Global Indirect Tax News

Your reference for indirect tax and global trade matters

Welcome to the July 2017 edition of GITN, covering updates from the Americas, Asia Pacific and EMEA regions.

Features of this edition include the introduction of GST in India on 1 July, an update on VAT implementation in the Gulf Cooperation Council, the announcement by the EU and Japan of political agreement on a bilateral Free Trade Agreement, a proposal to implement the EU voucher directive in the Netherlands, and the introduction in Spain of the Immediate Information Supply (SII) on 1 July 2017.

The 2017 version of the Deloitte European VAT Refund Guide is now available. The Guide provides insight on the rules and how to go about the required procedures for reclaiming VAT in 31 European countries.

David Raistrick
Deloitte Global Leader – Indirect Tax

In this edition of GITN:

Country summaries
Americas
Asia Pacific
EMEA
Eurasian Economic Union
Contacts

Back to top

Country summaries

Americas

Colombia	The tax authorities have concluded that cellphones and tablets are VAT excluded, if their value is lower than 22 Tax Value Units (UVT in Spanish) (approximately USD $250). The tax authorities have enacted a new resolution, which includes the new form to file and pay the new national Carbon Tax. The form is now available on the tax authorities' webpage. The tax authorities have published general guidelines related to tariff preferences of the North America Free Trade Agreement. The Trade Ministry has set the tariff charge at 5% for hybrid cars and 0% for electric cars, based on the annual number of vehicles imported.	**Read More**
United States	Ohio: A new law expands the 'substantial nexus' presumption to include a USD 500,000 gross receipts threshold. Washington: The Governor is expected to sign a Bill with expanded economic nexus provisions, as well as information reporting and notice requirements on some remote sellers, including marketplace facilitators.	**Read More**

Asia Pacific

China	A circular has been issued clarifying VAT rules regarding asset management, with a 1 January 2018 implementation date (delaying the initial live date of 1 July 2017). The Customs Clearance Integration Reform has been rolled out nationwide.	**Read More**
India	On 1 July 2017, the GST entered into force in India.	**Read More**

Japan-EU	Japan and the EU have announced that the two trading powers have reached a general political agreement on the EU-Japan Free Trade Agreement.	**Read More**
Malaysia	The Goods and Services Tax (Zero-Rated Supply) 2014 has been amended. The Royal Malaysian Customs Department (RMCD) has provided guidelines on the rounding of decimal points for GST. The RMCD has launched an audit operation to improve GST compliance. There is an update on the proposed Tourism Tax.	**Read More**

EMEA

EU-Japan	Japan and the EU have announced that the two trading powers have reached a general political agreement on the EU-Japan Free Trade Agreement.	**Read More**
EU	The European Commission has issued an implementing regulation to amend the Union Customs Code Implementing Act.	**Read More**
Cyprus	The Cyprus Tax Authorities will soon introduce the electronic transfer of VAT repayments to taxable persons via bank transfer. The Cyprus Tax Authorities have issued a notification providing details of when the law regulating the settlement of overdue taxes will enter into force, the periods covered by the scheme, and the discounts to be provided.	**Read More**
Finland	The value added taxation of imports will be transferred from Finnish Customs to the Tax Administration as of 1 January 2018.	**Read More**
GCC	There is an update on VAT implementation.	**Read More**

	The GAZT in KSA has published a new user manual for excise tax registration. Excise tax came into force in KSA on 11 June 2017.	
Italy	There are new terms regarding the right to VAT deduction. There have been changes to the VAT credit offsetting with other taxes. There have been changes to the split payment mechanism. A new TR form has been approved. There is further clarification regarding the periodical e-submission of invoices issued/received. The electronic accounting ledger will be available for certain excise purposes. Guidelines have been issued in relation to excise controls on certain energy products. Certain current tax litigation will apply to the customs field.	**Read More**
Latvia	There are proposed amendments to the VAT law relating to the VAT registration threshold and the domestic reverse charge mechanism. The threshold for reporting each tax invoice separately in VAT return appendices PVN1-I (input VAT on local acquisition) and PVN1-III (output VAT on supplies) has been reduced to EUR 150.	**Read More**
Netherlands	The Government has released a proposal to implement the EU voucher directive. The European Commission's opinion has confirmed the point of view of the Dutch Government on the VAT treatment of management services to Defined Benefit and Defined Contribution pension funds.	**Read More**

Poland	The tax authorities have started verifying SAF-T files submitted by taxpayers on a mandatory monthly basis. A voluntary VAT split payment mechanism has been proposed. The Ministry of Finance is developing standards on the due diligence of suppliers. From the July 2017 Intrastat reporting period there will be a new box in the Intrastat return.	**Read More**
Portugal	A decree has been published to regulate the procedures and time limits applicable to taxpayers intending to apply the reverse charge mechanism for VAT due on the importation of goods. The periodic VAT return form has been updated. There has been a Supreme Administrative Court judgment on the legal deadline to review the *pro rata* VAT deduction percentage. The technical specifications have been issued for the VAT exemption for acquisitions by non-EU-residents (tax free).	**Read More**
Russia	The Ministry of Finance has clarified the procedure for VAT payment with respect to e-services rendered by a foreign company to Russian legal entities and private entrepreneurs. Mail.Ru Group has received confirmation from the tax authorities that additional content revenues are eligible for VAT exemption. The federal law on the introduction of VAT exemption for the lease of medical devices has been signed by the President.	**Read More**

	The Ministry of Finance has clarified the VAT treatment of goods exported under retail sales agreements. The application of the 10% VAT rate for domestic flights may be extended to 31 December 2020, and a group of experts is considering the application of a 0% VAT rate. The embargo on the import of certain foods has been extended to 2019.	
South Africa	There has been an application for a reduction in the rate of customs duty on digital smart cards.	Read More
Spain	The application of the reduced VAT rate (10%) has been extended. The Immediate Information Supply (SII) came into force on 1 July 2017.	Read More
United Kingdom	VAT alignment period claims have been rejected by the CJEU. A Tribunal has ruled that car park overpayments are subject to VAT. A Tribunal has ruled that con-counting machines are exempt from VAT.	Read More
Eurasian Economic Union	There has been a decrease in the rates of import customs duty for certain goods. Unified quarantine phytosanitary requirements have been introduced for the EEU.	Read More

Back to top

Americas

Colombia

VAT exclusion rule for tablets and cellphones

The tax authorities have issued an official concept concluding that cellphones and tablets are currently VAT excluded, if their value is lower than 22 Tax Value Units (UVT in Spanish), which corresponds to approximately USD 250.

However, the tax authorities also noted that the value to be taken into account, in order to apply the VAT exclusion, is the customs value, when the ongoing operation is an import, and the sales value, when it is a local sale.

New form to submit Carbon Tax return available on tax authorities' webpage

By means of a resolution, the tax authorities have introduced form 435, which is already available on the tax authorities' webpage, for companies to submit their Carbon Tax return.

(The most recent tax reform, Law 1819/2016, which came into force on 1 January 2017, implemented Carbon Tax as a levy on the carbon content of all fossil fuels.)

New resolution for tariff preferences of North America Free Trade Agreement

In the context of the North America Free Trade Agreement, the tax authorities have published the guidelines related to the electronic certificate of origin, content description, and related conditions to request the preferential treatment application according to Decree 730 of 2012.

Trade Ministry establishes tariff charge for importation of hybrid and electric cars

According to Decree 1116 of 29 June 2017, the Trade Ministry established a tariff rate of 0% for electric vehicles and 5% for hybrid vehicles based on the annual number of vehicles imported, as follows:

(i) 1,500 units for the years 2017, 2018 and 2019;

(ii) 2,300 units for the years 2020, 2021 and 2022; and

(iii) 3,000 units for the years 2023 to 2027.

Furthermore, the tax authorities will verify the information corresponding to each document that evidences the volume conditions, and will report quarterly on the use of units to the Trade Authority and the Ministry of Environment. The Trade Authority has also created a split in subheading 8504.40.90.00. The description, code, and applicable tax can be found in the Decree.

