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.

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Global Rate Changes

- **Antigua and Barbuda:**[i] According to news reports, the government of Antigua and Barbuda is contemplating a 2 percent hike in the Antigua and Barbuda Sales Tax (ABST) rate, potentially raising it from 15 percent to 17 Percent
- **Armenia:**[ii] On November 22, 2023, the Armenian National Assembly proposed an extension of the VAT exemption on the import and sale of electric motor vehicles to January 1, 2026, from the earlier date of January 1, 2025.
- **Cyprus:** On November 17, 2023, the Council of Ministers of Cyprus declared a temporary application of a zero VAT rate on certain types of meat and vegetables. These items were previously subject to a reduced VAT rate of 5 percent. The zero VAT rate will be effective from December 1, 2023, to May 31, 2024. The affected products include specific categories of fresh, chilled, or frozen meat and edible meat offal, as well as fresh or chilled edible vegetables and certain roots and tubers. To read a report prepared by the KPMG International member firm in Cyprus, please click here.
- **Czech Republic:** On November 22, 2023, the President of the Czech Republic signed The Act on the Consolidation of Public Budgets, which includes unifying the reduced tax rates into a single 12 percent rate effective January 1, 2024. As a result, some goods and services will transition between rate categories. For instance, activities without proven social or health significance and those previously reclassified due to COVID-19 will move to the standard VAT rate of 21 percent. This includes services like hairdressing, shoe and leather product repairs, bicycle repairs, and clothing alterations. Newspapers and magazines

will be subject to the 12 percent rate regardless of their publication frequency. For food services, only selected beverages like drinking water and milk will also qualify for the 12 percent VAT. Moreover, the sale of printed and electronic books will be zero-rated, with the option of requesting a binding assessment from the General Financial Directorate. To read a report prepared by the KPMG International member firm in the Czech Republic, please click here.

- **Greece:**[iii] On November 21, 2023, the Greek Parliament received the 2024 Budget proposal, which includes plans to make the 13 percent VAT rate permanent. This reduced rate was initially introduced during the COVID-19 pandemic for services like urban, suburban, land, railway, maritime, and air transportation, gyms, dance schools, cinemas, and zoos. It also covers health-related products such as personal hygiene items, protective gear, filters, and equipment for blood purification, donation, transfusion, plasma exchange, and defibrillators. In addition, the proposal recommends extending the 13 percent reduced VAT rate for coffee and taxi services through the first half of 2024. However, the reduced rate will not apply to non-alcoholic beverages.
- **Isle of Man:**[iv] Effective October 9, 2023, the Isle of Man reduced the VAT rate on certain drugs and medicines from 20 percent to 0 percent. This change applies to medicines dispensed under a patient group direction, which is a written instruction allowing healthcare professionals to provide specified drugs to a certain group of patients without a prescription. This temporary VAT reduction, which will last until March 31, 2027, aligns the tax treatment of these medicines with those dispensed under a prescription. This change mirrors a similar one in the UK, as the Isle of Man government has an agreement with the UK to coordinate their VAT and other indirect tax policies.
- **Luxembourg:** Effective January 1, 2024, Luxembourg will reinstate the VAT rates of 17 percent, 14 percent, 8 percent, and 3 percent as the temporary VAT rate reduction of 1 percent will expire. To read a report prepared by the KPMG International member firm in Luxembourg, please click here.
- **Poland:** On November 20, 2023, the Lower House of the Polish Parliament received a bill proposing to extend the 0 percent VAT rate on food until June 2024, with the new rules planned for implementation on January 1, 2024. To read a report prepared by the KPMG International member firm in Poland, please click here.
- **Romania:** On October 27, 2023, Romania published Law 296/2023, which, among other things, includes several changes to VAT rates starting from 2024. These changes will raise the VAT rate from 9 percent to 19 percent for non-alcoholic beer and foods with more than 10g of added sugar per 100g, excluding cookies and biscuits. The law will also increase the VAT rate from 5 percent to 9 percent for high-quality food, such as mountain, eco, or traditional products, certain types of housing, solar panels and heating systems for specific buildings, components for construction projects, and access to certain entertainment and sports events. Additionally, the law will increase the VAT rate for the use of certain sports facilities and various forms of tourist or leisure transportation from 5 percent to 19 percent. The law will remove the VAT exemption for certain services and goods provided to state hospital units but will maintain the exemption for non-profit entities registered with the tax authority that own and operate hospital units. Finally, the law establishes transitional measures for houses contracted before or on December 31, 2023, and delivered between January 1 and December 31, 2024, which will allow the application of the reduced VAT rate of 5 percent or 9 percent. To read a report prepared by the KPMG International member firm in Romania, please click here.

