CARF, which was released in March 2022, and issues raised in the written submissions received as part of the consultation process. The framework provides for the collection and exchange of tax-relevant information between tax administrations with respect to persons engaging in certain transactions in crypto-assets. It covers crypto assets that can be held and transferred in a decentralized manner, without the intervention of traditional financial intermediaries, as well as asset classes relying on similar technology that may emerge in the future. Under the CARF, individuals and entities that, as a business, provide services to exchange crypto-assets against other crypto-assets, or for fiat currencies, must apply the due diligence procedures to identify their customers, and then report the aggregate values of the exchanges and transfers for such customers on an annual basis.
- Philippines:**<sup>xxxix</sup> The Philippines government is considering a tax on unhealthy food products (i.e., food products high in sugar, salt, and saturated fat). For this purpose, it enlisted the Food and Nutrition Research Institute (FNRI) and Johns Hopkins University (JHU) to work together on tax modeling. The tax would be levied alongside the existing tax on sugar-sweetened beverages. It tasked the two institutions with analyzing local data to establish an appropriate scope for a tax, including classifying food products based on their nutritional values.
- Poland:**<sup>xl</sup> Effective May 10, 2022, Poland introduced a VAT exemption for the renting of housing to tenants through local government units. Until the issuance of the new rule, only the rental of residential real estate for residential purposes to end tenants and social rental agencies was exempt from VAT. Other entities accepting real estate for lease, including local government units, could not benefit from such an exemption. This meant that housing provided to local government units was subject to VAT. This created VAT recovery issues, as the onward sale of housing by the local government units, was then VAT-exempt.

- **Poland:**<sup>xli</sup> On April 29, 2022, the Polish Ministry of Finance [proposed](#) a regulation that would reduce VAT rates for certain medical goods and services, food items, warehoused goods, and building services effective May 26, 2022.
- **Portugal:**<sup>xlii</sup> Portugal announced that it intends to amend its tax law to properly capture the taxation of cryptocurrencies, including income tax, capital gains tax, and VAT.
- **Romania:**<sup>xliii</sup> On May 17, 2022, Romania published [Law No.139](#) which introduces a mandatory e-invoicing obligation for business-to-government (B2G) transactions. Effective July 1, 2022, taxpayers are required to issue electronic invoices in B2G transactions and transmit them through the national RO e-Invoice System. This measure was previously optional to taxpayers.
- **Serbia:**<sup>xliv</sup> On May 4, 2022, the Serbian tax authority clarified the implementation of Serbia's mandatory e-invoicing requirements. The e-invoicing regime is: (1) effective May 1, 2022, for invoices issued to public sector entities; (2) effective July 1, 2022, for invoices issued by a public sector entity to a private sector entity; and (3) effective January 1, 2023, for transactions between private sector entities.
- **Slovenia:**<sup>xlv</sup> On May 13, 2022, the Slovenian parliament accepted a [bill](#) for consideration that proposes to extend the application of the 5 percent reduced VAT rate for specific goods such as energy products including natural gas, electricity, heating fuel, and the lending of library books including newspapers and periodicals provided manually or electronically, except for advertising materials. If approved the measure will become effective from September 1, 2022.
- **Sweden:**<sup>xlvi</sup> On May 17, 2022, Sweden published [Law No. SFS 2022:404](#), in which it increased its VAT registration threshold from SEK 30,000 (\$ 2,988) to SEK 80,000 (\$ 7,972) effective July 1, 2022. Taxpayers are not required to register for VAT if their sales do not exceed SEK 80,000 during the tax year and have not exceeded SEK 80,000 in either of the two immediately preceding tax years. If the tax year is longer or shorter than 12 months, the SEK 80,000 amount must be adjusted accordingly.
- **Sweden:**<sup>xlvii</sup> On May 18, 2022, the Swedish tax authority [clarified](#) the zero-rating for medicines available in Sweden under specific circumstances. The guidance provides that the zero-rating applies to medicines sold to a hospital or imported with the intent of doing so. Further, health centers, company doctors, private doctors, and general practitioners are excluded from the definition of "hospital." "Prescriptions are sometimes issued for over-the-counter medications that the patient could purchase without a prescription. The zero-rating applies regardless of whether the medicine is subject to prescription or not, provided that it is actually handed out against a prescription in the individual case, as well as some veterinary medicines.
- **Tunisia:**<sup>xlviii</sup> On May 17, 2022, the Tunisian Ministry of Finance (MoF) [clarified](#) the VAT exemption on commissions relating to electronic payments under the 2022 Finance Law. According to the MoF, the VAT exemption covers electronic payment transactions via terminals, the Internet, and the mobile telephone, but does not cover commissions relating to cash withdrawal transactions.
- **Tunisia:**<sup>xlix</sup> On May 16, 2022, the MoF [clarified](#) the VAT treatment of international trade and export service companies under the 2022 Finance Law. The clarification includes the following: explanations on the repeal of the suspensive VAT regime for acquisitions of international trade companies and exporting service companies, the chargeable events for VAT on acquisitions of international trade companies and service companies based on the rates effective January 1, 2022, VAT deductions rules, cases excluded from the measures, and the application, procedure, and deadline for VAT refunds.