Carolina Bueno, **cbueno@deloitte.com, Deloitte Colombia**

Tomás Barreto, **jbarreto@deloitte.com, Deloitte Colombia**

United States

Ohio: New law expands 'substantial nexus' presumption to include USD 500,000 gross receipts threshold

Beginning 1 January 2018, 'substantial nexus' with Ohio is presumed to exist for Ohio sales and use tax purposes if the seller:

- Uses in-state software to sell or lease taxable tangible personal property or services to consumers, provided the seller has gross receipts in excess of USD 500,000 in the current or preceding calendar year from the sale of tangible personal property for storage, use, or consumption in Ohio or from providing services the benefit of which is realized in Ohio; or

- Provides or enters into an agreement with another person to provide a content distribution network in Ohio to accelerate or enhance the delivery of the seller's website to consumers, provided the seller has gross receipts in excess of USD 500,000 in the current or preceding calendar year from the sale of tangible personal property for storage, use, or consumption in Ohio or from providing services the benefit of which is realized in Ohio.

Dave Adler, daadler@deloitte.com, Deloitte Tax LLP

Brian Hickey, bhickey@deloitte.com, Deloitte Tax LLP

Washington: Governor expected to sign Bill with expanded economic nexus provisions, as well as information reporting and notice requirements on some remote sellers, including marketplace facilitators

Governor Jay Inslee is expected to sign legislation that extends 'economic nexus' for state business and occupation (B&O) taxes to persons engaged in retail sales provided the retailer has more than USD 267,000 in receipts from Washington or at least 25% of the retailer's total property, payroll, or total receipts are in Washington during the current or immediately preceding calendar year.

This legislation additionally mandates that certain out-of-state remote sellers, marketplace facilitators, and referrers meeting specified 'economic nexus' statutory criteria remit Washington sales or use tax on their sales to in-state customers beginning 1 January 2018, or else choose to comply with new information reporting and consumer notice requirements, including substantial penalties for noncompliance. For such purposes, the legislation generally defines a 'marketplace facilitator' as a person that contracts with sellers to facilitate, for consideration, regardless of whether it is deducted as fees from a transaction, the sale of the seller's products through a catalog, or a physical or electronic marketplace, and engages:

- Directly or indirectly, through one or more affiliated persons in: transmitting or otherwise communicating an offer and acceptance between the buyer and seller; owning or operating the infrastructure (electronic or physical) that brings buyers and sellers together; providing virtual currency; or software development or research and development related to the electronic or physical marketplace; and

- In any of the following activities with respect to sellers or producers: payment processing services; fulfillment or storage services; listing for sale for consideration; setting prices; branding sales as those of the marketplace facilitator; order taking; advertising or promotion; or providing customer service and assistance with returns and exchanges.

Dwayne Van Wieren, dvanwieren@deloitte.com, Deloitte Tax LLP

Andy Colson, acolson@deloitte.com, Deloitte Tax LLP

Back to top

Asia Pacific

China

VAT rules regarding asset management industry further clarified

On 30 June 2017, the Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly issued Caishui [2017] No. 56 (Circular 56), which clarifies VAT rules regarding asset management. Circular 56 has an implementation date of 1 January 2018, delaying the initial live date of 1 July 2017.

Highlights of Cir 56

- Provides clarity on the taxation scope of asset managers and asset management products. Asset managers include banks, trust corporations, public fund management corporations and subsidiaries, stock corporations and subsidiaries, future corporations and subsidiaries, private equity managers, insurance asset management corporations, professional insurance asset management institutions, pension insurance corporations. Asset management products include most of those issued by the financial institutions.

- Asset management products will be taxed using a simplified taxing method with the applicable levy rate of 3%.

- Asset managers should calculate VAT for asset management products and other managing services separately. Otherwise, the applicable rate of asset management products will be the same as that of other managed services at 6%.

- Asset managers can choose to consolidate or separately calculate VATable income of different asset management products.

- Asset managers such as banks, finance corporations, trust corporations and credit institutions will file VAT for asset management products together with other managing services on a quarterly basis; other asset managers will file VAT on a monthly basis.

Comment

By allowing asset managers to apply a simplified taxing method, Circular 56 helps to avoid the complex invoicing procedure and potential double taxation of asset management products due to the complicated nature of the transactions. The postponement of the implementation date enables asset managers to be fully prepared to achieve VAT compliance.

Customs Clearance Integration Reform rolled out nationwide

On 28 June 2017, the General Administration of Customs (GAC) issued Circular [2017] No. 25 (Circular 25), which further expands the pilot reform program of Customs Clearance Integration. Circular 25 became effective on 1 July 2017.

Background

Previously, GAC issued Circular [2016] No. 62 (Circular 62) to launch the pilot reform of Customs Clearance Integration. Under the pilot reform, an enterprise declares and pays duty and import VAT on its own and goods can be released prior to the customs' review. The aim of the reform is to expedite the clearance of goods and facilitate trade. The pilot program included goods imported via ports throughout China by land, air and sea specified in Chapters 80, 81 and 82 of Import and Export Tariff of the PRC (CIET) and goods specified in Chapters 84, 85 and 90 of the CIET that are imported via Shanghai port by sea and air and declared to Shanghai Customs. Commodities specified in Chapters 84, 85 and 90 of the CIET that are imported via Beijing and Ningbo ports were also included soon after the issuance of Circular 62.

Main change

With the issuance of Circular 25, Customs Clearance Integration Reform is rolled out nationwide. Customs Risk Control Center and Tax Administration Center in Shanghai, Guangzhou and Beijing – Tianjin are used to handle the clearance of all goods imported via ports throughout China nationwide by land, air and sea.

Comment

Circular 25 greatly reduces the cost of clearance for enterprises by allowing enterprises to deal with the clearance process in any port or site. It also enables the authorities to shift focus to post-import/export administration.

Sarah Chin, sachin@deloitte.com.hk, Deloitte China

Yvonne Ye, yvye@deloitte.com.cn, Deloitte China

India

GST implementation

On 1 July 2017, the GST entered into force in India. The nation witnessed the launch of this significant tax reform during a midnight session at the Central Hall of Parliament at 12.00 am on 1 July 2017.

Subsequently, the Government has been issuing notifications/circulars prescribing additional rules and providing clarifications relating to GST laws. Some of the major highlights can be consulted via the Deloitte India GST Connect app.

Prashant Deshpande, pradeshpande@deloitte.com, Deloitte India

Japan-EU

EU and Japan announce political agreement on bilateral Free Trade Agreement

On Thursday 6 July 2017, Prime Minister Shinzo Abe of Japan, President of the European Council Donald Tusk, and European Commission President Jean-Claude Juncker announced that the two trading powers had reached a general political agreement on the EU-Japan Free Trade Agreement (FTA). For details, see EU-Japan.

Malaysia

Goods and Services Tax (Zero-Rated Supply) Order 2014 amended

The Goods and Services Tax (Zero-Rated Supply) Order 2014 has been amended twice in the space of a week.

The Goods and Services Tax (Zero-Rated Supply) (Amendment) (No. 1) Order 2017, which came into effect (retrospectively) on 1 April 2017, amended paragraph 4 of the 2014 Order to state that the classification of goods specified in the First Schedule shall comply with the General Rules for the Interpretation of the Harmonized System under the International Convention on the Harmonized Commodity Description and Coding System as specified in paragraph 4 of the Customs Duties Order 2017. In addition, the Appendix to the First Schedule of the 2014 Order was substituted with new content.

The Goods and Services Tax (Zero-Rated Supply) (Amendment) (No. 2) Order 2017, which was to come into effect on 1 July 2017, has subsequently been revoked. For details, see Deloitte Malaysia's GST Chat: June 2017.

Rounding of decimal points for GST

The Royal Malaysian Customs Department (RMCD) has provided guidelines with respect to the rounding of GST amounts in the revised Guide on Retailing dated 11 March 2016, as follows:

- A fraction of a cent that is 0.005 cents and above, will be rounded up, for example, MYR 2.245 to MYR 2.25.
- A fraction of a cent that is below 0.005 cents, will be rounded down, for example, MYR 2.243 to MYR 2.24.

In commercial practice, there are two methods that can be used to compute the total GST amount on a tax invoice, i.e.:

- Compute the GST on a subtotal level; or

- Compute the GST on each line item.

