



# Inside Indirect Tax

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## About this Newsletter

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

## KPMG Publications

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

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

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

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

# Overview of Indirect Tax Developments from KPMG International Member Firms

- **KPMG in Bahrain** published a [report](#) discussing a consultation launched by the Bahrain National Bureau for Revenue to implement an e-invoicing mandate. According to the consultation document, Bahrain would introduce e-invoicing to reduce taxpayer administrative burden, enable the development and tracking of Bahrain's economic policies by creating more granular economic data, and support Bahrain's fiscal balance program by addressing tax leakages with limited disruptions to economic activity.
- **KPMG in Belgium** published a [report](#) discussing two recent circulars on VAT refund procedures and remunerations in football. The first Circular includes commentary for the modified VAT refund procedures as provided in Royal Decree nr. 56 of April 10, 2022, regarding VAT refund to taxpayers established in a Member State other than the Member State of refund and to non-EU established taxpayers. The second Circular provides guidance for the tax treatment of remunerations given to football players and their agents received in the context of exercising their professions. It covers the aspects of income taxation, the avoidance of double taxation, and VAT.
- **KPMG in Bolivia** published a [report](#) (in Spanish) discussing a recent tax authority guidance in which it noted that the deadline for certain taxpayers to register and/or confirm fiscal documents in the purchases and sales registry for the August 2022 tax period has been extended. Namely, the deadline for taxpayers with a tax identification number (*número de identificación tributaria*—NIT) that ends in 5,6,7,8 and 9 has been extended through September 12, 2022 (extended from the 9th day of each month). However, the September 9, 2022, deadline remains unchanged for taxpayers with a tax identification number ending with digits 0,1,2,3 and 4.
- **KPMG in Bolivia** published a [report](#) (in Spanish) discussing [Law No.1462](#) which was adopted by the Bolivian legislative assembly on September 9, 2022. The law implements tax measures in the 2022 budget including an extension of tax incentives, specifically regarding an exemption for capital goods and industrial items through September 29, 2023 (from September 8, 2022), and changes to the rates of excise tax (*impuesto al consumo específico*—ICE) for certain products.
- **KPMG in Canada** published a [report](#) discussing the extended application of the reduced small business tax rate in Saskatchewan through July 1, 2024. The province originally introduced this measure to apply between October 1, 2020, and June 30, 2022, and scheduled an increase to 1 percent effective July 1, 2022, and another increase to 2 percent effective July 1, 2023. Saskatchewan further proposed changes to the upcoming provincial sales tax (PST) rules for admission and entertainment charges. Particularly, PST will not apply to certain recreational activities, as well as certain gym and fitness memberships.
- **KPMG in Canada** published a [report](#) discussing the information reporting obligations of certain distributed investment plans. Distributed investment plans that qualify as “selected listed financial institutions” (SLFIs) under the goods and services tax and harmonized sales tax (GST/HST) and Quebec sales tax (QST) rules must request information from certain investors in writing. Distributed investment plans that do not request the information by October 15, 2022, and collect such data by December 31, 2022, may incur higher GST/HST and QST costs. For KPMG's previous discussion of this obligation, please click [here](#).

- **KPMG in Canada** published a [report](#) reminding qualifying online marketplace facilitators of their obligation under British Columbia’s PST to file an annual information return covering the period July 1, 2022, through June 30, 2023, by August 31, 2023. Online marketplace facilitators may need to update their systems to capture all the information required on the new return. Even though the annual information return is not yet available, the return may require online marketplace facilitators to report certain details for each online marketplace seller, according to the recently updated guidance. For KPMG’s previous discussion of British Columbia’s marketplace PST obligations, please click [here](#).
- **KPMG in Canada** published a [report](#) discussing increased audit activities related to the annual federal 10 percent excise tax on cross-border insurance premiums. The report notes that the Canada Revenue Agency (CRA) recently increased its audit activities related to the annual federal tax and is sending excise tax returns to businesses with foreign head-offices. Taxpayers with such insurance coverage for risks in Canada, including cyber insurance and property insurance, must pay this tax every year by April 30.
- **KPMG in Chile** published a [report](#) on recent VAT developments, including guidance on the VAT treatment of the sale of rural property from a subdivision and the VAT treatment of health services and services provided by educational establishments from January 1, 2023.
- **KPMG in Cyprus** published a [report](#) discussing a recent decision of the Tax Tribunal on the deductibility of VAT incurred on the acquisition of apartments under the Cypriot Investment Program (CIP). In the case, the taxpayer acquired three apartments in 2019, rented them out, and charged VAT for the rentals. The taxpayer’s shareholder declared one of the apartments a “private dwelling” for the purpose of obtaining Cypriot citizenship under the CIP. The tax authority denied the right to deduct input on the apartment on the grounds that the apartment was not acquired for business purposes, but rather for the private use of obtaining Cypriot citizenship for the taxpayer’s shareholder under the CIP. The Tax Tribunal agreed with the tax authority and noted that under the CIP the apartment cannot be used by the taxpayer for economic activity.
- **KPMG in the Czech Republic** published a [report](#) discussing draft VAT amendments that would impose new recordkeeping and reporting obligations on payment service providers effective from January 1, 2024. The draft is based on changes to EU legislation establishing a central electronic system of payment information (CESOP) that will provide information on cross-border payments received by recipients from consumers shopping online. The draft amendments impose an obligation on payment service providers (mainly banks, but also certain online marketplaces) to keep records of cross-border payments and their recipients and to provide the data to the tax authorities.
- **KPMG in Denmark** published a [report](#) discussing a new legislation that introduces penalties for tax corrections effective June 15, 2022. The law authorizes the Danish tax authority to assess an interest surcharge with regard to errors and corrections of VAT and other taxes. In the case of customs VAT corrections, an interest surcharge of approximately 30 percent could apply to corrections relating to the oldest period (i.e., 36 months). Statistics from the Ministry of Taxation indicate that 61 percent of companies had errors in their VAT declarations for 2018.
- **KPMG EU Tax Center:** published a [report](#) discussing recent tax developments in the EU, including windfall profits taxes proposed or in place in Finland, Greece, and Romania.

- **KPMG in Germany:** published a [report](#) on recent VAT developments in Germany, including the VAT rate reduction for gas sales, VAT amendments in the Annual Tax Act 2022, a federal tax court decision on the VAT treatment of services of swimming schools, and a tax authority guidance on the correction of input VAT when ceasing one of several activities when the activity being ceased gives rise to the right to deduct VAT.
- **KPMG in India** published a [report](#) discussing a recent guidance issued by the Central Board of Indirect Taxes and Customs (CBIC) for filing or amending the GST transitional credit forms (Form GST TRAN-1 and TRAN-2) on the GST network common portal. The portal is open between October 1, 2022 and November 30, 2022 for such filings. The tax authority has 90 days after the submission to verify the accuracy of the claim and pass the appropriate order. Any transitional credit will then be reflected in the electronic credit ledger.
- **KPMG in India** published a [report](#) discussing on recent indirect tax developments, including a decision of the Indian Supreme Court on the responsibility to quote the correct harmonized system nomenclature (HSN) code and corresponding GST rate when bidding in a government public tender, recent CBIC guidelines on arrest and bail, the issuance of summons, and the reduction of the aggregate gross receipts limit to issue e-invoices from INR 200 million to INR 100 million effective October 1, 2022.
- **KPMG in Malaysia** published a [report](#) discussing recent indirect tax developments, the amendment of the service tax policy exempting provision of digital payment services by local non-bank providers.
- **KPMG in Mexico** published a [report](#) discussing the updated list of nonresident taxpayers who are registered under the VAT on digital services regime. As of August 31, 2022, 159 taxpayers are registered.
- **KPMG in Poland** published a [report](#) discussing a draft decree published on August 30, 2022, which proposes amendments to the e-invoicing regime. The amendments address recognition of a VAT group as a VAT taxpayer, in place of its individual members. The decree enters into force 14 days after its promulgation.
- **KPMG in Qatar** published a [report](#) on the introduction of excise taxes on operators of tax warehouses, importers of energy, and carbonated drinks, tobacco, special purpose goods (i.e., alcohol and pork items, which can be sold and consumed only under specific conditions and authorizations). Prior to the importation of excisable goods in Qatar, the importer of records is required to register for excise tax, as well as register the goods. Excise tax returns are due quarterly.
- **KPMG in South Africa** published a [report](#) discussing a draft bill amending the VAT treatment of cross-border leases of aircraft engines imported for use in South Africa. According to the draft, when a lessor of aircraft engines is neither a resident of South Africa, nor a registered vendor, and that lessor provides foreign-owned aircraft for use in South Africa under a cross-border rental/lease, then the lessor would be excluded from the requirement to register for VAT in South Africa provided that: (1) the sale is made to a recipient (i.e., lessee) that is a resident of South Africa, and the goods provided are for use by the lessee wholly or partly in South Africa; (2) the lessee and lessor agreed in writing that the lessee would enter the goods for home consumption, pay the VAT on importation and that the lessee would not be reimbursed by the lessor for any VAT suffered. If the proposal is ultimately adopted, nonresident aircraft engine lessors that are also non-registered vendors would no longer

be liable for VAT registration from a future date (currently proposed to be January 1, 2023). However, until adoption, such lessors are still liable to register for VAT but would likely be able to deregister once the proposal is effective.

- **KPMG in Sri Lanka** published a [report](#) discussing proposed indirect tax measures, including (1) increasing the standard VAT rate from 12 percent to 15 percent effective from September 1, 2022; (2) reducing the VAT registration threshold from LKR 300 million (\$814,851) per year to LKR 120 million (\$325,940) per year; and (3) repealing the VAT exemption on residential condominium sales effective October 1, 2022.
- **KPMG in Sweden** published a [report](#) discussing a proposal to repeal the energy tax relief for computer server facilities and a possible repeal of the tax on waste incineration. Computer server facilities are currently subject to a tax of SEK 6 per MWh (\$.54); repealing the relief would increase the rate to SEK 360 per MWh (\$32.16).
- **KPMG in Trinidad and Tobago** published a [report](#) on tax measures in the 2023 budget. The proposed measures include: (1) increasing the VAT registration threshold from TTD 500,000 (\$72,073) to TTD 600,000 (\$86,488) per year; (2) waiving VAT on new equipment for manufacturing companies utilizing alternate energy technologies or renewable energy options; and (3) introducing a tax amnesty program for penalties and interest on taxes owed up to and including the year ending December 31, 2021 to run from November 14, 2022 through February 17, 2023.
- **KPMG in the United Arab Emirates** published a [report](#) discussing a recent tax authority guidance on excise tax for clearing companies. The newly issued User Guide aims to support the Clearing Companies by answering the following topics: (1) suspending excise tax upon import; (2) releasing suspended excise tax for goods that have been exported; (3) declaring consumed goods; and (4) compliance obligations associated with excise tax suspension. The User Guide further provides a detailed explanation of the reporting obligations imposed on an excise tax Clearing Company should complete and submit to the tax authority.