- **South Korea:**[v] On November 24, 2023, the South Korean Ministry of Strategy and Finance initiated a consultation on Draft Notice No. 2023-226, which aims to extend the VAT exemption deadline for specific food products to December 31, 2025. The extension applies to simple processed foods like kimchi and salted fish, as well as imported coffee and cocoa beans, excluding roasted products.
- **Sri Lanka:** On October 30, 2023, Sri Lanka's Cabinet of Ministers approved an increase in the VAT rate from 15 percent to 18 percent along with the elimination of almost all VAT exemptions other than for products relating to health, education, and a few essential foods, effective from January 1, 2024. The Minister of Finance, under the authority of Section 2A of the Value Added Tax Act No. 14 of 2002 and its amendments, can adjust the tax rates specified in the VAT Act through a Gazette Notification. To read a report prepared by the KPMG International member firm in Sri Lanka, please click here.
- **St. Kitts and Nevis:**[vi] On November 20, 2023, the Saint Kitts and Nevis National Assembly adopted a resolution to reduce VAT, aiming to stimulate the economy and promote homeownership. The resolution includes a temporary VAT rate cut to 13% on eligible building materials for first-time homeowners and for home renovations and repairs. This reduction applies retroactively from September 19, 2023, to December 31, 2024.
- **Uruguay:**[vii] Effective December 15, 2023, Uruguay extended the VAT tourism breaks applicable to foreign tourists to Uruguayan residents. This policy enables both Uruguayan residents and foreign tourists to enjoy a zero VAT rate on hotel accommodations within the country until April 30, 2024. Moreover, foreign tourists receive broader benefits, including zero VAT on food and drink, accommodation services, event services including catering, and car rentals without a driver. However, starting April 30, 2024, the standard 22 percent VAT rate will be reinstated.
- **Uzbekistan:**[viii] According to news reports, the Ministry of Economy and Finance of Uzbekistan is considering several tax law amendments, including amendments to the VAT rates. Beginning April 1, 2024, VAT at 12 percent would apply on the import and sale of medicines, medical and veterinary products, as well as raw materials used for their production. This rate would also apply to services related to water, sewerage, sanitary cleaning, and heat.
- **Vietnam:**[ix] On November 29, 2023, the National Assembly of Vietnam approved a resolution to extend the reduction of the VAT rate from 10 percent to 8 percent until June 30, 2024. This temporary reduction applies to the sale of goods and services that are typically subject to the 10 percent rate. However, certain groups specified in Article 3 of Resolution 43/2022/QH15, such as telecommunications, information technology, and financial activities, are not eligible for this reduction. Originally, this measure was set to end on December 31, 2023.

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Digitalized Economy Indirect Tax Updates

Colombia: Regulations Implementing Significant Economic Presence Standard Published

On November 27, 2023, Colombia's Ministry of Finance issued Decree 2039, outlining the application of the Significant Economic Presence (SEP) rule. This rule, part of the Colombian Tax Reform approved by Congress in 2022, establishes a new criterion for corporate income tax liability in Colombia. It applies to non-resident companies selling goods or providing qualified digital services to Colombian clients. The rule will be effective from January 1, 2024.

The decree defines clients as any individual or entity in Colombia that pays for or hires the acquisition of goods or services offered by nonresidents. Users are any individual or entity in Colombia that uses a digital interface and identifies themselves with a username and password. A digital interface is any program, including websites or parts thereof, or application, that allows users and/or clients in Colombia to interact digitally with non-residents. Digital services are services provided via the internet or an electronic network, requiring minimal human intervention and impossible to provide without information technology.