The rounding method used can result in different GST amounts on the same sales transaction. However, there is no guidance from the RMCD as to which level the rounding should take place. The rounding differences, on accumulation, may give rise to substantial amounts, which is a concern to some businesses that process thousands of transactions each day, such as retail stores.

For further information, including Deloitte Malaysia comment, see GST Chat: June 2017.

Consequences of not filing GST returns

Companies with outstanding GST returns may be the subject of RMCD attention. The RMCD's 'Operation CBOS 3.0' was launched on 11 April 2017. It signifies the third wave of audit activities, with the aim of identifying more taxpayers and improving compliance.

The consequences of not submitting GST returns by the stipulated deadline are serious. For further information, including penalties for late submission, risk exposure to GST audit, and tax exposure under a 'best judgment' assessment (where a taxpayer has not filed a GST return), see GST Chat: June 2017.

Tourism Tax

Recently there has been considerable news regarding the impending introduction of the Tourism Tax (TTx). The commencement of the tax has been postponed, as the RMCD requires more time to implement the collection system.

Summarized below is the information known to date:

- The tax would be collected by operators of hotels in Malaysia (including the duty-free islands of Labuan, Langkawi and Tioman) from a 'tourist' on a per night basis;

- A 'tourist' is defined very broadly and includes Malaysians and those who are not travelling for non-leisure purposes;

- Malaysians will be exempted from the tax for hotels rated 3 stars or below;

- 'Accommodation' is also defined very broadly and includes all forms of accommodation; and

- The tax would be administered by the RMCD and operators would need to collect the tax and file periodic returns.

The following is not clear at this stage:

- The rates. Although it has been reported in various newspapers and briefly on the RMCD website, there is no legislation confirming the final rates. The understanding is that they would be as follows:

  5 star: MYR 20/room/night
  4 star: MYR 10/room/night
  1 – 3 star: MYR 5/room/night
  1 – 3 Orchid: MYR 2.50/room/night
  Non rated: MYR 2.50/room/night

- The exemptions. Again, it has been reported that, amongst others, 'Kampung' homestays and accommodation with less than 10 rooms would be exempted.

- The treatment of unregistered hotels and operators that conduct business through online marketplaces, and whether these operators would be compelled to register and collect the tax.

- The commencement date.

Considering the uncertainty around the mechanics of the TTx, it will be a challenge for hotel operators to take the necessary steps to get ready for the implementation of the TTx.

Tan Eng Yew, etan@deloitte.com, Deloitte Malaysia

Senthuran Elalingam, selalingam@deloitte.com, Deloitte Malaysia

Back to top

EMEA

EU-Japan

EU and Japan announce political agreement on bilateral Free Trade Agreement

On Thursday 6 July 2017, Prime Minister Shinzo Abe of Japan, President of the European Council Donald Tusk, and European Commission President Jean-Claude Juncker announced that the two trading powers had reached a general political agreement on the EU-Japan Free Trade Agreement (FTA).

Negotiations for an EU-Japan FTA were officially launched in 2013. After a number of recent developments inside and outside the EU, the EU and Japan have accelerated the pending trade deal.

Both Japan and the EU organized a new set of negotiation rounds in 2017, resulting in the 6 July 2017 political agreement. The FTA will be the world's largest free trade agreement, covering almost 30% of the world's economic output.

What does this political agreement mean?

The fact that a political agreement has been reached does not mean that the EU-Japan FTA is set to enter into force any time soon. This milestone is more of an indication that more than 90% of the issues have been covered and that the agreement's conclusion is near.

Background

The EU currently exports over EUR 58 billion worth of goods and EUR 28 billion worth of services to Japan. Japan exports EUR 66 billion worth of goods and almost EUR 20 billion worth of services to the EU.

The EU's exports to Japan mainly consist of vehicles, machinery, pharmaceuticals and medical instruments. The main exports from Japan to the EU are machinery, vehicles, medical instruments and chemicals. The value of tariffs paid on European imports to Japan is currently up to EUR 1 billion per year.

No official agreement text is available yet, as not all the provisions have been agreed upon. The current information available originates from several sources released by the European Commission and the Japanese Ministry of Foreign Affairs.

The Economic Partnership Agreement, as the FTA will be called, will ensure and regulate the following areas between the EU and Japan:

- Market access for goods, services and investments in respective territories
- Protection of geographical indications
- Procurement rights
- Removal of non-tariff measures
- Harmonization of rules on intellectual property rights.

The EU-Japan FTA will remove almost all customs duties for imports on both sides. This will especially benefit European producers of food products, as Japan currently imposes import duties of nearly 40% on beef, up to 30% on chocolate, 15% on wine, and up to 40% on cheese. Additionally, under the agreement Japan will recognize and protect over 200 European foods and beverages as specially certified delicacies. These changes should give a significant boost to EU exports of processed foods.

The agreement will also cover non-tariff measures by making rules more harmonized and transparent, and by linking technical product requirements to international standards. The EU will aim, as much as possible, to use the same blueprint for these rules as that implemented in other recent FTAs with South Korea, Canada and Vietnam.

With regards to intellectual property protection, both the EU and Japan already have well-established rules. The agreement will, on the one hand, mutually recognize both protection systems, but on the other, it will make some amendments to bring rules more in line with international standards.

Issues implemented by the EU into other FTAs and expected to be included in the EU-Japan FTA are chapters on:

- Environmental protection and sustainable development rules (which are equally important topics for both parties)
- Ratification of the International Labour Organization's Convention
- Corporate social responsibility.

As with the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the EU-Vietnam FTA, the Commission is working on including an investment court system in the agreement. The Court of Justice of the European Union has ruled that investor dispute settlement procedures are a shared competence between the EU and the Member States on the European side. It is not yet clear how this system will be included in the final text, as this can determine whether the Commission presents the agreement as 'EU only' or 'mixed' (with a veto power for Member States).

Implications

EU and Japanese economic operators with active or planned businesses in the other territory will be given a tool to optimize their supply chains and increase business opportunities between the two parties. Currently, FTA benefits extend far beyond the traditional lowering of duties and attempt to create a level playing field for companies operating in different markets. The benefits are a combination of monetary savings, increased competitiveness, and simplification of doing business.

Next steps

Companies can prepare with an FTA review. Deloitte can (re)assess the use of trade preferences, determine where the new FTA can add value to a company's trade processes, and address potential supply chain optimizations.

It should be noted that once the EU-Japan FTA enters into force, EU companies aiming to benefit from this agreement and issue preferential statements of origin for their exports to Japan will have to register under the new REX (Registered Exporter) system.

Fernand Rutten, frutten@deloitte.com, Deloitte Belgium

Klaas Winters, klwinters@deloitte.nl, Deloitte the Netherlands

EU

Amendment to UCC-IA

The European Commission has issued Implementing Regulation (EU) 2017/989, dated 8 June 2017, to amend the Union Customs Code Implementing Act (UCC-IA), Regulation (EU) 2015/2447.

The major changes are set out below.

Long-term supplier's declarations

This provision is amended to introduce the possibility that a single long-term supplier's declaration covers both goods that have already been supplied by the date of issue of the declaration and goods that will be supplied afterwards. The amendments provide that a long-term supplier's declaration must state the following three dates:

- The date on which the declaration is made (**date of issue**).
- The date of commencement of the period (**start date**), which may not be more than 12 months before or more than six months after the date of issue.
- The maximum period covered by a declaration (**end date**), which may not be more than 24 months after the start date.

As a result of the above changes, the templates (texts) for long-term supplier's declarations, in Annex 22-16 and 22-18 of Implementing Regulation (EU) 2015/2447, were also changed.

Registration of exporters outside the framework of the GSP scheme of the Union

Article 68 of Implementing Regulation (EU) 2015/2447 has been amended to make clear that, in the context of preferential arrangements with a third country where the Registered Exporter (REX) system is applied, exporters completing documents on the origin of consignments over EUR 6,000 are to be registered exporters, unless the relevant preferential arrangement states a different value threshold. However, an EU-based exporter may, until registered in the REX system and in any case no later than 31 December 2017, continue to use the approved exporter number on documents of origin, without the need for a signature, for free trade agreements with third countries where otherwise the exporter would need to be registered.