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## Global Rate Changes

- **Azerbaijan:**<sup>i</sup> On September 16, 2022, Azerbaijan announced plans to extend the application of the VAT exemption for the sale and import of hybrid vehicles through December 31, 2025. The exemption was originally introduced on January 1, 2022, and applies to hybrid vehicles that are less than 3 years old with an engine capacity of less than 2,500 cc.
- **Belgium:**<sup>ii</sup> On August 31, 2022, Belgium [announced](#) that it will extend application of the 6 percent reduced VAT rate on electricity and natural gas through March 31, 2023.
- **Bolivia:**<sup>iii</sup> On September 9, 2022, Bolivia published [Law No. 1462](#), which includes measures extending application of certain VAT relief programs and adjusting the specific consumption tax rate changes for certain beverages. The VAT incentives include a VAT exemption on the import of qualifying capital goods, industrial plants, and high-capacity cargo vehicles destined for the agricultural and industrial sectors and on the import of heavy machinery for the construction and mining sectors, as well as VAT zero-rating when these are commercialized in the domestic market. The measures will apply through September 29, 2023.

- **Estonia:**<sup>iv</sup> Effective August 1, 2022, Estonia introduced a reduced VAT rate of 5 percent on press publications, whether in printed or electronic format. The reduced rate does not apply to press publications containing mainly advertising or private advertisements, as well as erotic or pornographic content, or video or music content.
- **Ethiopia:**<sup>v</sup> Effective September 18, 2022, Ethiopia exempts the importation of environmentally friendly vehicles from VAT, excise duty and surtaxes. In addition, Ethiopia reduced customs duties on fully assembled electric vehicles and semi-assembled electric vehicles from 15 percent to 5 percent.
- **Finland:**<sup>vi</sup> The Finnish government recently launched a consultation on VAT measures in its 2023 budget. The proposed measures include a temporary reduction of the VAT rate on electricity from 24 percent to 10 percent, from December 1, 2022, through the end of April 2023, and the introduction of a VAT zero-rate on domestic passenger transport services from January to April 2023.
- **Grenada:**<sup>vii</sup> On September 6, 2022, Grenada [extended](#) the application of the VAT zero rate on domestic electricity consumption with usage of up to 500 kilowatt hours (kWh) until December 31, 2022. The measure was introduced as part of 2022 relief measures announced on December 23, 2021.
- **Hungary:**<sup>viii</sup> Hungary has proposed to apply a 5 percent reduced VAT rate for house construction through December 31, 2024. Subject to certain conditions, taxpayers would also be able to access the rate for real estate projects that are completed by December 31, 2028, if construction begins by the end of 2024.
- **Ireland:**<sup>ix</sup> On September 27, 2022, the Irish Finance Minister [presented](#) the 2023 budget to parliament, which includes several indirect tax measures. The budget proposes that the temporary 9 percent reduced VAT rate that currently applies to certain activities in the hospitality and tourism sector such as supplies of certain food and beverages in the restaurant, take-away and catering sectors as well as for admissions to certain attractions which will not be extended beyond February 28, 2023. The budget would further extend the application of the 9 percent reduced VAT rate on gas and electricity through February 28, 2023 and reduce the flat-rate addition for farmers (which compensates non-VAT registered farmers for irrecoverable VAT on their input costs) from 5.5 percent to 5 percent, from January 1, 2023. In addition, the budget proposes to introduce a VAT zero-rate on newspapers and news periodicals, automatic external defibrillators and period products, all non-oral hormone replacement therapy, and all non-oral nicotine replacement therapy, from January 1, 2023. Finally, the budget includes measures to increase the carbon tax rate by EUR 7.50 (\$ 7.28278) per ton/CO<sub>2</sub> for car fuels. To read a report prepared by the KPMG International member firm in Ireland, please click [here](#).
- **Isle of Man:**<sup>x</sup> Effective April 1, 2022, the Isle of Man will temporarily reduce the VAT rate on the installation of energy-saving materials, including the installation of water and wind turbines, from 5 percent to 0 percent. The relief applies for a 5-year period until March 31, 2027.
- **Isle of Man:**<sup>xi</sup> On September 23, 2022, the Isle of Man Treasury published a [public notice](#) on application of the 5 percent reduced VAT rate to specified construction services effective January 1, 2023. Eligible construction services include construction services related to dwellings, residential homes, properties used for relevant charitable purposes and places of worship. The notice provides that the following services will be subject to the reduced rate: alteration, extension or enlargement of an eligible building, repairs to an eligible building or

to the boundary of that building, repairs or maintenance to the land within the boundary of an eligible building which is required for safety reasons to prevent damage to that building, and installation, repair, or maintenance of building materials ordinarily incorporated into an eligible building. The public notice further provides that the sale of building materials at the same time as the service will also qualify for the reduced-rate and provides a definition of building materials. However, the following services are not subject to the reduced rate: installation or servicing of household appliances; fitting of carpets, blinds, and curtains; gardening services; and construction services on commercial property.

- **Latvia:**<sup>xiii</sup> Latvia's parliament recently agreed to consider a proposal to apply the 5 percent reduced VAT rate to specific medicines.
- **Lithuania:**<sup>xiii</sup> Lithuania's parliament recently accepted for consideration several bills proposing a VAT zero-rate on heat energy, hot water, gas, and firewood for heating, from October 1, 2022 through April 30, 2023, and natural gas for heating, and liquefied petroleum gas, and fuels used by electricity and thermal energy production facilities, from October 1, 2022, to May 1, 2023. Another proposal would introduce a zero-percent VAT rate on firewood and wood products used for residential heating, as well as electricity and natural gas sold to residential consumers effective November 1, 2022.
- **Lithuania:**<sup>xiv</sup> Lithuania proposed to extend the application of the 9 percent reduced VAT rate on catering and to-go food services provided by restaurants, cafeterias, and similar catering establishments until December 31, 2023. The reduced rate does not apply to alcohol or services related to alcohol, and accommodation services.
- **Luxembourg:**<sup>xv</sup> On October 20, 2022, Luxembourg's parliament adopted a bill which would temporarily cut the VAT rates by 1 percent between January 1, 2023 and December 31, 2023, if approved. The resulting rates would be a standard rate of 16 percent, intermediary rate of 13 percent, and a reduced rate of seven percent. In a separate budget bill submitted on the same day, the government is proposing to apply the super-reduced VAT rate of three percent to the delivery and installation of solar panels and the reduced VAT rate of eight percent to the repair of household appliances and on the sale, rental, and repair of bicycles, including e-bikes.
- **Maldives:**<sup>xvi</sup> On September 14, 2022, the Maldives government submitted a bill to parliament to amend its GST law. If approved, the bill would increase the standard GST rate from 6 percent to 8 percent and increase the GST rate on tourism goods and services from 12 percent to 14 percent effective from January 1, 2023. Further, the bill would extend the tourism sector GST to include goods and services sold by integrated tourist resorts, resort hotels, hotels, private islands, and other similar establishments (including portions thereof under certain conditions). The current tourism sector GST covers goods and services sold by tourist resorts, tourist hotels, guesthouses, picnic islands, tourist vessels and yacht marinas.
- **Netherlands:** On September 20, 2022, the government of the Netherlands published the 2023 Tax Plan, which, proposes to zero-rate the sale and installation of solar panels and to extend the reduced excise duties rates on fuel through July 1, 2023. The Tax Plan is scheduled to be voted on November 10, 2022. To read a report prepared by the KPMG International member firm in the Netherlands, please click [here](#).
- **Portugal:**<sup>xvii</sup> Effective October 1, 2022, Portugal reduced the VAT rate on electricity from 13 percent to 6 percent until January 1, 2023.

- **Slovenia:**<sup>xviii</sup> On August 31, 2022, Slovenia published [Act No. 2731](#), which temporarily applies the reduced 9.5 percent VAT rate to electricity, natural gas, district heating, and firewood for heating from September 1, 2022, through May 31, 2023.
- **Spain:**<sup>xix</sup> Effective October 1, 2022, Spain temporarily reduced the VAT rate from 21 percent to 5 percent for natural gas, electricity, pellets, briquettes, and firewood until December 31, 2022.
- **Switzerland:**<sup>xx</sup> On September 25, 2022, as part of measures to reform the state pension system (AHV), Swiss voters approved a referendum to (1) increase the standard VAT rate from 7.7 percent to 8.1 percent, (2) increase the reduced VAT rate for daily goods and services from 2.5 percent to 2.6 percent, and (3) increase the special VAT rate for accommodation services from 3.7 percent to 3.8 percent. The rate increases are expected to become effective from January 1, 2024.
- **Taiwan:**<sup>xxi</sup> Taiwan recently extended application of the VAT zero-rate to imported soybeans, wheat, and corn through December 31, 2022. The measure was scheduled to expire on September 30, 2022.

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# Indirect Tax Developments and News from Around the World

## The Americas

### United States: Helpdesk Services Taxable in North Carolina

On July 27, 2022, the North Carolina Department of Revenue issued [SUPLR 2022-0004](#) in which it concluded that the sale of optional Helpdesk technical support was a taxable service contract. Under North Carolina law, sales and use tax is imposed on sales of service contracts sourced to the state. The term “service contract” is defined as “[a] contract where the obligor under the contract agrees to maintain, monitor, inspect, repair, or provide another service included in the definition of repair, maintenance, and installation services to certain digital property, tangible personal property, or real property for a period of time or some other defined measure.” The term does not include a single service included in repair, maintenance, or installation services, but does include a contract where the obligor may provide a service included in the definition of repair, maintenance, and installation services as a condition of the contract. N.C. Gen. Stat. § 105-164.3(225) defines the term “repair, maintenance, and installation services” to include several specific activities, such as troubleshooting to identify the source of a problem for determining what is needed to restore property.