- **Uganda:**<sup>i</sup> On May 11, 2022, the Ugandan Revenue Authority [published](#) a list of taxpayers required to issue fiscal documents (e-invoices/e-receipts) using their billing, invoicing, or Enterprise Resource Planning (ERP) systems as integrated with the Electronic Fiscal Receipting and Invoicing Solution (EFRIS) (system-to-system integration). These taxpayers include: (1) VAT-registered taxpayers operating a business with a billing, invoicing, ERP system; (2) VAT-registered taxpayers with gross receipts of UGX 2 billion (\$536,528) or more per annum; and (3) VAT-registered taxpayers with a gross receipts of less than UGX 2 billion per year and conducting 100 sales transactions or more per day. While the requirements for system-to-system integration are effective from May 15, 2022, Uganda allows a transitional period until June 30, 2022, for completing the integration. Although not all VAT-registered taxpayers are subject to the system-to-system integration requirements, all VAT-registered taxpayers are required to use the EFRIS to issue e-invoices and e-receipts through one of several available methods, with the system-to-system integration being one of the methods. Failure to use the EFRIS has certain tax consequences, including a restriction on the deduction of expenses and VAT credits for the purchase of goods or services from a vendor required to use the EFRIS, unless supported by e-invoices or e-receipts. Penalties for failing to issue e-invoices or e-receipts also apply.
- **Uzbekistan:**<sup>ii</sup> Uzbekistan recently introduced and extended VAT relief measures for basic foodstuffs and imported medical equipment. The VAT exemption for imported vegetable oil, soybeans, sunflower and flax seeds, potatoes, and other basic foodstuff has been extended until the end of 2022. The VAT-exemption for the importation of chicken, frozen fish, and live poultry has been allowed to expire. Further, Uzbekistan introduced a VAT exemption until January 1, 2025, for new medical equipment, components, spare parts, and consumables for imported medical equipment, as well as extended the customs duty exemption applicable to the same.

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## 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.

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## Footnotes

- <sup>i</sup> Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- <sup>ii</sup> Guyana Tax Agency Announces Zero-Rated VAT on Cement, May 11, 2022, Bloomberg Law News.
- <sup>iii</sup> Iceland Tax Agency Announces Elimination of VAT-exemption on Commercial Hybrid Vehicles Import, May 5, 2022, Bloomberg Law News.
- <sup>iv</sup> Ireland – Ireland Extends Reduced 9 percent VAT Rate on Tourism and Hospitality, May 13, 2022, News IBFD.
- <sup>v</sup> Italy Gazettes Decree Reducing Excise Taxes, VAT on Fuels Due to War, Bloomberg Law News, May 5, 2022.
- <sup>vi</sup> Orbitax, Sweden Publishes Laws to Implement 2022 Budget VAT Measures, May 24, 2022.
- <sup>vii</sup> Orbitax, Turkey Increase Corporate Tax Rate for Financial Sector Companies in 2022 and Provides VAT-exemptions for Manufacturing and Tourism Sectors, May 2, 2022.
- <sup>viii</sup> Orbitax, Uruguay Extends VAT Rate Reduction for Tourism Sector, May 24, 2022; Orbitax, Uruguay Extends VAT Rate Reduction for Tourism Sector, May 24, 2022.
- <sup>ix</sup> CCH, Global VAT News & Features, Armenia To Reform Mining Tax Rules, Implement Other Reforms,(May 6, 2022).
- <sup>x</sup> CCH,Global VAT News & Features,Australia Tackling Surge In Fraudulent GST Refunds,(May 9, 2022).
- <sup>xi</sup> Azerbaijan Cabinet Approves List of Paper, Printed Products Exempt From Import VAT, Bloomberg Law News, May 19, 2022.
- <sup>xii</sup> Belarus Tax Ministry Clarifies VAT on Mass Media Services, Bloomberg Law News May 4, 2022.
- <sup>xiii</sup> Orbitax, Belgium Notice on Opting for the VAT-exemption Regime for Small Businesses, May 3, 2022.
- <sup>xiv</sup> Brazil Lower House Approves ICMS Tax Bill, Bloomberg Law News, May 25, 2022.
- <sup>xv</sup> CCH, Global VAT News & Features,Bulgaria Probing Sales Underreporting,(May 19, 2022).
- <sup>xvi</sup> Bulgaria – Bulgaria Proposes VAT Cut on Utilities to Fight Inflation, May 20, 2022, News IBFD.
- <sup>xvii</sup> CCH, Global VAT News & Features,China To Waive VAT On Express Courier Services,(May 2, 2022).
- <sup>xviii</sup> CCH, Global VAT News & Features,China To Refund Large Businesses' VAT Sooner,(May 20, 2022).
- <sup>xix</sup> Colombia - Tax Authority Modifies Requirements for Circulation of Electronic Invoices as Negotiable Titles May 6, 2022, News IBFD.
- <sup>xx</sup> European Union; Czech Republic - European Council Authorizes Czech Republic to Raise VAT-exemption Threshold for Small Businesses, May 19, 2022.
- <sup>xxi</sup> Denmark – Denmark Will Impose 6 percent Digital Streaming Services Levy, May 23, 2022, News IBFD.
- <sup>xxii</sup> Ecuador – Tax Authority Updates Procedure for Suppliers of Exporters to Request VAT Refunds, May 27, 2022, News IBFD.
- <sup>xxiii</sup> Estonia Parliament Considers Bill to Amend VAT on Press Publications Due to War, May 5, 2022, Bloomberg Law News.
- <sup>xxiv</sup> Orbitax, Finland to Provide VAT-exemption on Sales to Ukraine Refugees, May 25, 2022.
- <sup>xxv</sup> Germany MOF Clarifies VAT on Airport Lounge Access Service, Bloomberg Law News, May 4, 2022.