Formalities on exit of excise goods

Article 329(8) of Implementing Regulation (EU) 2015/2447 is to be deleted. The Article provides for certain exceptions from the general rule determining the customs office of exit for the export of goods that are subsequently placed under a transit procedure. Accordingly, the 'standard' rules apply to determine the customs office of exit for the export of excise goods under duty suspension. This should lead to more control over the discharge procedure.

Implications

Exporters should use the updated wordings of the long-term supplier's declarations in Annex 22-16 and 22-18 of the Implementing Regulation (EU) 2015/2447.

It is recommended that exporters (including re-consignors) participating in preferential trade under the GSP prepare for registration under the REX system. For EU-based exporters it will become mandatory from 1 January 2018.

Fernand Rutten, frutten@deloitte.com, Deloitte Belgium

Klaas Winters, klwinters@deloitte.nl, Deloitte the Netherlands

Cyprus

VAT repayments (refunds) by electronic transfer

The Cyprus Tax Authorities (CTA) have recently announced a new development in relation to VAT repayments (refunds).

The CTA will soon introduce the electronic transfer of VAT repayments to taxable persons via bank transfer. The issuing of bank cheques, which is the current practice, will be terminated following the implementation of electronic transfers.

In anticipation of this change the CTA are strongly advising all relevant taxable persons to proceed with the submission of a new form (Τ.Φ. 1900(2017)) that has been issued for this purpose to provide their bank account details and authorize the Commissioner of Taxation to make electronic transfers in that respect.

This applies to taxable persons with a VAT repayment status that either:

- Have already submitted a VAT refund claim for previous VAT returns which has not yet been examined by the CTA; or

- Have the intention to submit a VAT refund claim in the future.

From the date of introduction of the electronic transfers the CTA will not be making any VAT repayments to taxable persons that have not submitted a duly competed and signed authorization form.

Law regulating settlement of overdue taxes

Following the voting of a new law on 3 February 2017 in relation to regulating the settlement of overdue taxes, the CTA on 23 June 2017 have also issued a relevant Notification which has been published in the Official Gazette. The Notification, as expected, provides details of the timing when the Law enters into force, the periods covered by the scheme, and the discounts to be provided.

As discussed in the April 2017 edition of GITN, the law provides for a scheme that allows eligible taxable persons to apply for the payment of their overdue VAT liabilities through a regulated instalment scheme which also grants some relief on interest and/or penalties.

The law, as stated in the Notification, enters into force on 3 July 2017.

When should the application to enter the scheme be submitted?

Applications should be submitted within three months from the date the law enters into force, which is 3 July 2017, except in cases where the tax liability is assessed after 3 July, whereby the application should be submitted within three months from the date on which the tax becomes due.

Applications for the settlement of overdue taxes will only be accepted provided that:

1. All VAT returns of the taxable person have been submitted, and

2. All VAT liabilities have been settled for the periods following 31 December 2015 to date.

Which periods does the scheme cover?

The overdue taxes covered are those relating to the following periods:

a) All taxes due for the VAT periods up to and including 2015 which at the date of the application have been assessed by the CTA and appear as payable, irrespective of the way in which they were settled either by agreement with the Tax Department or pursuant to a court order.

b) Amounts which become payable as a result of the submission of VAT returns in respect of tax years up to and including 2015 where the tax returns for the relevant tax year have already been submitted, but no tax payment was made.

c) Tax liabilities which are assessed after 3 July 2017 by the Commissioner of Taxation and relate to VAT returns up to and including 2015. In this case, an application for regulation must be made within three months from the date on which the tax becomes due.

Instalments and waving of interest and additional charges

Relief of interest and penalties will be given on the overdue taxes depending on the number of instalments with a maximum of 60. These are shown in the table below:

Number of instalments	% relief
1 (Full settlement)	95%
2 – 8	90%
9 – 15	85%
16 – 21	80%
22 – 28	75%
29 – 35	70%
36 – 42	65%
43 – 49	60%
50 – 56	55%
57 – 60	50%

For overdue taxes which are regulated under the provisions of this law, no additional charges will accrue.

Termination of a regulated settlement scheme

A settlement scheme is terminated in cases where the taxpayer:

- Fails to file tax returns and VAT returns during the settlement scheme, or
- Fails to settle a liability that relates to a period after 31 December 2015, or
- Delays payment of any three instalments, or
- Delays payment of an instalment for more than three consecutive months, including the month the instalment was due.

Other provisions

- A taxpayer not satisfied with the Commissioner's decision has the right to object, giving reasons for the objection and accompanying it with the necessary supporting documents. The Commissioner must respond within 30 days from the receipt of the objection.
- Where the taxpayer is under criminal prosecution and submits an application for the settlement scheme which is approved, the Commissioner informs the Attorney General accordingly in order to suspend the prosecution, if deemed necessary.

Christos Papamarkides, cpapamarkides@deloitte.com, Deloitte Cyprus

Finland

Changes in collection of import VAT

The Parliament has approved the proposal to transfer the value added taxation of imports from Finnish Customs to the Tax Administration as of 1 January 2018. The change will only apply with respect to entities registered for VAT in Finland. Finnish Customs will continue to be responsible for imports made by private persons, entities not registered for VAT in Finland, and for the taxation of imports made in breach of customs regulations.

In practice, this change allows VAT-registered entities to report import VAT in the VAT return instead of paying it to the customs authorities. If the entity is entitled to import VAT deduction, the deductible VAT will be deducted in the same VAT return. This means that if all the imported goods are used for taxable business purposes, there will, in practice, be no VAT cash flow related to imports. Importers must report the import VAT due in the same month as the import takes place.

Due to this change, two additional boxes are proposed to be added to the VAT return form – one for reporting the taxable amount of imports and one for reporting the amount of import VAT.

The customs office will remain responsible for verifying the customs values of imports, however the entities liable to pay VAT must calculate and report the amount of import VAT themselves. If the customs value is later changed, the importer must file a replacement VAT return to adjust the amount of import VAT.

The VAT Act will also be amended so that in cases of indirect representation, where agents act on behalf of the principal but in their own name, the principal will, unlike presently, be liable for the import VAT. Only the principal is entitled to import VAT deduction.

The above will only apply to imports where the liability to pay tax has arisen on or after 1 January 2018.

Janne Huttunen, janne.huttunen@deloitte.fi, Deloitte Finland

Gulf Cooperation Council

Update on VAT implementation

The ‘Go Live’ date for VAT implementation across the GCC member countries is set at 1 January 2018, and as it draws near, each member country has geared up its efforts to implement VAT locally. The Kingdom of Saudi Arabia (KSA) and the United Arab Emirates (UAE) remain at the forefront, committed to introducing VAT within the country on the prescribed date, with the other four member countries (Bahrain, Kuwait, Oman, and Qatar) expected to implement it by mid- to late-2018.

Following the publishing of the draft VAT law for public consultation in May 2017, the General Authority of Zakat and Tax (GAZT) of KSA, has now also released the draft VAT regulations for public consultation. The bilingual (Arabic and English) version of the draft VAT regulations was made available on the GAZT website on 19 July 2017, and will be open for public comments until 19 August 2017; comments can be submitted via an online feedback form available on the GAZT website. This is seen as major step forward, as taxpayers in KSA have now been provided with the complete VAT regulation to enable them to understand the impact of VAT on their businesses and be prepared for implementation by 1 January 2018. The GAZT has also commenced its pre-registration process, whereby the vast majority of large taxpayers are automatically registered with the KSA tax authorities for VAT purposes. All other businesses that are not covered by the pre-registration process, but which expect to meet the registration requirements, will be able to register later in Q3 of 2017 via the GAZT e-portal.

The Ministry of Finance in the UAE updated their website in July with further information on the expected VAT law in the country. The updates include useful information on a number of issues that were under discussion, such as providing clarity on the sectors that will be treated as zero-rated or exempt from VAT, availability of transitional rules, confirmation of the requirement to register for non-resident businesses making taxable supplies in the country, and other technical updates that can further assist businesses in setting up their compliance processes prior to the VAT implementation date.