The taxpayer at issue provided Information Technology as a Service (ITaaS) services to businesses. Customers could opt to purchase “helpdesk services” to assist users resolve service interruptions to the taxpayer’s ITaaS platform. The ruling noted that the Helpdesk feature was not intended to monitor, repair, or maintain customer’s routers or customer-owned devices. Nevertheless, the Department determined that the taxpayer was performing a service contract. Notably, the taxpayer may at times be obligated to troubleshoot its customer’s network infrastructure by power cycling a customer’s router to reestablish a connection with the taxpayer’s ITaaS services. The diagnostic procedure of power cycling in certain instances will reload a router’s operating system and other software, clear the router’s memory, reinitialize the router’s configuration, and may resolve issues with dynamic IP address conflicts. Based on these and other facts, the Department ruled that the Helpdesk services obligated taxpayer to maintain, repair, monitor and perform other services included in the definition of repair maintenance and installation services. For more information, click [here](#).

### Suriname: New VAT Regime Introduced Effective January 1, 2023

On August 30, 2022, the Suriname National Assembly [approved](#) introduction of a new VAT regime to replace the current turnover (sales) tax system effective January 1, 2023. VAT will apply at a standard rate of 10 percent on sales of goods and services, as well as imports of goods sourced to Suriname, unless the transaction is exempt, zero-rated, or subject to the increased rate of 25 percent. Exempt transactions include the sale of immovable

property; water, electricity, and cooking gas; healthcare services; medicines and medical devices; and education services under the supervision of the Ministry of Education. Zero-rated transactions include exports of goods and services; child and elderly care; sales to contractors and sub-contractors pursuant to the Petroleum Law 1990; sales to gold mining companies pursuant to the status of law; and imports of motor gasoline

and other equivalent motor fuels and diesel fuel. The increased rate of 25 percent includes luxury goods such as high valued automobiles, motorcycles, speedboats, helicopters, weapons, and fireworks.

The new VAT regime further requires non-resident sellers of services, including digital services, to consumers in Suriname to register for, collect, and remit VAT. Most services are sourced to Suriname if the customer is established in the country. This can be established by using general information such as IP address, billing address, or other indicia. A VAT registration threshold of SRD 1 million (\$35,000) applies for Surinamese businesses; such a threshold does not apply to non-residents. However, for nonresident providers of digital services a special registration threshold of SRD 500,000

(\$17,500) applies. In case of business-to-business transactions, the Surinamese VAT registered business customer is required to self-assess VAT under the reverse charge mechanism unless the nonresident provider is registered for VAT purposes. Taxpayers may register through the VAT e-registration portal that will be launched on November 1, 2022.

Source: Suriname – National Assembly Approves 10% VAT Law (August 31, 2022), News IBFD; Orbitax, Suriname National Assembly Approves New VAT System from 2023 (September 1, 2022); CCH, Global VAT News & Features, Suriname Eyeing 10pc VAT Regime Starting Next Year (August 31, 2022); Suriname -Tax Authorities to Launch VAT E-Registration Portal on 1 November 2022, (October 24, 2022), News IBFD.

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## Europe, Middle East, Africa (EMA)

### Belgium: Proposed Amendments to VAT Law

On October 24, 2022, Belgium enacted [Bill No. 55K2833001](#) amending the Belgian VAT regime. The bill would clarify that a VAT abuse exists when the transactions in question result in obtaining a tax advantage, the granting of which is contrary to the objective envisioned by the VAT law and which have as their essential aim to obtain this advantage. It further defines an invoice as a document or message on paper or in electronic format that meets the conditions established in the VAT law. In addition, an electronic invoice would be defined as an invoice containing all data prescribed by the VAT law issued and received in any electronic form. The bill would further define economic activities as all activities of a manufacturer, seller of goods or service provider, including extraction of minerals, agriculture, and the

exercise of free or equivalent professions. An economic activity would be the exploitation of a tangible or intangible asset to obtain a sustainable yield from it.

Moreover, the bill would clarify that Royal Decrees regarding VAT rates would take effect only if they were ratified by way of a law within a period of 12 months from the date of their publication in the Belgian Official Gazette. The bill would also ratify several Royal Decrees on the application of the 6 percent reduced rate to face masks and hydroalcoholic gels, natural gas and district heating for residential contracts, solar panels (photovoltaic and thermal), solar water heaters and heat pumps, and bicycles and e-bikes. In addition, the bill would apply the 6 percent reduced VAT rate to photovoltaic solar panels. The bill would further modify

the conditions under which the 6 percent reduced rate applies to the demolition and rebuilding of private dwellings. Currently, such work must be performed on a dwelling that has been occupied for at least 15 years before the date on which the VAT on the work is payable, the bill proposes to reduce this to 10 years.

Finally, the bill includes measures to apply a 0.8 percent interest rate on late payment of VAT, standardize the references of the various European regulations and directives,

and establish a special regime for specific transactions with EU countries and third countries.

Source: Belgium – Belgium to Extend VAT Rate Cuts, Introduce Windfall Profits Tax, Prime Minister Says, (September 2, 2022) News, IBFD; Belgium Parliament Considers Bill to Amend VAT Provisions, Bloomberg Law News, September 7, 2022; Belgium – Belgium Enacts Omnibus VAT Bill defining ‘Abuse’ and Other Terms, (October 24, 2022), News IBFD

## European Union: Roundup of Recent ECJ Decisions

On September 8, 2022, the ECJ published the nonbinding Opinion of its Advocate General (AG) in *P GmbH*, [Case C-378/21](#), in which the AG opined that VAT incorrectly charged on an invoice is not payable by the issuer of an invoice if the recipients of the services are final consumers who are not entitled to the right to VAT deduction. However, in so far as the addressees of the invoices included taxpayers, the invoice issuer must pay the incorrectly charged VAT in accordance with the provisions of the [EU VAT Directive](#). If necessary, the proportion of such invoices is to be determined by means of an estimate. The principles of proportionality and neutrality of VAT require the ability to adjust VAT liability. The obligation to permit a correction exists irrespective of the elimination of the resulting risk of loss of tax revenue, when the issuer of the invoice had acted in good faith. Acting in good faith exists when the taxpayer made an error of law for which it cannot be held responsible. If, on the other hand, it did not act in good faith, elimination of the risk of loss of tax revenue is a mandatory requirement. For that purpose, the invoice must in principle be corrected. If it is not possible for the issuer of the invoice to do so, that falls within the scope of the risk assumed by the issuer. The fact that the final consumers paid a price which was calculated incorrectly (because it contained a VAT component that was too high and therefore a profit margin that was too low) does not

preclude an adjustment of tax liability. Unjust enrichment of the taxpayer does not follow from that in any event when a fixed price was agreed.

On September 8, 2022, the ECJ published its decision in *Finanzamt R v. W-GmbH*, [Case C-98/21](#), in which it held that a holding company that performs and purchases services subject to VAT that it subsequently contributes to its subsidiary has no right to recover the VAT on costs directly attributable to the contribution. To read a report on this case published by the KPMG member firm in the Netherlands, please click [here](#).

On September 8, 2022, the ECJ published its decision in *T.*, [Case C-368/21](#), in which it held that the place of importation of a vehicle registered in a third country and imported into the European Union in breach of customs legislation is situated in the Member State in which the person who failed to comply with customs obligations resides and actually uses the vehicle.

On September 15, 2022, the ECJ published its decision in *HA.EN.*, [Case C-227/21](#), in which it held that a taxpayer who purchased immovable property may not be denied the right to deduct VAT on the basis that the taxpayer knew or should have known that the seller was in financial difficulty, or even insolvent, and may not end up paying or not being able to pay VAT into the public purse.

On September 22, 2022, the ECJ published its decision in *The Escape Center*, [Case C-330/21](#), in which it held that the reduced VAT rate that applies to services consisting of the permission to use sporting facilities in a fitness center may also apply to the provision of coaching services in the same sporting facilities if that coaching is linked to the use of the facilities and is necessary for the practice of sports and physical education or if that coaching is ancillary to the use of those facilities or to their actual use.

On September 29, 2022, the ECJ published its decision in *RAIFFEISEN LEASING*, [Case C-235/21](#), in which it held that a contractual sale-and-lease back agreement, the conclusion of which was not followed by the issuance of an invoice by the parties, may be regarded as an invoice, if that contractual agreement contains all the information necessary for the tax authorities of a Member State to establish whether the substantive conditions for the right to deduct VAT are satisfied.

Source: European Union; Romania – ECJ Decides that Adjustment of Deductible VAT of Capital Goods Due to Annulment of Taxable Person’s Registration Should Not Be Denied: *S.H.* (Case C-627/21) (VAT), (September 26, 2022), News IBFD; European Union; Austria – ECJ Advocate General Opines on Crediting Overpaid VAT Where Final Consumers Have Borne VAT

Paid in Excess: Finanzamt Österreich (Case C-378/21) (VAT), (September 8, 2022), News IBFD; European Union; Germany – ECJ Decides on Right of Holding Companies to Deduct Input VAT When Services Obtained From Third Parties Services Primarily Relate to VAT Exempt Activities of Subsidiaries: *Finanzamt R (Déduction de TVA liée à une contribution d’associé)* (Case C-98/21) (VAT), (September 8, 2022), News IBFD; European Union; Germany – ECJ Decides on Place of Supply of Vehicle Imported in Breach of Customs Law: *Hauptzollamt Hamburg (Lieu de naissance de la TVA – II)* (Case C-368/21) (VAT), (September 8, 2022), News IBFD; European Union; Lithuania – ECJ Decides on Right to Deduct Input VAT Relating to Purchase of Immovable Property Where Supplier Did Not Pay Output VAT: *HA.EN.* (Case C-227/21) (VAT), (September 15, 2022), News IBFD; European Union; Belgium – ECJ Decides on Application of Reduced VAT Rate to Individual or Group Training Provided by Gyms: *The Escape Center* (Case C-330/21) (VAT), (September 22, 2022), News IBFD; European Union; Slovenia – ECJ Decides on Whether Immovable Property Financial Leasing Agreements Can Be Regarded as Invoices for VAT purposes: *RAIFFEISEN LEASING* (Case C-235/21) (VAT), (September 29, 2022), News IBFD.