The decree further provides criteria to determine if clients or users are in Colombia. These include the client or user's domicile or habitual abode being in Colombia, payments made through cards or other means of payment located in Colombia, the credit or debit card used for payment being issued in Colombia, the delivery address being in Colombia (for goods sales), the IP address of the device used by the client or user locating them in Colombia at the time of the transaction, and the mobile country code (MCC) of the SIM card used by the client or user locating them in Colombia.

Nonresident companies subject to the SEP rule can opt for one of two taxation methods. They can either have a 10 percent withholding on the total amount paid, which is their gross income, or they can choose a 3 percent rate over the gross income declared on an annual corporate income tax return. In the latter case, the 10 percent withholding tax is not applicable. If the nonresidents with SEP in Colombia opt to file an annual tax return, they must register with the Colombian Tax Authority in the Unique Tax Registry (RUT) to obtain a Colombian Tax ID (NIT). In the case that the non-resident with SEP has previously registered with the Colombian tax authority for VAT purposes as a nonresident service provider, no additional registration process would be required. The nonresident should undertake a simple update of the registration to include its responsibility as a SEP taxpayer.

With respect to the withholding option, the decree provides rules regarding the order of priority to determine the withholding agent. These include withholding agents listed in article 368 of the Colombian Tax Code, debit/credit card issuers, payment gateway entities, cash collectors, sellers of prepaid cards. To read a report prepared by the KPMG International member firm in Colombia, please click here.

European Union: VAT Committee Working Paper on Secondary Sale of NFTs

On November 21, 2023, the European Commission's VAT Committee released Working Paper 1070. This document discusses whether the resale of in-game items like "skins" should be subject to value added tax (VAT). Skins are digital designs that players use to customize their video game characters. They can be traded between players on different platforms.

The VAT Committee is considering whether these trades should be treated as taxable services. This consideration arose from questions raised by Denmark about the VAT treatment of transactions related to non-fungible tokens (NFTs), especially the trading of virtual products like "skins."

A specific example in the working paper is about a person, "X," who plays an online video game, acquires skins, and sells some of them on another platform for a profit. X's annual trade volume is estimated to be around EUR 65,000.

The Danish Tax Assessment Council believes that X's trading qualifies as an economic activity for VAT purposes. Therefore, X should be considered a taxpayer for VAT and must register for VAT when yearly turnover exceeds the Danish registration threshold of DKK 50,000.

However, this view has raised issues due to the challenges individuals face in meeting typical VAT requirements like invoicing. Furthermore, Denmark pointed out that since "skins" are digital assets, their resale does not fit within existing special regimes for sales of second-hand goods or existing exemptions for financial services.

In the working paper, the Commission Services focus on whether individuals trading these "skins" should qualify as taxpayer for VAT purposes. They believe that the trading of virtual products like skins in online video games can fall within the scope of VAT if it is carried out regularly and with the intention of generating income.

The Commission Services assert that an individual selling skins regularly over an extended period should be recognized as a taxpayer. This means that the individual is conducting an economic activity and is therefore subject to VAT obligations, including filing returns and invoicing. They also note that the age of the individuals participating in these transactions is irrelevant to their VAT status. This means that even if the individual is a minor, they are still considered a taxpayer if they are conducting an economic activity. For more information, click here.

Belgium: New VAT Joint and Several Liability for Digital Platforms

On November 16, 2023, Belgian lawmakers approved a law, which, among other things, includes a new joint and several liability for digital platforms effective January 1, 2024. The implementation of this joint liability for digital platforms aligns with the approach taken by neighboring countries such as Germany, France, and the United Kingdom. Under the new joint liability, digital platforms will share responsibility with the vendor for the payment of the VAT due. In many cases, this was already the situation because previous legislation expanded a deemed buy/sell for sales of digital services and certain sales of goods facilitated by digital platforms.

The law increases the responsibility of the digital platforms and extends their joint liability even when they are not deemed sellers for VAT purposes. However, if the customer (not the vendor) acts as the importer of records for VAT purposes, neither the deemed buy/sell nor the joint liability will apply. In this situation, only the customer will be liable to pay the import VAT.

