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In this issue:

Corporate Tax: The Consumer price index for prepayments

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Free-Trade Agreements: The impact of a changing EU and global context for companies

The changing global trading environment and the disruptive trends, such as Brexit, rising populism, elections in the European countries and the announced renegotiation of trade deals by the new US President, might affect the global supply chains, as long as the free markets are put under an increasing pressure.

At the same time, the exclusive competence of the EU to negotiate and conclude Free-Trade Agreements is questioned. The decision will be issued by the European Court of Justice. In case the Court decides that all the 28 Member States need to approve the Free-Trade Agreements, the treaties that are under negotiation, with Canada and Ukraine, will come into force later than estimated.

In conclusion, the companies need a forward looking and strategic approach in order to identify and anticipate upon possible benefits as well as risks of Free-Trade Agreements.

Therefore, companies can prepare by conducting a review of the Free-Trade Agreements applicable on their whole supply chain, gaining insights on possible opportunities and risks.

Corporate Tax: The Consumer price index for prepayments

The consumer price index used to compute the corporate income tax prepayments is set at 101,4%, according to the order issued by the Ministry of Public Finance.

The index is to be used for the fiscal year which begins during 2017 by the taxpayers applying the corporate income tax prepayments system.

The Order 240/2017 was published in the Official Gazette no. 123 from 15 February 2017.

For further questions regarding the aspects mentioned in this alert, please contact us.

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Free-Trade Agreements: The impact of a changing EU and global context for companies

With over 40 trade agreements already in place between the EU and trading partners, the EU continues to negotiate to improve market access and regulatory cooperation for imports and exports of goods and services. Reflecting the increasing complexity of the global trading environment, new topics were added to these trade negotiations as reflected in the EU Trade for All strategy, including on government procurement, investment, e-commerce and labour and environment.

The European Union has already implemented several agreements that can bring a number of benefits to the economic operators (list of EU agreements can be found here).

The exclusive competence of the EU to negotiate and conclude Free-Trade Agreements, questioned
The EU treaties confer an exclusive competence to the EU to negotiate and conclude Free-Trade Agreements. However, this exclusive competence is under scrutiny. The General Advocate of the European Court of Justice delivered on 21 December 2016 an opinion stating that Free-Trade Agreements are not an exclusive competence of the EU, and need to be considered mixed agreements. The European Court of Justice will take a final decision in this regard.

For several Free-Trade Agreements in course of negotiation by the European Union it was questioned the EU's exclusive competence to negotiate and conclude this Free-Trade Agreements. It is, therefore, possible that the full entry into force of the Free Trade Agreement between the European Union and Canada ("CETA") and between the EU and Ukraine ("DCFTA"), treaties that are under negotiation, will be required the ratification (approval) by all the 28 Member States (the so-called "mixed agreements").

As a result, the provisional entry into force can be allowed with approval from the European Parliament, but the full entry into force of future EU trade agreement, will require approval from all 28 Member States Parliaments.

Are the Free-trade agreements guaranteeing market access?
Recent global events, such as Brexit and the announced made by the US President regarding the intention to renegotiate the Nord American Free-Trade Agreement ("NAFTA"), have spurred concerns about the security of market access offered under the Free-Trade Agreements, other than the market access provided by the World Trade Organization ("WTO") membership.

There are two main consideration to take into account:

- First, for those trade agreements in place between WTO members, withdrawal of either of the parties will still leave guaranteed market access under the countries' commitments made as part of their WTO Accession protocols. These commitments made by the countries guarantees that the "Most-Favored Nation" principle will apply to the goods and services exchange.
- Second, as bilateral and regional trade agreements are an exception to the multilateral WTO non-discrimination principle, it is to be understood that options and procedures for negotiating a withdrawal differ per trade agreement, be it a customs union or a bilateral or regional trade agreement.

In the Brexit context, EU and UK will likely agree upon a new trade agreement. The fallback option would be the UK WTO Accession Protocol stipulating the Most-Favored Nation Clause tariffs for goods and services exchange.

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