## European Union: Advocate General Considers EU VAT Digital Services Rules in Line with EU Legislation

On September 15, 2022, the ECJ published the nonbinding opinion of its AG in *Fenix International*, [Case C-695/20](#), on whether the provision in the EU VAT Implementing Regulation providing that an online intermediary platform is, in principle, liable to pay VAT is valid. According to Article 28 of the EU VAT Directive, when a taxpayer acting in his own name, but on behalf of another person, takes part in a provision of services, he shall be deemed to have received and sold those services himself. Article 9a of the [EU VAT Implementing Regulation](#), referring to Article 28 of the EU VAT Directive, includes a

rebuttable presumption that all intermediaries (e.g., online marketplaces) intervening in a sale of digital services are considered performing a buy – sell of the digital services. However, such intermediaries cannot rebut the presumption if they authorize the delivery of the service, authorize the charge to the customer, or set the general terms and conditions of the sale.

In the case, the taxpayer is registered for VAT purposes in the United Kingdom and operates an online platform that is offered to “users” from around the world; users are divided into

“creators” and “fans.” Creators post content such as photographs and videos to their respective profiles and can also stream live videos to their fans or send private messages to them. Fans can access that content by making payments and may pay tips/donations to those creators without consideration. The taxpayer is responsible for collecting and distributing the payments made by fans, charging creators an amount of 20 percent of the sums paid by their fans by way of a deduction. For the payments involved in this case, the taxpayer charged and accounted for VAT on a tax base consisting of only the 20 percent deduction. The UK tax authority, HMRC, took a different view, finding that pursuant to Article 9a of the EU VAT Implementing Regulation, the taxpayer was required to pay VAT on the basis of all sums paid by fans. In April 2020, HMRC assessed the taxpayer for the VAT due. The taxpayer filed an appeal before the First-tier Tribunal disputing the legal basis for the assessments at issue. The tribunal asked the ECJ whether the Article 9a of the EU VAT Implementing Regulation is valid in the light of the concept of “implementing power” under the EU VAT Directive.

In the AG’s opinion, to be valid, an implementing act must comply with the essential general aims of the basic legislative act. Moreover, an implementing act must be necessary or appropriate for the implementation of the basic legislative act in that it provides further detail in relation to its content without supplementing or amending it, even as to its non-essential elements. In that regard, the AG noted that the Article 28 of the VAT Directive does not contain any restrictions as to its scope or its extent, meaning that no category of service is excluded from the substantive scope of the Article. It follows that Article 9a of the EU VAT Implementing Regulation, which deals with the specific issue of when an intermediary is liable to pay VAT when digital services are provided through an online platform, respects the essential general aims pursued by the VAT Directive. The AG also found that the provision

in question was purely technical in nature in that it clarified the situation of commission agents operating in the area of e-commerce, by laying down criteria to identify the provider of services in order to determine who is liable to pay VAT. Without such clarification, the problem of double taxation of cross-border transactions can arise or, conversely, that of non-taxation in a chain that involves an online platform. The provision thus appeared necessary or appropriate for the implementation of Article 28 of the VAT Directive. The AG further pointed out that the regulations seeks to provide further detail to the concept of a “taxable person (taxpayer) acting in his own name but on behalf of another person,” by laying down a presumption, which in principle is rebuttable, that an online intermediary is liable to pay VAT, appears in the VAT Directive itself. Thus, that provision cannot be regarded as amending or supplementing that directive.

As to the taxpayer’s argument that the provision transfers the liability for payment of VAT to the intermediary, in breach of the VAT Directive, the AG observed that it is precisely that directive which effected such a transfer, the detailed rules of which are merely determined by the provision in question as regards digital services. Moreover, according to the AG, by providing for situations in which the abovementioned presumption cannot be rebutted in any event, the provision takes account of the economic and commercial realities of a given transaction rather than just the contractual relationships relating to it. In addition, in the context of a chain of transactions relating to provision of services in the area of e-commerce, the commission agent is, in principle, an opaque intermediary. The mere fact that, in a specific situation, the agency is manifest and the identity of the principal is known does not appear to be sufficient to consider the provision, as such, to be invalid. Accordingly, the AG proposed that the ECJ confirm the validity of the relevant provision of the implementing regulation. To read a report prepared by KPMG International on this case, please click [here](#).

Source: UK: Regulation providing online platform is liable to pay VAT is valid, KPMG Tax News Flash, September 15, 2022; Orbitax, Advocate General Finds Only

Fans Platform Operator Liable to Pay VAT on Total Sums Paid by Fans in the UK, September 19, 2022.

## Italy: Overview of Recent Indirect Tax Developments

On August 29, 2022, the Italian Revenue Agency (ITA) issued [Letter No. 440/2022](#), in which it clarified the VAT refunds regime for pharmaceutical pay-back transactions. Under the pay-back mechanism, pharmaceutical companies must remit to regional governments, a percentage of revenue from pharmaceutical sales, as determined by cost adjustments made by the Italian Medicines Agency (AIFA). In the case, an Italian pharmaceutical company made these cost adjustment payments without deducting any of the VAT originally paid on the transaction amounts. The company sought clarification on the procedure to recover the VAT erroneously included in the payback amounts. The ITA clarified that the company must issue specific variation notes relating to the transactions and AIFA's cost adjustment determinations, and the company must include sufficient information relating to the transactions in its variation notes to reclaim the VAT amounts paid.

On September 9, 2022, the ITA issued [Letter No. 452/2022](#), in which it clarified the VAT exemption regime for specific services provided by a medical diagnostics company.

In the case, a company intended to provide specific medical diagnostic services through an agreement with a laboratory and sought clarification on whether the services would qualify for the VAT exemption regime for medical services. The ITA clarified that clinical or diagnostic tests performed by the laboratory and the analysis of the biological samples carried out by the company qualified for the VAT exemption regime because such functions lead to the provision of a single medical service involving the diagnosis and healthcare of an individual. On the other hand, the provision of medical equipment, training, and instrumental assistance to the laboratory personnel are purely organizational, management-related, and ancillary functions and do not qualify for the VAT exemption regime.

Source: Italy Tax Agency Clarifies VAT Refunds on Pharmaceutical Pay-back Transactions, Bloomberg Law News, September 1, 2022; Italy Tax Agency Clarifies VAT Exemption Regime for Specific Services Provided by Medical Diagnostics Company, Bloomberg Law News, September 14, 2022.

## Saudi Arabia: Overview of Recent Indirect Tax Developments

On August 19, 2022, the Zakat, Tax and Customs Authority (ZATCA) amended the [Real Estate Transaction Tax \(RETT\) Regulations](#). The amendments provide more exceptions to the scope of the RETT, clarify the instances when paid RETT will be refunded, and introduce the use of the Gregorian calendar for tax collection, and dates and periods used in administering the tax.

On July 22, 2022, the ZATCA published a [guidance](#) that establishes the procedure for qualified real estate developers to claim a VAT refund on exempt transactions. Eligible real estate developers, including sole proprietorships, real estate investment

funds, or other specified legal forms, may submit a claim to recover VAT. The ZATCA will issue qualified developers a personal identification number for making refund claims and may verify the VAT compliance of a developer at any time. The right to claim a refund arises from the date the developer submits a registration application. Developers can opt for a monthly, quarterly, or calendar-year claim redemption period and submit one claim per period, and a developer has a right to object to a decision of the tax authority regarding refunds.

On September 15, 2022, the ZATCA launched a [consultation](#) on a proposal to introduce a

VAT zero-rate on the sale of eligible military goods. The zero-rate would apply to the sale of certain military goods to all sectors of the armed forces and governmental security forces by a taxpayer who is licensed in military manufacturing. Eligible goods must be manufactured locally, and the seller must be in possession of a certificate issued by the General Authority of Military Industries (GAMI), confirming compliance with all requirements and controls for each contract. The certificate must include the seller's contact details, the customer's contact details, details of the sale of the relevant contract, distinguishing between qualified military goods subject to the zero rate and any other goods or services that are not in

scope. The zero-rate would apply only to sellers who meet all requirements and controls at the date of entitlement to tax and to the limits of the qualified goods.

Source: Saudi Arabia; GCC – Saudi Arabia Amends Real Estate Transaction Tax Regulations, (August 30, 2022), News IBFD; Saudi Arabia Tax Agency Announces Rules for Developers to Claim VAT Refunds on Exempt Supplies, Bloomberg Law News, September 9, 2022; Saudi Arabia; GCC – Zakat, Tax and Customs Authority Opens Public Consultation on Proposed Zero VAT Rate for Supply of Eligible Military Goods, (September 16, 2022), News IBFD.

## South Africa: Overview of Recent Indirect Tax Developments

On August 25, 2022, the South African Revenue Service (SARS) published a [VAT reference guide](#) on foreign donor-funded projects. The guide deals with the following: introduction to a foreign donor-funded project, registration for VAT, eligibility of a foreign donor-funded project to register for VAT, the VAT treatment of foreign donor-funded project transactions, output tax, input tax and other deductions, and documentation and record-keeping requirements.

On August 31, 2022, the SARS published a [guidance](#) for the importation of goods, which covers the payment of VAT for goods imported for home consumption, the option to request deferment of payment of import duties and VAT, the VAT exemptions applicable to certain goods imported into South Africa, the security for the import VAT that may be required, the computation of import VAT, and circumstances under which SARS will refund import VAT by means of a General Application for Refund (CR1).

On September 9, 2022, the SARS launched a consultation on a [draft interpretation note](#) regarding the VAT treatment of debt collection activities. The draft interpretation note clarifies relevant definitions and legislative provisions and whether the debt collection costs and commissions under

an outsourced service level agreement constitute consideration under the VAT Act for the provision of debt collection services. The draft interpretation note further clarifies that VAT should apply to commissions paid for the provision of debt collection services and to amounts recovered and retained by the collector. Finally, the draft interpretation note includes guidance on the VAT recovery rules, including the prohibition against credit providers deducting VAT on in-house debt collection costs.

The SARS recently announced that it will hike tax-related interest rates with effect from November 1, 2022. From that date, the interest rate charged on outstanding taxes, duties, and levies, and interest rates payable in respect of refunds of tax on successful appeals, and certain delayed refunds is as follows: 8.25 percent for the period September 1, 2022 to October 31, 2022; and 9 percent for the period November 1, 2022, onwards.

Source: South Africa Tax Authority Publishes VAT Guide for Goods Imported into South Africa, (September 15, 2022), News IBFD; South Africa – South Africa Issues Draft Interpretation Note on VAT Tax Treatment of Debt Collection Activities, (September 15, 2022), News IBFD; CCH, Global VAT News & Features, South Africa Explains VAT Rules

For Debt Collection Services, (Sep. 15, 2022); South Africa Tax Agency Seeks Comments on VAT Treatment of Debt Collection Activities, Bloomberg Law News, September 14, 2022; South Africa – South Africa Publishes Guide

on VAT Treatment of Foreign Donor-Funded Projects, (September 14, 2022), News IBFD; CCH, Global VAT News & Features, South Africa Hikes Tax-Related Interest Rates, (Sep. 26, 2022).