- xxvi Germany MOF Releases Court Decision Clarifying VAT Deduction Rules for Input Services, Bloomberg Law News May 12, 2022.
- xxvii Germany MOF Releases Decision Explaining Reduced VAT Rate for Hotel Spa, Restaurant Services, Bloomberg Law News May 24, 2022.
- xxviii CCH, Global VAT News & Features, Iceland To Remove VAT Breaks For Eco-Friendly Car Imports, (May 6, 2022).
- xxix Indonesia – Indonesia Updates Guidelines for VAT on Import of Digital Goods and Services, May 10, 2022, News IBFD.
- xxx Orbitax, Indonesia Revises Regulations for VAT on Digital Goods and Services, May 12, 2022; CCH, Global VAT News & Features, Indonesia Expands Digital VAT Regime To More Businesses, (May 20, 2022).
- xxxi Jordan – Government Approves System Granting Invoice-Related Prizes to Individuals, (May 11, 2022), News IBFD.
- xxxii Latvia Parliament Considers Bill to Reduce VAT Rate on Specific Food Products, Bloomberg Law News May 5, 2022.
- xxxiii Lithuania Parliament Considers Bill for VAT Reduction on Catering, Food Takeaway Services Due to Coronavirus, Bloomberg Law News, May 2, 2022.
- xxxiv Mexico - Tax Administration Updates List of Non-Resident Digital Service Providers Registered for VAT Purposes, May 16, 2022, News IBFD.
- xxxv Norway – Norway Proposes Changes to Electric Vehicles Tax Scheme and Other Measures in Revised 2022 Budget – Details, May 23, 2022, News IBFD.
- xxxvi Oman; GCC – Oman Clarifies VAT Treatment of Financial Services, May 2, 2022, News IBFD.
- xxxvii Oman; GCC – Oman Clarifies VAT Treatment of Capital Assets, May 23, 2022, News IBFD.
- xxxviii CCH, Global VAT News & Features, Crypto-Asset Reporting Framework Event Scheduled For May 23, (May 4, 2022).
- xxxix CCH, Global VAT News & Features, Philippines Mulling Tax On Unhealthy Foods, (May 26, 2022).
- xl CCH, Global VAT News & Features, Poland Expands VAT-exemption For Real Estate Rentals (May 19, 2022).
- xli Poland MOF Proposes to Repeal Regulation on Reduced VAT Rates, Bloomberg Law News May 5, 2022.
- xliv Portugal – Portugal Promises Taxation of Cryptocurrencies, May 25, 2022, News IBFD.
- xliviii Orbitax, Romania Makes E-Factura Electronic Invoicing System Mandatory for B2G Transactions, May 24, 2022.
- xliv Serbia Tax Agency Clarifies Law on Electronic Invoicing System Obligations, Bloomberg Law News, May 5, 2022.
- xlv Slovenia Lower House Considers Bill to Extend Reduced VAT Rate for Specific Goods, May 18, 2022, News IBFD.
- xlvi Orbitax, Sweden Publishes Laws to Implement 2022 Budget VAT Measures, May 24, 2022.
- xlvii Sweden Tax Agency Clarifies VAT-exemption for Medicines, Bloomberg Law News, May 23, 2022.
- xlviii Tunisia MOF Issues Note Clarifying VAT-exemption on Electronic Payments, Bloomberg Law News, May 19, 2022.



<sup>xlix</sup> Tunisia MOF Issues Note Clarifying VAT on International Trade, Export Services Under 2022 Finance Law, Bloomberg Law News May 19, 2022.

<sup>l</sup> Orbitax, Uganda Designates Taxpayers Subject to System-to-System Integration Requirements for Issuing Fiscal Documents, May 12, 2022.

<sup>ii</sup> Uzbekistan Gazettes Decree on VAT Relief for Imported Medical Equipment, Bloomberg Law News, May 6, 2022; CCH, Global VAT News & Features, Uzbekistan Extends VAT Reliefs For Basic Foodstuffs, (May 18, 2022).

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## Endnotes

- i Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- ii Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- iii Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- iv Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- v Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- vi Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- vii Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.
- viii Taxnotes, Brazil Announces Further Cut in Industrial Products Tax Rate, May 9, 2022.