Deloitte Middle East has been actively involved in assisting businesses with their preparation for VAT implementation in the region including conducting surveys to gather information on the VAT readiness of businesses and organizing seminars focusing on specific sectors.

Deloitte Middle East's VAT in the GCC Guide app provides up-to-date information on VAT implementation in the GCC.

KSA: Excise tax

The GAZT in KSA recently published a new user manual for excise tax registration which covers the process of making an application to obtain an excise tax warehouse license and the preparation of the transitional return. Excise tax came into force in KSA on 11 June 2017.

Justin Whitehouse, jmwhitehouse@deloitte.com, Deloitte Middle East

Italy

Manovrina Law Decree converted into law

The *Manovrina* Law Decree (Law Decree of 24 April 2017, n° 50) has been definitively approved and converted into Law n° 96 dated 21 June 2017 (published in the Official Gazette n° 144 on 23 June 2017). The most significant VAT changes are as follows.

New terms for right to VAT deduction

Based on the *Manovrina* Law Decree, VAT can be deducted, at the latest, within the annual VAT return relating to the year in which the right of deduction arose. The taxpayer must account for purchase invoices and import bills before the periodical VAT calculation in which the right of VAT deduction is exercised and, in any event, within the deadline for the submission of the annual VAT return related to the year in which the invoice is received and with reference to the same year.

In the process of conversion into law, it has been clarified that the new terms for VAT deductions will apply to invoices and import bills issued as of 1 January 2017.

Changes to VAT credit offsetting with other taxes

The *Manovrina* Law Decree has amended the provisions related to the so-called 'horizontal offsetting' of VAT credits with other taxes.

In particular, in addition to the reduction of the threshold for horizontal offsetting without a Certification Visa (from EUR 15,000 to EUR 5,000), on the basis of the new provisions, a taxpayer can now offset a VAT credit against other taxes from the 10th day following the day on which the VAT Return/TR form, showing the visa of conformity, was submitted.

Split payment

The split payment mechanism has been extended to a number of entities (i.e., public entities, companies directly or indirectly controlled by the State, companies directly controlled by local public bodies, companies listed in the FTSE MIB Index, etc.).

In the process of conversion into law, it will now be possible for a taxpayer acting as 'supplier' to request from its customers a document certifying their qualification as 'subjects falling under the split payment regime'. After receiving this document issued by the customer, the supplier will be obliged to issue the sales invoice according to art. 17-ter of the Presidential Decree n° 633/1972.

Furthermore, the Ministry of Economy and Finance has published Decree n° 27/06/2017 related to the implementation of the split payment mechanism. Together with the implementing decree, the list of the entities (i.e., PA/controlled companies/companies listed in the FTSE MIB Index) have made available online, in order to identify the taxpayers subject to the new split payment mechanism. These lists will be subject to periodical review. At this stage, no official clarifications have been released by the tax authorities with reference to the 'lists' or for the document attesting the status of subject to which the split payment mechanism applies.

The new split payment rules will apply to transactions for which an invoice is issued from 1 July 2017.

Further amendment to split payment regime

The Ministry of Economy and Finance (MEF) has published a decree dated 13 July 2017 to amend the split payment mechanism (SP), further to the modification published in Decree 27/06/2017.

The new decree has changed the criteria to identify the public administrations to which the SP applies. According to the new decree, those subjects coincide with the public bodies obliged to receive electronic invoices, pursuant to art 1 par. 209 to 214 of the Law 244/2007.

Below is a list (not exhaustive) of entities subject to SP:

- Entities included in the list published by the National Institute for Statistics (ISTAT) in the Official Gazette by 30 September each year;
- Independent authorities;
- Entities included in art 1, par 2 D.Lgs 165/2001 (among others, regions, provinces, districts, Chambers of Commerce, etc);
- Self-government.

In addition, with respect to the identification of controlled companies and companies included in the FTSE MIB index, the new decree states that the MEF shall publish the definitive list of entities subject to the SP by 15 November each year (and with effect for the following year).

New TR form approved

On 4 July 2017, the tax authorities approved the new TR form for filing quarterly VAT claims, together with the instructions for filling-in the form and the technical specifications for e-transmission (in Act of the Director of the Tax Authorities n° 124040/2017 dated 4 July 2017).

The update was necessary because of the law provisions regarding the offsetting of VAT credits with other taxes ('horizontal offsetting'). Taxpayers wishing to offset quarterly VAT credits of more than EUR 5,000 per calendar year must now obtain the release of a Certification Visa with reference to the TR forms showing these VAT credits (alternatively, the TR forms must be signed by subjects undertaking the accountancy control).

The new TR form must be used from the horizontal offsetting related to VAT credits accrued in the 2nd quarter of 2017 (the deadline for submission is 31 July 2017).

Further clarification regarding periodical e-submission of invoices issued/received

In order to supplement the first guidelines regarding the technical requirements that must be met for the periodical e-submission of invoices issued/received (Circular Letter n° 1/E dated 7 February 2017), the tax authorities have released Resolution n°87/E dated 5 July 2017 to publish answers to technical questions raised by taxpayers, specifically focused on certain technical aspects linked to the new periodical VAT fulfilments (for example, coherent data to report with reference to invoices issued, actions to take in case of irregular or omitted periodical e-submission of the invoices issued/received).

Antonio Piciocchi, apiciocchi@sts.deloitte.it, **Deloitte Italy**

Electronic accounting ledger for excise purposes

For alcohol and alcoholic beverages (excluding wine and beer), in June 2017 a new Determination (No 68571) was issued by Customs allowing an authorized warehouse keeper, upon specific request, to use the 'Electronic accounting ledger of authorized consignee' hosted on Customs' electronic systems, in substitution for the relevant paper records.

Excise controls on energy products

In June 2017, Customs issued Circular letter No 10/D, providing guidelines regarding the procedures to be adopted for the transfer of denatured fuel and lubricant oils (destined for sea navigation) between excise duty warehouses.

Customs litigation

In Notes No 71066/RU issued in June and No 75042 issued in July the Italian Agency provided clarifications and guidelines regarding certain tax litigation procedures which, subject to certain conditions, may apply to the customs field.

Alessandra Di Salvo, adisalvo@sts.deloitte.it, Deloitte Italy

Latvia

Draft amendments to VAT law

The Ministry of Finance has published draft amendments to the VAT law intended to enter into force as of 1 January 2018. The draft amendments have not yet been adopted, accordingly they may change during the discussion process.

The proposed amendments to the VAT law relate to the VAT registration threshold for taxpayers registered in Latvia and the domestic reverse charge mechanism.

VAT registration threshold

According to the current VAT law, taxpayers have the right not to register on the Latvian VAT payer register if the total value of supplies of goods and services for the previous 12 months has not exceeded EUR 50,000 (provided certain other conditions are met). Under the draft amendments, the threshold will be reduced to EUR 40,000.

Domestic reverse charge VAT

Construction services

Currently, reverse charge VAT applies to the supply of certain types of construction services. The draft amendments extend the application of the domestic reverse charge VAT to all types of construction services, project designing, and the supply of construction products.

Electronics

Currently, reverse charge VAT applies to the supply of certain types of electronics (mobile phones, laptops, tablets). The draft amendments extend the application of the domestic reverse charge VAT to game consoles.

Metal products

The draft amendments introduce a new article to the VAT law, providing that the domestic reverse charge mechanism will apply to the supply of metal products and related services. The Cabinet of Ministers' Regulations will provide list of products to be considered as metal products and services to be consider as related services subject to domestic reverse charge VAT. Draft regulations are not yet available.

Household appliances

The draft amendments introduce a new article to the VAT law providing that the domestic reverse charge mechanism will apply to the supply of household appliances and electrical household devices. Regulations will provide a list of goods to be considered as household appliances and electrical household devices subject to domestic reverse charge VAT. Draft regulations are not yet available.

Changes to VAT returns

Further to the item in the June 2017 edition of GITN, on 28 July 2017 amendments to the Cabinet of Ministers' Regulations on the preparation of VAT returns were adopted. According to the adopted amendments, the threshold for reporting each tax invoice separately in VAT return appendices PVN1-I (input VAT on local acquisition) and PVN1-III (output VAT on supplies) has been reduced to EUR 150 excluding VAT (previously EUR 1,430).