## Ukraine: Overview of Recent Indirect Tax Developments

On August 25, 2022, Ukraine's State Fiscal Service (SFS) clarified that royalty payments for the right to use a trademark, without obtaining an ownership title to it, is not subject to VAT in Ukraine. However, if a payment made by a resident to a nonresident is not classified as royalty, the payment will be treated as compensation for services provided by the trademark owner. In that case, the services will be subject to VAT in Ukraine at the standard rate of 20 percent.

On August 31, 2022, the SFS clarified that transfers of goods, services, or fixed assets from one branch to another branch, from the parent company to one of its branches, or from one of the branches to the parent company are not subject to VAT because those transactions do not entail a change of title to the relevant goods or fixed assets. This rule applies if the parent company and its branches are registered and record their business activities.

On September 7, 2022, the SFS clarified that the VAT computation base for transactions involving the sale of goods or services should be determined based on their agreed (contractual) value. That value includes any amounts paid and the value of any tangible and intangible assets transferred to the taxpayer directly by the buyer or through any third party as compensation for the goods or services sold. It does not include fines and penalties imposed on a taxpayer by its counterparty in connection with the nonperformance or improper performance of contractual undertakings. However, if the goods are manufactured independently by the seller, the VAT base cannot be lower than the usual price for those goods. The usual price generally is the price defined by the parties to the contract. Unless proven otherwise, that

price corresponds to the market price for the relevant goods, works, or services.

On September 7, 2022, Ukraine issued Order No. 997, in which it approved the procedure for exempting imports of new equipment by residents of industrial parks from VAT and customs duties. The exemption applies only if the imported goods are unused and were manufactured within three years of importation, and only if the recipient does not rent out or transfer the equipment to third parties. To qualify for the exemption, the imported equipment must be used exclusively to carry out the following business activities in an industrial park: (1) the production of passenger cars (and their spare parts), trailers and semitrailers, motorcycles, vehicles intended for the transportation of 10 or more people, vehicles used to ship goods, and other products that are not subject to excise tax; (2) the processing and disposal of waste and recovery of materials; and (3) research and development activities.

On September 8, 2022, the Ukrainian Supreme Court published its decision in case No. [813/2930/16](#), in which it ruled that, for the purpose of deducting VAT, the performance of works by contractors may not be proved by documents alone. The tax authority must also analyze other facts and circumstances to check if certain activities were performed for the taxpayer. However, while taxpayers perform their commercial activities freely, taxpayers must act with reasonable caution when choosing contractors since the performance of contracts, receipt of profits and entitlement to certain tax benefits depend upon the chosen contractors. Therefore, if the taxpayer cannot prove that the work was effectively performed, the tax authorities may deny the right to deduct VAT on the related fee.



On September 9, 2022, the Ukrainian Supreme Court published its decision in case No. [815/7300/16](#), in which it ruled that a transaction could not be recognized as fictitious only on the ground that a VAT invoice was signed with an invalid e-signature. The tax authority should analyze whether there are tax violations in respect of such transactions during a documentary tax audit based on relevant primary documents used by the taxpayer for the tax and accounting purposes.

On September 28, 2022, the SFS clarified the registration obligations for nonresident digital services providers. (For KPMG's previous discussion on Ukraine's nonresident VAT digital services rules, click [here](#).) The SFS clarified that nonresident digital vendors without a permanent establishment in Ukraine are required to register for VAT in Ukraine if their sales exceed UAH 1 million (\$27,000) in a calendar year. In addition, persons that provide digital services under intermediary contracts (e.g., digital platforms) are liable to collect VAT on the underlying digital service instead of the underlying vendor. However, the following persons are not required to register for VAT: (1) persons that provide digital services under intermediary contracts if the list of digital services and their actual provider is specified in invoices

provided to the users of the digital services; (2) persons that strictly process payments for digital services and do not participate in the provision of those services; and (3) persons that provide digital services directly through a PE in Ukraine. The SFS further clarified that because of the suspension of deadlines during the period in which martial law is in effect, nonresidents that provide digital services in Ukraine and were required to register as VAT payers but failed to file a VAT registration request before March 31, 2022 are exempt from any liability under Ukraine's Tax Code for that noncompliance.

Source: Taxnotes, Ukrainian Tax Authority Issues VAT Guidance Letters, September 8, 2022; Taxnotes, Ukraine Clarifies VAT Treatment of Sales of Self-Made Goods, September 19, 2022; Taxnotes, Ukraine Clarifies VAT Registration Requirement, September 30, 2022; Taxnotes, Ukraine Approves Rules for New VAT, Customs Duty Exemptions, September 12, 2022; Ukraine - Supreme Court Rules Transaction Is Not Fictitious If Only VAT Invoice Is Invalid, (September 30, 2022), News IBFD; Ukraine - Supreme Court Rules Documents Are Not Enough to Prove Substance of Transactions In Order To Deduct Input VAT, (September 30, 2022), News IBFD.

## United Kingdom: Overview of Recent Indirect Tax Developments

On August 30, 2022, the UK tax authority (HMRC) clarified the VAT and duty reliefs on the import, withdrawal from warehouses, acquisitions, or purchases in the UK of goods and services by and for the use of visiting NATO forces, NATO headquarters and their personnel situated in the UK. The new [VAT Visiting Forces Relief Manual](#), which reflects HMRC's view of the relevant legislation, is intended to provide clear guidance to the HMRC staff.

On August 31, 2022, HMRC updated its [guidance](#) on deferring payments of import VAT, excise duties, and other obligations. Taxpayers can apply for a duty deferment

account to defer payment of duties and import VAT from the time of importation to the 15th of the month following the date of import. The updated guidance removes the comments about accounting for import VAT on a VAT return from January 1, 2021 and updates the postal address for the Customs Comprehensive Guarantee Team.

On September 7, 2022, HMRC published a [guidance](#), in which it clarified the procedure for non-UK VAT-registered agents to obtain a VAT agent reference number. In the UK, VAT-registered agents can use their VAT number as their agent reference number. This reference number is needed by agents that

deal with their clients' VAT, VAT Mini One Stop Shop (MOSS), Notification of Vehicle Arrivals (NOVA) or VAT EU Refunds. The guidance sets out the procedure to obtain an agent reference number and the action to take once it is set up. An agent needs to have a Government Gateway ID and password and must provide their name and address. Once the reference number has been provided, the agent must login to HMRC online services and enroll for the required tax services.

On September 23, 2022, the UK's Upper Tribunal (Tax and Chancery Chamber) published its decision in *Northside Fleet Ltd*, [UT-2021-000183](#), on whether a taxpayer may be denied a VAT refund for failing to verify the status of its vendors. In the case, the taxpayer was in the used car business. In the purchases at issue, the taxpayer bought cars from four vendors: Mohawk Trading, Instant Sales Ltd., KW Direct Ltd., and Donnelly Leasing Ltd. These sellers were all newly incorporated businesses and did not remit the VAT collected on their sales to HMRC. In April 2016, HMRC sent the taxpayer a letter outlining its possible involvement in VAT fraud and warning "in general terms of the possibility of becoming jointly and severally liable for VAT fraud perpetrated by customers." In another letter in 2017, HMRC outlined several sales that were directly linked to fraudulent transaction chains and informed the taxpayer that VAT recovery could be limited if it continued. The letter also warned that the director of the taxpayer should increase the due diligence he performed when working with new businesses. Despite the warnings, the taxpayer continued with business as usual. HMRC denied the taxpayer's VAT credits claimed for 2017 on the basis that the transactions in question were connected to the fraudulent evasion of VAT and the appellant either knew or should have known that that was the case. The taxpayer appealed this decision to the First-Tier Tribunal (FTT). Agreeing with HMRC, the

FTT ruled that if the taxpayer had conducted proper due diligence, the connection to VAT fraud would have been obvious and thus held that the VAT deduction was validly rejected. In its appeal to the Upper Tribunal (UT), the taxpayer argued that the FTT failed to accurately evaluate the company's knowledge regarding the potential VAT fraud risk and that the connection was tenuous and speculative in nature. The UT disagreed and dismissed the appeal. In its opinion, there does not have to be a single golden bullet that would show a trader they were involved in transactions connected to fraud. Instead, the facts need only show that the trader had the ability to acquire that knowledge and that the accumulated other factors were enough to demonstrate the involvement in a fraud scheme. The decision follows the standard set by the ECJ's decision in *Kittel*, [C-439/04](#) and [C-440/04](#), where the ECJ held that when a taxpayer knew or should have known it was involved in VAT fraud, the taxpayer will be considered a participant in the scheme regardless of whether it actively profited from the transactions because it became a working accomplice.

According to news reports, HMRC is set to announce another hike to tax-related interest rates, after the Bank of England announced another rate hike to combat inflation. At its meeting ending on September 21, 2022, the Bank of England's Monetary Policy Committee (MPC) voted to increase the bank rate by 0.5 percentage points, to 2.25 percent. With the latest hike to the central bank rate, HMRC is expected to confirm that the interest rate on late payments will rise to 4.75 percent.

Source: United Kingdom – United Kingdom New Guidance Clarifies VAT Relief for NATO Forces, (September 1, 2022), News IBD; United Kingdom – Tax Authorities Clarify Procedure for Obtaining VAT Agents Reference Number for Non-VAT Registered Agents, (September 12, 2022), News,

IBFD; United Kingdom Tax Agency Updates Guidance on Import VAT, Bloomberg Law News, September 6, 2022; Taxnotes, Dealership Denied VAT Credits Because

of Due Diligence Failure, September 26, 2022; CCH, Global VAT News & Features, UK Tax-Related Interest Rates To Rise Again,(Sep. 23, 2022).