Moreover, for the sake of proportionality, the joint liability can only be invoked when the tax authority proves that the digital platform is not acting in good faith or has committed an error or negligence. In this respect, a digital platform must verify that the vendor has a valid VAT identification number before facilitating the sales and at least once per calendar year. When contacted by the tax authority, the digital platform is expected to urge the vendor whose sales are being facilitated to correctly comply with VAT declaration and payment obligations. After the third communication that the tax authority has serious suspicions against the vendor, the digital platform is expected to exclude the vendor from using the digital platform without further delay or be held jointly liable for any unpaid VAT. To read a report prepared by the KPMG International member firm in Belgium, please click here.

OECD: Updated Guidance on Marketplace Reporting Rules

In October 2023, the Organization for Economic Co-operation and Development (OECD) updated its frequently asked questions (FAQ) document regarding the model marketplace reporting rules. Among other things, the document clarifies that personal services, which are tailored to a user's specific needs, exclude non-customized pre-recorded digital content or services with a set schedule. If a service combines a personal service with other inseparable elements, the entire service should be reported.

The document further addresses the role of a platform operator as a buyer. It clarifies that a website solely facilitating the buying of goods or services from users is not considered a platform. However, if the platform operator purchases goods or services from a seller to meet another user's request, this transaction would be reportable.

The updated FAQ also touch on the indirect rental of property. It states that an accommodation rental platform offering property on behalf of third-party sellers is considered a platform, and the rented properties are deemed relevant activities. Other points addressed by the FAQs include remuneration knowledge, whether software aiding in website design qualify as reportable platforms, seller information verification requirements, the reporting of vouchers and barter transactions, the use of local currencies, and reporting on jointly registered sellers.

Source: OECD - OECD Updates DAC7 Rules FAQs: Platform Operators Receive Key Clarifications (November 1, 2023), News IBFD.

Malaysia: Sales Tax on Low Value Goods Effective January 1, 2024

The Royal Malaysian Customs Department (RMCD) recently announced that the Sales Tax on Low Value Goods (LVG) will become effective from January 1, 2024. The Sales Tax on LVG legislation, which was officially published in December 2022 and came into effect on January 1, 2023, was initially scheduled for implementation on April 1, 2023, but was postponed. Taxpayers subject to the new rules are persons established in or outside Malaysia who sell LVG on an online marketplace or operating an online marketplace for the sale of LVG meeting the registration threshold of MYR 500,000 for 12 months.

To facilitate taxpayers' understanding of the Sales Tax on LVG, the RMCD introduced a comprehensive guide on November 3, 2023. This guide, divided into two parts, offers a detailed overview of the Scope and Imposition on LVG, and the Customs Clearance Procedures on the Importation of LVG.

The first part of the guide provides valuable insights into the scope and imposition of the LVG. It clarifies that the LVG includes all goods sold at a price not exceeding MYR 500 and brought into Malaysia by land, sea, or air, with certain exceptions but excluding cigarettes, tobacco products, liquors, and vaporizing devices, among other things. The guide further explains that the tax rate is set at 10 percent, and the tax is charged on the sale value of LVG, excluding any additional charges such as shipping or insurance.

The second part of the guide focuses on the customs clearance procedures on the importation of LVG. It emphasizes the need for the LVG Registration Number to be provided by the exporters or Registered Seller in the Consignment Note or Air Waybill and to be displayed on all packages. To read a report prepared by the KPMG International member firm in Malaysia, please click here.

Switzerland: Federal Administrative Court Clarifies VAT Treatment Applicable to Crypto Assets

On August 29, 2023, the Swiss Federal Administrative Court (SFAC) published its decision in a case clarifying the VAT treatment applicable to validation/verification activities in blockchain networks (Case A-5638/2022). In the case, a validator was involved in activities on the Polkadot and Kusama blockchains, which yielded both block rewards and transaction fees. These activities encompassed operating software and network nodes, producing, validating, and finalizing new blocks on the respective blockchain network, and validating transactions commissioned by senders.