The reduced threshold applies from the January 2018 VAT return.

Rudīte Putniņa, rputnina@deloittece.com, Deloitte Latvia

Netherlands

Government releases proposal to implement voucher directive

On 27 June 2016 the European Council adopted a proposal for a VAT directive regarding the VAT treatment of vouchers. Recently the Dutch Government released the legislative proposal to implement this VAT directive into the Dutch VAT Act. Logically, the proposal of the Dutch Government adopts the rules provided in the EU voucher directive. However the explanatory notes on the proposal provide some interesting insights into the Dutch Government's views on the voucher directive.

Definition of vouchers

A definition of a voucher is important to establish whether the new rules will apply. A voucher is defined as an instrument where there is an obligation to accept it as a consideration or a partial consideration for a supply of goods or services. In addition, the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument. The voucher directive does not target discount vouchers. Neither should it trigger any change in the VAT treatment of transport tickets, admission tickets to cinemas and museums, postage stamps or similar.

The voucher directive distinguishes between single-purpose vouchers and multi-purpose vouchers.

Single-purpose vouchers (SVP)

An SPV is a voucher carrying a right to receive a supply of goods or services where the place of supply and the applicable VAT due for these goods or services is known at the time of issue of the voucher. One of the provisions in the voucher directive states that the transfer of an SPV is always taxed as if it was the supply of the goods or services themselves, unless the taxable person is not acting in its own name. In that case VAT is due according to the standard VAT rules.

Multi-purpose vouchers (MVP)

As regards MPVs – vouchers that are not SPVs – the directive clarifies that VAT should be charged when the goods or services to which the voucher relates, are actually supplied. Any prior transfer of MPVs should not be subject to VAT. Distribution or promotion services in relation to MPVs will be subject to VAT. To ensure that the amount of VAT paid regarding the underlying supply of goods or services (upon redemption) is accurate, the supplier of the goods or services should account for the VAT based on the consideration paid for the MPV. In the absence of such information, the taxable amount should be equal to the monetary value indicated on the MPV itself or in the related documentation, less the amount of VAT relating to the goods or services supplied. Where an MPV is used partially in respect of the supply of goods or services, the taxable amount should be equal to the corresponding part of the consideration or the monetary value, less the amount of VAT relating to the goods or services supplied.

Position of the Dutch Government

As mentioned, the explanatory notes for the Dutch legislative proposal to implement the voucher directive in the Dutch VAT Act provide some interesting insights into the Dutch Government's views on the voucher directive.

In particular, the explanatory notes provide some additional insight on how to distinguish between vouchers and payment instruments. According to the Dutch Government, an instrument qualifies as a voucher when it can be used for a limited number of specified goods or services or if the identity of the potential suppliers is known in advance, i.e., a voucher that can be used to purchase products at a given shopping mall at any retailer established there qualifies as a voucher and not as a payment instrument.

The Dutch Government also states that the VAT position of the sale of admission and transport tickets will not change. These sales will be considered (pre)payments for the service supplied later. These sales are subject to VAT at the moment of purchase of the ticket.

According to the Dutch Government a voucher can qualify as an SPV when a voucher can be used for two different types of services (for example for a cinema and an amusement park located in the Netherlands). This is true as long as those two types of services are subject to VAT in the Netherlands at the same VAT rate.

The Dutch Government also adds to the provision of the taxable amount for MPVs that if the price that the customer paid and the monetary value of the voucher are unknown for the supplier the taxable amount must be established based on the regular rules for establishing the taxable amount.

The Dutch Government also makes clear that changes have to be made to the current legislation covering vouchers. The VAT rules for coupons, (gift) vouchers and telephone cards need to be amended. The effect of the new rules on the VAT treatment of telephone cards and telephone subscriptions is limited because the (old) proposal for the voucher directive was already taken into account when drafting these rules.

Although the new rules for vouchers will be applicable as of 1 January 2019 it is already important to establish the impact of the new rules for businesses. One-by-one Member States will have to implement these new rules and will make their position known. Different interpretation of the new rules may (still) lead to differences between Member States as regards the application of the new rules.

European Commission's opinion confirms Dutch Government's point of view on VAT treatment of management services to Defined Benefit and Defined Contribution pension funds

On 27 May 2016, the State Secretary of Finance sent a letter to the Parliament, answering questions about the VAT treatment of management services to pension funds.

At the initiative of the Parliament the Government was urged to examine how other Member States deal with the VAT treatment of management services provided in respect of pension funds. In addition, the Government was asked to report how the European Commission (EC) is in charge of ensuring a level playing field for the VAT treatment on these management services provided in respect of pension funds.

With regard to the first issue, the State Secretary indicates that it is the EC's task to observe and to prevent any unequal treatment between Member States.

The management of special investment funds is exempt under Article 135(l)(g) of the EU Principal VAT Directive. This article is implemented in the Dutch VAT law. In 2016 the Dutch Supreme Court validated the distinction between pension funds with Defined Contribution (DC) and pension funds with Defined Benefit (DB) made by the Court of Justice of the European Union. In the Dutch case it was concluded that a DB pension plan could not be regarded as a special investment fund for the purposes of Article 135(1)(g) of the VAT Directive. As a result the management of DB pension funds is therefore not VAT exempt. The outcome of this case is in line with the CJEU and therefore 'EU proof' and even obligatory, according to the State Secretary and the EC.

With regard to ensuring a level playing field, the Secretary of State looks forward to further discussion on this subject in a European context after receiving information provided by the Dutch pension sector. He has therefore urged the EC to raise the subject in the next VAT Committee meeting. The EC agrees with the State Secretary that the VAT Committee is the appropriate forum to discuss issues such as the one raised, linked to the uniform application of the provisions of the VAT Directive and which concern all Member States. Therefore, The EC will include this item in the agenda of the next VAT Committee meeting. Furthermore, as usual, the EC will prepare a Working Paper with the opinion of the Commission services taking into account the Dutch analysis, which will be used as a basis for the discussion with the rest of Member States.

Madeleine Merkx, MMerkx@deloitte.nl, Deloitte Netherlands

Poland

SAF-T reporting – verification of files submitted and potential developments

The tax authorities have started mass verification of the SAF-T files submitted by taxpayers on a mandatory monthly basis. The most common irregularities identified by the authorities concern:

(i) Discrepancies between filed JPK files and VAT returns for the same period;

(ii) Discrepancies in amounts reported by contractors (both sides of the same transaction) in JPK files; and

(iii) Reporting for VAT purposes purchase transactions from suppliers which are not registered as active VAT payers at the moment of delivery.

Taxpayers in whose settlements such irregularities were identified were notified by the tax authorities and requested to verify their settlements and correct these if needed. If the irregularities resulted in VAT arrears, these must be settled accordingly with penalty interest at regular or an increased rate (decreased penalty interest rate cannot be applied in the view of the tax authorities).

Given this, and an increasing number of companies deregistered from VAT since January 2017, it is strongly recommended that taxpayers verify whether all their suppliers are registered as active VAT payers, and monitor their status on a regular basis. This can be done on one-by-one basis with the use of the Ministry of Finance webpage or with the use of external tools/applications allowing for verification of the entire database.

Based on information from the Ministry of Finance, further SAF-T tests are being developed and thus more in-depth analysis of VAT settlements through the SAF-T files can be expected in the upcoming months. Moreover, it has been announced recently that the scope of the monthly mandatory SAF-T file may be extended (for example by adding information concerning payments and/or transport documents) while some unnecessary data may be removed. Public consultation on this issue have been launched.

VAT split payment mechanism proposed

A voluntary VAT split payment mechanism has been proposed. According to the draft law, the regulations will enter into force on 1 January 2018, but banks will be required to create VAT accounts for account holders by 31 December 2017.

Under the proposal, where a VAT payer has received an invoice with a VAT amount, including before the supply of goods or services takes place, the VAT payer will be able to use the split payment mechanism when making payment for the goods or services.

Under the split payment mechanism:

- Payment of the VAT-exclusive amount would be made to the suppliers’ bank account;
- Payment of the VAT amount would be made to a separate bank account of the seller.