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## Asia Pacific (ASPAC)

### New Zealand: Proposed Amendments to GST Law

On August 30, 2022, the New Zealand Minister of Revenue introduced the [Taxation \(Annual Rates for 2022–23, Platform Economy, and Remedial Matters\) Bill](#) to the New Zealand Parliament. If adopted the bill would extend the current GST collection requirements for electronic marketplaces facilitating the sale of remote services and low value goods to taxable accommodation, ridesharing, beverage, and food delivery services, effective April 1, 2024. In addition, the bill would introduce a flat-rate credit mechanism, which requires operators of electronic marketplaces to reduce the amount of GST payable to Inland Revenue by 8.5 percent of the value of accommodation and transportation services sold through the marketplace by vendors not registered for GST, and to pay that amount to those vendors to compensate them for the unrecoverable GST on their expenditures. Under the proposed regime, electronic marketplaces would be considered the seller of the listed services and be responsible for collecting and remitting the GST to the tax authority. For the underlying vendor, the sale of listed services sold through marketplaces would be considered as made to the marketplace and zero-rated for GST. The proposed amendments would allow large commercial enterprises providing taxable accommodation services to enter into agreements with marketplace operators that enable them to continue being responsible for their own GST

obligations. If the underlying vendor is already GST-registered, the vendor would be able to deduct GST incurred on their expenses in the usual way. If the underlying vendor is not registered for GST (e.g., because the seller does not meet the registration threshold), the vendor would be entitled to receive a flat rate credit of 8.5 percent of the value of the sale.

In addition, the bill proposes to impose GST on all legislative charges (i.e., government fees and levies imposed under statutes or regulations, other than fines, penalties, interest, and general taxes), effective July 1, 2023 for legislative charges coming into force thereafter and effective July 1, 2026 for all other legislative charges. Further, the bill would amend the GST apportionment and adjustment rules to allow (1) GST-registered persons to elect to treat certain assets that have mainly private or GST-exempt uses as having only private or exempt uses and (2) a full GST deduction for an asset acquired principally for business purposes if it costs no more than NZD 10,000 (\$ 5,583.65). Moreover, the bill proposes to implement the OECD Model Rules for Reporting by Platform Operators (MRR). (For KPMG's previous discussion of the OECD's MRR, please click [here](#).) According to the bill, the reporting will apply to specified activities of sellers using the New Zealand digital platform. The specified activities are the provision of commercial, short stay or visitor accommodation;

personal services; the sale of goods; and vehicle rentals. To read a report prepared by the KPMG International member firm in New Zealand, please click [here](#).

Source: New Zealand -Government Introduces Wide-Ranging Tax Bill into Parliament,

## New Zealand: Guidance on New GST Invoicing Rules

On September 12, 2022, the New Zealand Inland Revenue [clarified](#) changes to the GST invoicing rules and recordkeeping requirements that became effective from March 30, 2022. Previously taxpayers were required to keep a tax invoice to claim GST on any sales costing more than NZD 50 (including GST) that were bought for taxable activity. Taxpayers must still keep records to support an expense claim, including a tax invoice if received. However, if a tax invoice is not provided, other records can be kept that are sufficient on their own, or in combination, to support an expense claim, such as invoices, seller agreements, contracts, and bank statements. Sellers still need to produce tax invoices for sales costing more than NZD 50 (\$ 27.90) (including GST) until March 31, 2023. Copies of tax invoices no longer need to be marked as “copy only.”

In addition, current guidance requires a taxpayer desiring to issue buyer-created tax invoices to secure Inland Revenue’s approval prior to issuance. Under the revision, approval is no longer required. Instead, any GST-registered buyer purchasing from a GST-registered seller can enter into an agreement to use buyer-created tax invoices. Both parties must (1) agree the seller will not issue tax invoices for taxable sales included in the agreement; (2) agree the buyer will issue a tax invoice for each taxable sale by the seller to the buyer; and (3) record the reasons for entering the agreement for buyer-created tax invoices (if the agreement is not part of the normal terms of business between the buyer and seller). Further, taxpayers already using approved buyer-created tax invoices can continue to use them. Taxpayers currently issuing buyer-

(September 1, 2022), News IBFD; Digital Platforms and GST—Significant New Zealand Developments, Bloomberg Law News, September 16, 2022; CCH, Global VAT News & Features, New Zealand Tables Annual Tax Bill (September 1, 2022).

created tax invoices no longer need to include the wording “buyer created tax invoice – IRD approved” on invoices.

In addition, the new rules allow two or more registered persons to form seller groups so they can issue “shared tax invoices” for GST purposes. Seller groups are not the same as GST groups. Members of seller groups enter into an agreement stating one member of the group will issue tax invoices, credit notes, and debit notes on behalf of the other members. The member responsible for issuing tax invoices, credit notes and debit notes is called the “issuing member.” To form a seller group, there must be two or more registered persons, which are not part of the same GST group. The members must agree the issuing member will issue tax invoices, credit notes, and debit notes for each sale of goods and services made by a member of the group, and no other member of the group can issue tax invoices, credit notes, or debit notes. The agreement must be in writing and include each member’s name (or trade name), address, and GST number. If the reason for entering the agreement is not part of the members’ normal terms of business, each member must also record why they have entered the agreement. Effective March 30, 2022, a member of a GST group can use either the representative member’s or their own registration number on tax invoices they issue.

Source: CCH, Global VAT News & Features, New Zealand IRD Explains New GST Invoicing Rules (September 15, 2022); New Zealand Tax Agency Explains Modernized GST Invoicing Rules and Recordkeeping Requirements, Bloomberg Law News, September 15, 2022.

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### Canada: New Customs Importer of Record Rules

On June 23, 2022, Canada adopted Bill C-19, which clarifies that certain businesses that now qualify as the “importer of record,” a newly defined term, may be liable to pay duties and taxes on e-commerce goods, along with the owner of the goods at the time of release, and the importer or person authorized to pay the duties. The importer of record is defined as the person identified as the importer when the goods are accounted for under the Customs Act (i.e., generally when import duties and taxes are calculated and paid). As a result, the intermediaries and third-party logistics providers that qualify as importers of record will also be liable for duties and taxes payable at the time of customs accounting or from post-entry audit reassessments on certain shipments. These rules are scheduled to come into force on a date to be fixed by order of the Governor in Council.

The effect of the bill is that Canadian and foreign intermediaries and third-party logistics providers that assist with the imports of e-commerce goods into Canada may be jointly and severally liable to pay duties and taxes on these shipments. As a result, businesses may see an increase in post-entry compliance verifications, particularly around the valuation of imported goods. Intermediaries and third-party logistics providers may also see such an increase in post-entry reviews, even for transactions in which they are not directly involved. In addition, these changes may create greater uncertainty regarding which party (i.e., the importer, owner or intermediary) may be entitled to obtain refunds and credits for duties and taxes paid. To read a report prepared by the KPMG International member firm in Canada, please click [here](#).

### European Union: Proposal to ban products made with forced labor from the EU market

On September 14, 2022, the Commission of the European Union [proposed](#) to prohibit products made with forced labor into the EU market. The proposal covers all products, namely those made in the EU for domestic consumption and export, as well as imported goods, without targeting specific companies or industries. The proposal builds on internationally agreed definitions and standards and underlines the importance of close cooperation with global partners. National authorities will be empowered to withdraw products made with forced labor from the EU market, following an investigation. EU customs authorities will identify and stop products made with forced labor at EU borders.

According to the proposal, national authorities in the Member States will implement the prohibition through a robust, risk-based enforcement approach. In a preliminary phase,

they will assess forced labor risks based on a variety of information sources designed help focus their efforts. The authorities will start investigations on products for which there are well-founded suspicions they have been made with forced labor. They can request information from companies and carry out checks and inspections, including in countries outside the EU. If national authorities find forced labor, they will order the withdrawal of the products already placed on the market and prohibit further placement or export of the products. Companies will be required to dispose of the goods. Member States customs authorities will oversee enforcement at the EU borders. The proposal must be approved by the European Parliament and the Council of the European Union before it can enter into force. It will apply 24 months after its entry into force. For more information, click [here](#).

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# In Brief

- **Angola:**<sup>xxii</sup> Effective July 23, 2022, Angola introduced a new special tax regime for the province of Cabinda. Among other things, the special tax regime provides for the applying VAT at a special rate of 2 percent (instead of the standard VAT rate of 14 percent) on the provision of port services and public water distribution and a special VAT rate of 1 percent on the import and distribution of food products.
- **Anguilla:**<sup>xxiii</sup> On September 12, 2022, the Anguillan tax authority [reminded](#) retailers using the temporary arrangement allowing them to display prices exclusive of the GST to display prices inclusive of GST effective November 1, 2022.
- **Australia:**<sup>xxiv</sup> On September 7, 2022, the Australian Taxation Office (ATO) [reminded](#) taxpayers to regularly review their Input Tax Credit (ITC) estimator practices to minimize the risk of overclaiming GST credits which can lead to penalty and interest assessments. Based on recent reviews, the ATO has identified many instances of risk and errors, and it is critical that the use of an ITC estimator is subject to appropriate controls. An ITC estimator is a general term for any methodology used to estimate GST credits for unprocessed tax invoices. The notice reminds taxpayers to review all the [ITC estimator requirements](#) to ensure they report correctly and avoid penalties for overclaiming GST credits.
- **Bahamas:**<sup>xxv</sup> On July 29, 2022, the Bahamian Department of Revenue (DIR) issued [S.I. No. 74/2022](#) on the VAT rules for withholding agents for 2022 effective August 1, 2022. The rules include define key terms, specify the VAT withholding threshold of BHD 10,000 (\$10,000) regardless of whether the seller is VAT registered, establish procedures for registering withholding agents, require withholding agents to withhold 40 percent of VAT when paying seller regardless of whether a seller included VAT in the price or is VAT registered, specify remittance requirements for withholding agents, describe record keeping and return filing requirements, explain assessment and refund procedures, and provide various declarations, forms, and certificates.
- **Bahamas:**<sup>xxvi</sup> On September 23, 2022, the DIR released a VAT guidance for Yacht Charters clarifying that all foreign entities offering sailing services in Bahamian waters must be registered for VAT and charge VAT on yacht charters sailing within the Bahamas. According to the new guidance, registrants will be guided through the process of setting up their login credentials at [vat.revenue.gov.bs](#), the DIR's Online Tax Administration System (OTAS). Taxpayers may also utilize the portal for their VAT compliance. The guidance is effective retroactive to July 1, 2022.
- **Bahrain:**<sup>xxvii</sup> The Bahraini Tender Board released a [tender document](#) inviting vendors to submit proposals to assist the National Bureau for Revenue (NBR) introduce e-invoicing. The tender closed on September 21, 2022.
- **Belgium:**<sup>xxviii</sup> On September 23, 2022, the Belgian Council of Ministers [announced](#) approval of a bill to implement the DAC7 requirements into domestic law. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023.

- Bulgaria:**<sup>xxxix</sup> On September 5, 2022, the Bulgarian Ministry of Finance launched a consultation on a [draft bill](#) to harmonize domestic VAT rules with the EU VAT Directive and with decisions of the ECJ. The bill includes measures that would implement [EU Council Directive 2020/284](#) requiring payment service providers to keep sufficiently detailed records of payees and of cross-border payments for each calendar quarter to aid VAT enforcement. In addition, in response to the decision of the ECJ in *UniCredit Leasing, Case C-242/18* (July 3, 2019), the bill proposes to change the VAT treatment of bad debts. The changes are intended to ensure, where appropriate, that businesses can adjust the VAT that must be remitted to the tax authority when a debtor defaults. The proposed changes stipulate the conditions that must be met for a debt to be rewritten off as a bad debt for VAT purposes, including that a credit note should be issued to the debtor, except when the debtor is announced bankrupt or after the conclusion of liquidation proceedings. A debt would be considered uncollectible if not collected within 730 days of the expiration of the payment term. However, an adjustment would not be permitted when the claim is transferred for consideration. The bill would also implement a mechanism for non-EU vendors selling goods in Bulgaria to non-EU countries to claim a VAT exemption on the exports.
- Bulgaria:**<sup>xxx</sup> On October 1, 2022, the Bulgarian tax authority announced that it will assign new VAT identification numbers to nonresident natural persons who are registered for VAT in Bulgaria. Effective January 4, 2022, the Bulgarian tax authority changed the rules regarding the assignment of VAT numbers to natural persons registered for VAT. Individuals entered in the companies' register will now be assigned a new nine-digit VAT number, rather than a 10-digit one. The new number (e.g., BG123456789) replaces the existing 10-digit number that featured individual's personal taxpayer number (PIN). The change is intended to protect the personal data of the individual in business. Under prior guidance, taxpayers that were already assigned a VAT number were to retain such, but were allowed to request a change to the new format. The tax authority now clarified it will provide new VAT numbers to nonresident taxpayers that still have a VAT identification number that includes a personal number.
- Chile:**<sup>xxxi</sup> On August 31, 2022, the Chilean tax authority (IRS) issued [Letter No. 2644](#), in which it clarified the VAT treatment of payment collection and dispersion services. In the case, a Chilean company that is not a bank or a bank transfer support company provides a payment solution platform that allows different payment transactions through bank transfers, cash, and credit or debit card processing. The company sought clarification on the VAT treatment of those services. The IRS clarified that the company qualifies as a business agency, since it provides not merely payment collection services, but also offers features that facilitate its clients' commercial relationships with customers, including managing refunds. Income earned on business agency services is subject to VAT.
- Chile:**<sup>xxxii</sup> On September 7, 2022, the Chilean tax authority (IRS) issued [Letter No. 2722](#), in which it clarified the VAT treatment of the sale of a fixed asset. In the case, a company carrying out real estate activities with owned or leased assets sought clarification as to whether VAT would apply to the sale of a fixed asset that it acquired in 1989. The IRS clarified that VAT did not apply to the sale because the seller's regular course of business does not involve the sale of fixed assets, and the seller acquired the property to use it as a rental property, not with the intention of resale.
- Chile:**<sup>xxxiii</sup> On September 12, 2022, the IRS issued [Letter No.2768](#), in which it clarified the VAT and income tax treatment for books sold under a co-publishing contract. In the case, a writer entered into a co-publishing contract and sought clarification as to the VAT and income tax treatment and invoicing requirements for the books he sold directly and for

those sold by the publisher. The IRS clarified that for direct sales of books to the public, the author must issue sales receipts (or invoices to VAT taxpayers). Moreover, the writer must issue electronic fee receipts for the income he obtained from the publisher as royalties on the rights of reproduction, distribution, and sale, because such income is generated from the exercise of a profitable occupation.

- **Costa Rica:**<sup>xxxiv</sup> On September 1, 2022, Costa Rica launched a public consultation on a draft decree that would apply the general VAT collection rules to taxpayers that import beer. Currently, VAT resulting from the importation of beer is collected at the level of the distributor or the wholesaler, which is a mechanism that originated from Costa Rica's previous sales tax rules applicable before the shift to the VAT system. The new draft decree proposes application of the general VAT collection rules on the importation and commercialization of beer to avoid distortions in Costa Rica's VAT system.
- **Croatia:**<sup>xxxv</sup> On August 16, 2022, Croatia published a [draft law](#) to implement the DAC 7 requirements into Croatian law. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodations, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023.
- **Croatia:**<sup>xxxvi</sup> On April 21, 2022, the Croatian tax authority [clarified](#) the VAT obligations for photovoltaic power plant construction services. In the case, the taxpayer sought clarification on whether the customer should be liable to self-assess VAT under the reverse charge mechanism when invoicing the construction of photovoltaic power generators. The tax authority confirmed that the construction of photovoltaic power plants qualifies for the reverse charge mechanism. However, the reverse charge mechanism does not apply to individual services for the shipment of equipment, training of personnel to use the systems, delivery of instructions, creation of service plans, or repairs.
- **Egypt:**<sup>xxxvii</sup> On August 23, 2022, Egypt [announced](#) that (1) effective December 1, 2022, contracts and payments with all the governmental bodies/authorities and governmental corporations shall be limited to those registered under the e-invoicing regime, (2) effective April 1, 2023, taxpayers will be required to be in possession of an e-invoice to be allowed to credit VAT incurred on expenditures or request a VAT refund, and no company is allowed to import, export, dealing with the custom regime, unless it is registered under the e-invoicing regime. Taxpayers are required to apply for e-invoicing by December 15, 2022.
- **Egypt:**<sup>xxxviii</sup> Egypt recently published Law No. 3 of 2022, which exempts manufactured foodstuffs; water purification, sanitation, and desalination services; pharmaceutical products (and their inputs) and purchases used to produce paper; vaccines, blood and its derivatives, family planning tools, sewage services (charged to water bills); and international maritime shipping services (not including tourist transport) from VAT. The Law further exempts purchases of goods and services made to businesses established in special economic zones from VAT. Moreover, the Law defines the VAT treatment of digital transactions, the VAT obligations for nonresident persons conducting e-commerce transactions with Egypt-based clients and the simplification of their registration for VAT purposes. Finally, the Law establishes a VAT refund procedure for goods purchased by nonresident individuals staying in Egypt for a maximum period of 3 months. The minimum amount of purchase per invoice is EGP 1,500 (\$76). All purchased goods must be exported with the nonresident individuals to benefit from the refund.



- **European Union:**<sup>xxxix</sup> On September 5, 2022, the European Union published [Commission Implementing Regulation \(EU\) 2022/1467](#) amending the [DAC 7 Implementing Regulation](#) regarding the standard forms and computerized formats and the list of statistical data to be provided by Member States for the purposes of evaluating DAC 7. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodations, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023.
- **European Union:**<sup>xl</sup> On September 13, 2022, the EU published [Commission Implementing Regulation \(EU\) 2022/1504](#) establishing the detailed rules for implementation of the [Central Electronic System of Payment information \(CESOP\)](#) to centralize the data gathered by payment service providers (PSPs) under the new [PSP reporting rules](#). The PSP reporting rules, effective January 1, 2024, require EU-established 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 State administrations. This information is intended to be centralized in a European database, the CESOP.
- **Finland:**<sup>xli</sup> On August 25, 2022, the Finnish tax authority updated [Guide No. VH/5523/00.01.00/2021](#), which explains the VAT procedures for importation. The updates to the guide include information on initial delivery, the definition of re-export, information on the zero-rating for unloading and loading costs and shipping costs, clarifications of the computation of the tax base for exempt imports and on the declaration of self-assessed taxes, and guidance on special procedures the tax authority may take regarding importers that have committed, or likely will commit, misconduct.
- **France:**<sup>xlii</sup> On August 17, 2022, France published [Amending Finance Law for 2022 \(Law 2022-1157\)](#), which confirms the gradual implementation of the e-invoicing and e-reporting requirements effective July 1, 2024. To read KPMG's previous discussion of France's e-invoicing requirements, please click [here](#).
- **France:**<sup>xliii</sup> On September 12, 2022, the French Finance Minister announced a proposal to phase out the tax on industrial production (*Cotisation sur la Valeur Ajoutée des Entreprises* – CVAE) over two years. The CVAE is one component of the territorial economic contribution (*Contribution Economique Territoriale* – CET) and currently applies on a company's gross receipts at progressive rates of up to 0.75 percent. The announcement follows a 50 percent reduction of the CVAE rates as part of the Finance Law for 2021. To be subject to the tax, a company must have annual revenues greater than EUR 152,500 (\$147,598). The other component of the CET is the company real estate (land) contribution (*Contribution Foncière des Entreprises* – CFE), which will remain in place.
- **Jordan:**<sup>xliv</sup> On September 1, 2022, the Jordanian Council of Ministers approved amendments to the sales tax regime. The amendments include extending the definition of sale, a redefinition of the territorial scope, clarification of the concept of warehouse, and clarification of the place and time of delivery. In addition, the amendments reduce the period for filing a refund claim from 3 months to 30 days from the date of submission of the refund application.