The split payment mechanism will be limited to transactions between VAT payers, whereby payment of the VAT is via a clearing account maintained by the bank or cooperative savings and credit facility.

This clearing account will be mainly used for direct transactions with the tax authorities. However it will also be possible to use this account for different purposes after receiving written agreement from the head of the relevant tax office.

The following details would have to be provided with respect to each bank transfer under the split payment mechanism:

- The supplier's VAT number;
- The invoice or the correction invoice number;
- The net value of the supply;
- The amount of VAT.

The split payment mechanism will allow the tax authorities to monitor and block funds on VAT accounts. Additionally it is intended to eliminate the risk of VAT payers defaulting, and not paying the VAT due.

There are a number of incentives for buyers to use the split payment mechanism, including the following:

- There will be no joint and several liability for the tax arrears of the supplier;

- Penalties will not apply with respect to input tax claimed on the basis of an invoice received by the buyer that is paid by way of split payment;

- Abolition of the higher rate for late payment, 150% of the default interest rate, of VAT arrears for any period in which 95% of the input VAT relates to invoices paid using the split payment mechanism.

Due diligence standards

The Ministry of Finance is developing standards on the due diligence of suppliers. Taxpayers adhering to the method of verifying contractors presented in these guidelines will secure their position as regards input VAT recovery, even if at a later stage it appears that a fraudulent transaction has occurred somewhere in the chain. The set of due diligence standards should be revealed later this year.

Currently taxpayers implement their own methods of suppliers' approval (which include verification of the VAT status, statutory documents, concessions and permits as well as ensuring that transactions are performed at an arm's-length level and its conditions do not raise any suspicions). Even if these internal rules are observed and properly documented, the tax authorities can challenge input VAT recovery on the grounds that the taxpayer did not undertake all of the necessary steps aimed at ensuring the taxpayer is not involved in fraud. With the set of rules designed by the Ministry of Finance, such risk will be accordingly limited.

Changes in Intrastat returns as of July 2017

As of the July 2017 Intrastat reporting period, there will be a new box in the return – box no. 22 Contractor's VAT-ID number. This information is mandatory for Dispatch Intrastat only. The VAT-ID number must be provided in the EU format (with the two-letter country code prefix). Deliveries of goods classified under a given CN code made to a given country, to different EU VAT contractors, must be presented separately (number of rows corresponding with number of different EU VAT numbers). In case of chain transactions (where the direct contractor is not the final recipient of the goods), in general the EU VAT number of the final recipient must be provided, unless this is information is not available – in such a case the EU VAT number of the intermediary is accepted in the Intrastat dispatch return, but the final country of goods delivery must be included.

It is expected that such information may be used by the tax authorities to verify correspondence between the physical flow of goods and ECSPL reporting.

Michel Klosinski, mklosinski@deloittece.com, Deloitte Poland

Portugal

Reverse charge for VAT due on import of goods

The mechanism which will allow taxpayers to apply the reverse charge for the VAT due on the import of goods (eliminating the associated financial impact) will come into effect on 1 September 2017 for the import of goods listed in Annex C of the VAT Code (similar to Annex V of EU VAT Directive), except for mineral oils, and will be extended to all goods as of 1 March 2018. Further to the approval of this mechanism, the Secretary of State for Tax Affairs has published, on 20 July 2017, Decree no. 215/2017, to regulate the procedures and time limits applicable to taxpayers intending to apply this mechanism.

According to the decree, when all the legal requirements are met by a taxpayer, the option to apply the reverse charge for VAT due on the import of goods must be made at the Portuguese Tax Authorities' (PTA) website by the 15th day of the previous month to that in which the new mechanism is intended to apply. The PTA must analyze and validate the taxpayer's request within five days of the request being made.

After obtaining authorization from the PTA to apply the reverse charge for the VAT due on the import of goods, taxpayers must maintain the procedure for a minimum period of six months.

Update of periodic VAT return form

Ordinance nr. 221/2017 has been published, which updates the periodic VAT return to accommodate new boxes to report the taxable amount and the respective VAT reverse charged on the import of goods.

The Annexes to the periodic VAT return related to fields 40 (VAT adjustments in favor of the taxpayer) and 41 (VAT adjustments in favor of the tax authorities) are also updated, namely the Annex related to field 40, where a new column is added to insert the date (year/month) of issuance of the documents supporting the VAT adjustments in favor of the taxpayer.

The new forms will enter into force for VAT returns submitted with respect to September 2017 onwards.

Supreme Administrative Court's judgment regarding the legal deadline to review the *pro rata* VAT deduction percentage

On 28 June 2017, the Supreme Administrative Court's judgment was released clarifying that the revision of the *pro rata* VAT deduction percentage in certain conditions shall not be considered as arising from a miscalculation in its computation, but as arising from an incorrect interpretation of the law (when it is not a simple arithmetic mistake but an error in the definition of the VAT regime applicable to the transactions under analysis).

This decision has an important impact as the Portuguese Tax Authorities had taken the view that the review of the *pro rata* VAT deduction percentage could only be undertaken within the two year deadline to review miscalculations arising from arithmetic mistakes, instead of the four year deadline that is applicable to the review of errors arising from incorrect interpretation of the law.

VAT exemption for acquisitions by non-EU-residents – tax free – technical specifications

As per the March 2017 and June 2017 editions of GITN, the Ministry of Finance has published Decree-Law nr. 19/2017, of 14 February 2017, and Ordinance nr. 185/2007, dated 1 June 2017, on the implementation of the new system aimed at modernizing the procedures to control and validate the requirements for the VAT exemption applicable to the export of goods by a traveler who is a non-resident in the EU (tax free).

The Portuguese Tax and Customs Authorities have recently made available on their website the instructions and technical specifications for compliance with the provisions of the Ordinance.

Afonso Arnaldo, afarnaldo@deloitte.pt, Deloitte Portugal

Russia

Ministry of Finance clarifies procedure of VAT payment with respect to e-services rendered by foreign company to Russian legal entities and private entrepreneurs

The Ministry of Finance considered the situation when a foreign company renders e-services the place of supply of which is deemed to be Russia, i.e., renders intermediary services related to establishing contacts between carriers and their clients through the internet.

Buyers of such services are carriers including Russian legal entities and private entrepreneurs. At the same time, the payment for transportation services is made by clients (passengers) with the use of electronic means of payment directly to the foreign company that in its turn transfers the received payment to the carrier withholding the amount of fee for intermediary services rendered.

The foreign company filed an application for registration with the tax authorities and will account for and pay VAT with respect to supplies of e-services including the services rendered to Russian legal entities and private entrepreneurs.

The Ministry clarified that in the considered situation the obligation to account for and pay VAT with respect to e-services rendered by the foreign company arises for Russian legal entities and private entrepreneurs that should act as tax agents.

However, considering the peculiarities of settlements in case the foreign company pays VAT, there are no grounds to request the second payment of VAT by tax agents.

Mail.Ru Group receives confirmation from tax authorities that additional content revenues are eligible for VAT exemption

Taking into account the clarifications received from the tax authorities, Mail.ru Group has announced that most of its revenues generated from additional content (internet value-added services (IVAS)) in 2017 will be VAT-exempt.

The group plans to update its full-year guidance accordingly.

The respective clarifications were released by the Federal Tax Services in its Letter No. CD-4-3/988@ of 23 January 2017. The Federal Tax Service concluded that the VAT exemption can be claimed in the instances when the rights to non-activated data and commands (activated on payment) are offered by the licensor to the licensee for a consideration on the basis of a licensing agreement.

In other words, the Federal Tax Service acknowledges that parts of gaming software can be treated separately; the core part (activated commands) and the additional content (deactivated commands). Irrespective of how the additional content is activated, during the gameplay or for extra payment, the key differentiating criterion for VAT exemption purposes is granting rights on the basis of a licensing agreement.

Federal law on introduction of VAT exemption for lease of medical devices

Federal law No. 161-FZ of 18 July 2017 was signed by the President. The law introduces VAT exemption with respect to the lease of medical devices the supply of which is exempt from VAT in accordance with the list established by Government Resolution.

The Federal Law will come into effect on 1 October 2017.