- **Kazakhstan:**<sup>xlv</sup> On September 5, 2022, the Kazakh parliament accepted for consideration a [bill](#), which would shorten the period for claiming a VAT refund from 155 days to 75 days, impose VAT on temporarily imported goods that remain in Kazakhstan after two years from the date of import, amend deadlines for issuing e-invoices on the sale of imported goods, and amend the excise tax rates on alcohol.
- **Kosovo:**<sup>xlvi</sup> On September 6, 2022, the Kosovan tax authority published [Public Explanatory Decision No. 03/2019](#) on the VAT self-assessment mechanism for construction services, which became effective from January 1, 2022. The decision clarifies that all construction services provided between taxpayers after the date of the decision are subject to the VAT self-assessment mechanism, regardless of the date of the contract. The Decision further includes (1) definitions of taxpayers and services subject to the rules, (2) procedures for separately charging VAT, (3) clarifications on the application of the VAT self-assessment mechanism on mixed sales of goods and services, (4) procedures and conditions for VAT adjustment when self-assessment does not apply, and (5) compliance requirements (e.g., invoicing, declaration, and payment).
- **Latvia:**<sup>xlvii</sup> On August 24, 2022, the Latvian State Revenue (LSR) published [guidance](#) on the VAT treatment, including sourcing and registration of various transactions involving the domestic, intra-EU, and international sale of goods. The guidance also covers special tax regimes such as those for farmers, construction services, secondhand goods, artwork, collectibles, antiques, electronics, timber, scrap metal, and related services.
- **Latvia:**<sup>xlviii</sup> On August 23, 2022, the LSR published [guidance](#) on sourcing services related to real estate, confirming that, in general, real estate-related services are taxable where the real estate is located. The guidance further includes a list of services to which the general rule does not apply, and examples for determining the sourcing of such services.
- **Latvia:**<sup>xlix</sup> On August 26, 2022, the LSR published [guidance](#) on the classification and reporting of transactions involving the export of goods or services. The guidance covers the definition of “export of goods” under the VAT law, instructions for determining whether goods or services are being exported based on contract terms, procedures for declaring export of goods and services on the VAT declaration, and the conditions for applying the zero-rating to exports of goods and services.
- **Lithuania:**<sup>l</sup> On September 7, 2022, Lithuania proposed a [draft law](#) which would implement the DAC 7 requirements into domestic law. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodations, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023. In addition, the draft law would double the range of penalties for breaching tax laws to 20 – 100 percent of the calculated tax amount and require that the rate of interest calculated on tax overpayments that were not returned by the taxpayer on time be the same as interest paid under tax loan agreements. Finally, the draft law would provide that information concerning the facts of a tax investigation and/or tax audit would not be considered confidential.
- **Luxembourg:**<sup>li</sup> On September 26, 2022, the European Commission [authorized](#) Luxembourg to extend application of a higher VAT registration threshold of EUR 35,000 (\$33,986) through December 31, 2024.

- **Malaysia:**<sup>lii</sup> On September 1, 2022, Malaysia published [Order No. P.U.\(A\)277/2022](#) amending the exemption from sales tax registration rules for specific manufacturers. The order includes measures exempting manufacturers who operate only one manufacturing operation in a manufacturing chain producing specified taxable goods irrespective of their sales amounts and manufacturers who operate more than one manufacturing operation in a manufacturing chain producing specified taxable goods when the manufacturing operation does not relate to the production of goods from sales tax registration. The order further includes amendments to the list of operations exempted from sales tax registration.
- **Malta:**<sup>liii</sup> On September 14, 2022, Malta published new VAT regulations, which increase the interest rate for unpaid tax from 0.33 percent to 0.6 percent per month effective September 1, 2022. However, balances of tax that became payable by taxpayers prior to that date remaining subject to the 0.33 percent rate.
- **Mauritius:**<sup>liv</sup> On August 2, 2022, Mauritius published the [Finance \(Miscellaneous Provisions\) Act 2022](#), which includes (1) introduction of an e-invoicing mandate, (2) authorizing the tax authority to compulsorily VAT register a taxpayer fails to apply VAT registration; (3) re-introduction of VAT withholding by public agency sector from payments made to a registered person in respect of goods and services specified; and (4) introduction of a VAT refund mechanism for small farmer's associations on purchases of equipment and services applicable to a planter or a horticulturist, provided their annual gross receipts does not exceed MUR 10 million (\$219,265).
- **Mauritius:**<sup>lv</sup> On August 30, 2022, the Mauritius Revenue Authority (MRA) issued [VAT Ruling No. 101](#), in which it clarified the VAT treatment of franchise fees and intellectual property transfers to foreign related entities. The MRA clarified that franchise fees for the right to use IP are zero-rated services and that loans between same-group entities are exempt from VAT. A transfer of IP to a foreign company and to a domestic company that is mainly engaged in providing services to foreign entities is zero-rated. The MRA further clarified that a franchise fee allocation paid to a foreign company for services performed outside Mauritius is not subject to VAT in Mauritius. Finally, the MRA held that the taxpayer can claim a credit for excess VAT paid on expenditures.
- **Moldova:**<sup>lvi</sup> On August 23, 2022, the Moldovan State Tax Service (STS) clarified the documentation required to deduct the VAT incurred on expenses paid with business credit cards. According to the STS, expenses not supported by documents but paid by business credit cards may be deducted from a corporate income tax perspective if these expenses are incurred as ordinary and necessary business expenses. However, for VAT purposes, the VAT amount incurred is deductible only for expenses supported by one of the following: tax invoice for goods and services purchased; proof of payment of VAT to the budget for purchase of pledged, mortgaged, sequestered property or for assets of business entities declared insolvent; or a document issued by customs authorities confirming the payment of VAT on imported goods.
- **Moldova:**<sup>lvii</sup> On August 24, 2022, the STS clarified that e-services provided by a nonresident under a franchise agreement are subject to VAT in Moldova. According to the STS, the VAT regime applicable to services provided by nonresidents to a resident of Moldova is determined according to where the services are sourced. The sourcing of services for transferring industrial property, as well as those related to copyrights and related rights, is the head office of the buyer, or the domicile or residence of the beneficiary of services in the absence of a head office. Therefore, e-services provided by a nonresident under a franchise agreement will be regarded as imported services and will be subject to VAT at a rate of 20 percent.

- **Netherlands:**<sup>lviii</sup> On September 15, 2022, the Dutch government published amendments to the bill currently under consideration by the Parliament to implement the DAC 7 requirements. Under DAC 7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodations, personal services, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The new rules will cover digital platforms located both inside and outside the EU and will apply from January 1, 2023. The amendments clarify that when a reporting digital platform operator is located within an EU Member State, no reporting obligation for that operator shall exist in another Member State. The amendments further add language to the proposed bill that implements several provisions of the OECD MRR relating to (1) the determination of where the reporting seller is located; (2) which information on the reporting seller must be collected, verified, and reported into domestic law as these differ slightly from the DAC7 rules; and (3) insert a new article into the General Tax Act that also imposes the reporting obligations under DAC 7 on purely domestic situations.
- **Oman:**<sup>lix</sup> On August 24, 2022, the Omani tax authority published a [VAT guide for e-commerce transactions](#). The guide addresses the VAT registration requirements for nonresident sellers. It defines e-commerce as any sale (or import) of goods and services made by way of electronic means, including web pages, electronic platforms or stores, social media, and apps. For VAT purposes, the website, electronic market, and similar entities providing e-commerce will be regarded as agents or intermediaries facilitating the sale of goods and services from sellers to customers. Nonresident taxpayers are required to register for VAT if they provide digital services to consumers in Oman, regardless of the sales amount. This obligation does not apply for goods that are delivered to customers where the place of delivery is where the shipment of the goods starts. The guide further explains the VAT deduction rules, record-keeping requirements, and VAT invoicing rules.
- **OECD:**<sup>lx</sup> On September 21, 2022, the Organization for Economic Cooperation and Development (OECD) released [the Tax Policy Reforms 2022 OECD and Selected Partner Economies](#), a report providing information on tax policy reforms that were introduced or announced in 71 member jurisdictions of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting during calendar year 2021. The report notes that consumption taxes remain a major source of revenue in most countries; further, standard VAT rates continue to stabilize as they remained at the same level in 2020 and 2021 in all but three countries for which data were collected. Several countries reversed temporary expansions in the scope of reduced VAT rates that were introduced in 2020 as a response to the pandemic. Moreover, VAT registration thresholds have been increased in several countries as a means of reducing VAT compliance burdens in the aftermath of the pandemic. Countries further are continuing to make progress in ensuring the effective taxation of online sales of goods, services, and intangibles. The report further addresses excise duty increases, environmental taxes, carbon pricing mechanisms, reforms to vehicle taxes, and recent trends suggesting a growing interest in taxes on plastic.
- **OECD:**<sup>lxi</sup> On September 28, 2022, the OECD released the “Tax Administration 3.0 and Electronic Invoicing” initial findings [report](#) as part of a project that explores possible stepping stones to the tax administrations of the future. The report examines the current state of play on e-invoicing based on a global survey and case studies. The global survey included responses from 71 tax administrations. The initial aim of the project was to look at the possibilities for global standardization of e-invoicing. However, it concluded that standardization among the countries now employing e-invoicing could not realistically be achieved in the near term.

- **Papua New Guinea:**<sup>lxii</sup> On September 9, 2022, the Papua New Guinean Internal Revenue Commission issued a [notice](#) explaining the accepted methods for submitting a claim for a GST credit offset or GST credit refund. It clarified that taxpayers may submit a claim for offset or refund through (a) regional or provisional offices (b) the service counter at the headquarters, or (c) by email. The notice also lists the documents that must be included with the claims. The notice does not apply to Large Taxpayer Office (LTO) taxpayers.
- **Poland:**<sup>lxiii</sup> On September 20, 2022, Poland published a notice to raise the interest rates on overdue tax payments by 3.125 percent. Therefore, the reduced rate is 8.25 percent per year, the standard rate is 16.5 percent per year, and the increased rate is 24.75 percent per year.
- **Romania:**<sup>lxiv</sup> On September 9, 2022, Romania enacted a [law](#) that amends the procedure for issuing VAT certificates for intra-EU acquisitions of vehicles by entities not registered for VAT purposes. The law requires persons registering a vehicle to provide the appropriate authorities with a certificate issued by the tax authority (either confirming the fact that VAT was duly paid on the intra-EU acquisition of vehicles or confirming that no VAT is due). The legislation updates the procedure, introduces a standard form for the request to be submitted by taxpayers, and abolishes the previous procedure outlining the steps required to obtain the certificate.
- **Slovenia:**<sup>lxv</sup> On September 6, 2022, the Slovenian tax authority [published](#) a VAT guide with additional FAQs on emergency measures implemented due to increased energy prices. The new FAQs include that the reduced 9.5 percent VAT rate applies to district heating services included under the classification code for steam and hot water, regardless of the energy source; the reduced 9.5 percent VAT rate applies to firewood; the general 22 percent VAT rate applies to household gas in cylinders that consists of propane or a propane-butane mixture; and the general 22 percent VAT rate applies to chipboards, district cooling, coal briquettes, and flat-rate business costs on electricity bills.
- **Uzbekistan:**<sup>lxvi</sup> The Uzbek State Tax Committee recently clarified that taxpayers who are not required to register for VAT may register voluntarily. Voluntary registrants are required to start paying VAT from the beginning of the month after the month in which the request to register was filed. The tax authority may approve or deny a request based on certain conditions.

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# About *Inside Indirect Tax*

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