Ministry of Finance clarifies VAT treatment of goods exported under retail sales agreements

The Ministry of Finance has advised that the zero VAT rate does not apply to the export of goods under retail sales agreements and that such export transactions are subject to a regular rate of 18% (standard rate) or 10% (reduced rate).

The courts, however, take a contrary position (see case No.A76-15329/2015).

VAT rate for domestic flights

At present, a 10% VAT rate applies to domestic flights. However, unless a law extending the 10% rate is adopted, the 18% VAT rate must apply from 1 January 2018. The draft law should be developed by September 2017 to extend the application of the 10% VAT rate until 31 December 2020.

Furthermore, the Government has tasked a group of experts with considering the advantages and disadvantages of applying a 0% VAT rate, i.e., subject to the experts' review, it will be decided whether to apply a 0% VAT rate to domestic flights.

Extension of embargo on import of certain foods until 2019

Resolution of the Russian Government No. 790 of 4 July 2017 extends the embargo on the import of certain foods until the end of 2019.

The list of goods prohibited for import into Russia includes, in particular, certain types of meat and fish, milk products, and fruits and vegetables. The list of countries from which the goods are prohibited for import includes the USA, EU countries, Ukraine and certain other countries.

The Resolution came into effect on 13 July 2017.

Andrey Silantiev, asilantiev@deloitte.ru, Deloitte Russia

South Africa

Reduction of customs duty on digital smart cards

The International Trade Administration Commission of South Africa (ITAC) has invited interested parties to comment on an application for the reduction in the rate of customs duty on digital smart cards classifiable under TSH 8523.52.10 by the creation of an additional tariff subheading.

The applicant indicated there are no manufacturers of digital smart cards in SACU.

Wian de Bruyn, wdebruyn@deloitte.co.za, Deloitte South Africa

Spain

Extension of applicability of reduced VAT rate (10%)

On 29 June 2017, Law 3/2017, 27 June, for the 2017 General State Budget came into force, following its final approval in the Congress and Senate. The Law has decreased the applicable VAT rate from 21% to 10% for:

- Live events; and
- Sales of prescription spectacle frames.

In order to pass the Law, there were ongoing negotiations between the Government and the political parties, nine of which voted in favor of the General State Budget for 2017. However, as the decrease in the VAT rate has not been extended to the reproduction of films in cinemas, this issue will remain of current political and social interest.

Immediate Information Supply comes into force

On 1 July 2017, the Immediate Information Supply (SII, in its Spanish acronym) came into force. The new VAT management system introduced by the SII, based on keeping VAT Registry Books via the Tax Administration's online platform, is expected to provide billing registries on an almost real-time basis.

Maria Jose Garcia Vega, mgarciavega@deloitte.es, Deloitte Spain

United Kingdom

VAT *a*lignment period claims rejected by CJEU

The UK implemented a three-year cap with effect from 4 December 1996 (for output tax) and 1 May 1997 (for input tax). This was considered by the Court of Justice of the European Union in the recent judgment, *Compass Contract Services Ltd*.

Compass Contract Services claimed that the caps should have started at the same time for both types of VAT.

However, the CJEU has disagreed. In its judgment, fiscal neutrality did not oblige the UK to introduce both caps with effect from the same date, as all traders had been treated in the same way. Equal treatment might apply where comparable situations were treated differently, but the CJEU identified what it described as fundamental differences between input VAT and output VAT in this context.

Finally, the principle of effectiveness was not breached as time limits were reasonable and had been introduced with the benefit of a transitional period. The tax authorities were not therefore obliged to introduce time limits for input tax and output tax with effect from the same date.

Tribunal rules that car park overpayments subject to VAT

Car park ticket machines do not always give change. A customer who only has a pound coin and a fifty pence piece might therefore end up overpaying 10p for a two-hour stay that should cost GDP 1.40.

In the decision, *National Car Parks*, the Upper Tribunal has held that such overpayments are subject to VAT. They are not optional in the same way that, for example, gratuities paid to the barrel organ operator in *Tolsma* were optional. The EU Principal VAT Directive seeks to identify what consideration was received by NCP, not whether the customer could have obtained the same service for less. NCP retained the GBP 1.50 in return for providing the car parking, and should account for VAT on the full amount.

Tribunal rules that coin-counting machines are exempt from VAT

Coinstar machines allow customers to exchange a bag of loose change for a voucher that they can redeem at the supermarket checkout. Coinstar charges 9.9% of the value of the coins for this service.

In the *Coinstar* case, the Upper Tribunal has endorsed the First-tier Tribunal's decision that Coinstar was providing a financial service, as it was doing more than just counting the coins. It concluded that the First-tier Tribunal had properly considered the contractual position and the substance of Coinstar's service, and correctly categorized it. The customer started with a "collection of inconvenient loose change and at the end of the transaction had a more convenient monetary instrument", and this exchange (like any foreign exchange transaction) involved a change in the legal and financial status of the parties.

Therefore, Coinstar's services were exempt from VAT.

Donna Huggard, dohuggard@deloitte.co.uk, Deloitte United Kingdom

Back to top

Eurasian Economic Union

Decrease of import customs duty rates for certain goods

Decision of the Council of the Eurasian Economic Commission of 17 May 2017 No. 30 introduces zero import customs duty from 13 July 2017 to 30 June 2019 for tanning agents and tanning preparations classified by customs classification code 3202 90 000 0. Decision No. 30 came into effect on 13 July 2017.

Decision of the Board of the Eurasian Economic Commission of 30 May 2017 No. 59 reduces import customs duties for tires, watches, and certain types of furniture in accordance with Russia's obligations to the WTO. Decision No. 59 will come into effect on 1 September 2017.

Decision of the Board of the Eurasian Economic Commission of 20 June 2017 No. 66 introduces zero import customs duty from 25 May 2017 to 24 May 2019 for lead concentrates and ores classified by customs classification code 2607 00 000 1. Decision No. 66 will come into effect on 2 September 2017.

Decision of the Board of the Eurasian Economic Commission of 30 June 2017 No. 76 introduces zero import customs duty rate from 30 June 2017 to 31 August 2019 for certain paints and varnishes classified by customs classification code 3210 00 900 1. Decision No. 76 will come into effect on 2 September 2017.

Unified quarantine phytosanitary requirements for EEU introduced

Decisions of the Council of the Eurasian Economic Commission of 30 November 2016 No. 157, No. 158 and No. 159 as well as Decision of the Council of the Eurasian Economic Commission of 17 March 2017 No. 10 introduce unified requirements for production, procurement, processing, transportation, storage, sale, and use of quarantine products in the EEU.

Import into the EEU of quarantine products with high phytosanitary risk should be accompanied with phytosanitary certificates issued by the authorized authority of the exporting country and/or re-exporting country.

All of these Decisions came into effect on 1 July 2017.

Andrey Silantiev, asilantiev@deloitte.ru, Deloitte Russia

Back to top

Contacts

Deloitte Global & Regional Indirect Tax Contacts

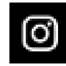
David Raistrick, Deloitte Global Leader – Indirect Tax
draistrick@deloitte.co.uk

Fernand Rutten, Deloitte Global Leader – Customs & Global Trade
frutten@deloitte.com

Ronnie Dassen, Deloitte Global Leader – Indirect Tax Americas
ronniedassen@deloitte.com

Sarah Chin, Deloitte Global Leader – Indirect Tax Asia Pacific
sachin@deloitte.com.hk

Darren Stephens, Deloitte Global Leader – Indirect Tax EMEA
darrenstephens@deloitte.co.uk



Deloitte Touche Tohmatsu Limited
30 Rockefeller Plaza
New York, NY 10112-0015
United States

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk advisory, tax and related services to public and private clients spanning multiple industries. Deloitte serves four out of five Fortune Global 500® companies through a globally connected network of member firms in more than 150 countries and territories bringing world-class capabilities, insights, and high-quality service to address clients' most complex business challenges. To learn more about how Deloitte's approximately 245,000 professionals make an impact that matters, please connect with us on Facebook, LinkedIn, or Twitter.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2017. For information, contact Deloitte Touche Tohmatsu Limited.

To no longer receive emails about this topic please send a return email to the sender with the word "Unsubscribe" in the subject line.