The Swiss Federal Tax Authority's (SFTA) guidelines, issued on June 17, 2019, provided initial guidance on the VAT qualification of transactions related to blockchain and distributed ledger technology. According to these guidelines, if the network automatically generates block rewards that solely compensate the validator’s activities, it does not constitute a sale but is rather qualified as a non-remuneration. However, if the validator receives a transaction fee, the validation or verification activity qualifies as a taxable electronic service. In this case, the SFTA argued that the validator's activities should be treated as taxable digital services for which the remuneration is based on the block reward and the transaction fee.

The SFAC focused on two main questions: who the recipient of the validation/verification activity is, and should the activities be considered as individual sales under the Swiss VAT law. The SFAC concluded that the effective beneficiary of the validation or verification activities is the service recipient. Furthermore, the court dismissed the SFTA’s argument that validation activities always qualify as a combination of services because these services are provided by the validator to different service recipients. Therefore, the SFAC ruled that the transaction processing and the remaining validation/verification activities of the validator should be treated independently for VAT purposes. One is the taxable transaction processing (=service), for which the taxpayer collected a transaction fee (=remuneration). The other transaction is the non-taxable "remaining" validation/verification activities provided to the blockchain network (=insufficiently identifiable recipient and not a service in a VAT sense), for which the taxpayer received block rewards (=non-remuneration). To read a report prepared by the KPMG International member firm in Switzerland, please click here.

Other Developments

- **Bulgaria:**[x] On November 28, 2023, Bulgaria implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. Under this requirement, payment service providers in EU Member States are obligated to report certain information about cross-border payments they facilitate. This information typically includes details about the payer, the payee, the amount of the payment, and the date of the transaction. The information is then shared by EU Member States through the Central Electronic System of Payment Information (CESOP). By collecting and analyzing this data, authorities can more effectively identify and investigate potential instances of VAT fraud.
- **Colombia:**[xi] On October 17, 2023, the Colombian tax authority issued General Tax Ruling 1621 of 2023, which clarified the tax treatment of crypto assets, including cryptocurrencies and non-fungible tokens (NFTs). These assets are categorized as intangible, and their value can be included in tax calculations. Regarding the applicable VAT treatment, the ruling clarifies that while the sale of crypto assets is not subject to VAT unless the asset is related to industrial property, services related to crypto assets, such as intermediation services or cryptographic mining, are indeed subject to VAT.
- **Czech Republic:**[xii] On November 6, 2023, the Czech Senate accepted for consideration a bill, which includes measures to transpose the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024

- **Estonia:**[xiii] On November 7, 2023, Estonia implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **European Union:** On November 28, 2023, the Directorate-General for Taxation and Customs of the European Commission published comprehensive guidelines detailing the reporting obligations for payment services providers. These guidelines detail reporting and recordkeeping requirements, rules for providing payment services in the EU and EEA, criteria for reporting based on a threshold of 25 cross-border transactions in a quarter, and the procedures for data communication. They also provide guidance on reporting when payees and PSPs are in different jurisdictions and outline the procedures for the submission, confirmation, validation, and resubmission of information. The guidelines specify quarterly reporting deadlines as April 30, July 31, October 31, and January 31.
- **European Union:** On November 30, 2023, the Directorate-General for Taxation and Customs of the European Commission released a list of national portals for all EU Member States, which payment service providers will use to comply with the new information reporting requirements starting January 1, 2024.
- **Germany:**[xiv] On November 29, 2023, the German Federal Tax Office published the data set for the data transmission required by payment service providers in reporting VAT payment data on cross-border payments to the CESOP.
- **Greece:**[xv] On October 25, 2023, the Disputes Resolution Directorate of the Greek Independent Authority for Public Revenue ruled that cryptocurrency sales are subject to VAT at the standard rate of 24 percent. The decision came in a case involving a company that was denied the ability to deduct VAT incurred on its expenditures for cryptocurrency exchange services. The Directorate sided with the tax administration, stating that cryptocurrencies are not legal means of payment and thus do not qualify for exemptions under the VAT Code. Furthermore, it noted that the classification of cryptocurrencies as currency, as held by the ECJ in the *Hedqvist* (Case C-264/14 (October 22, 2015)), has not been incorporated into Greek domestic law and therefore does not bind the tax authority.
- **Ireland:**[xvi] On November 6, 2023, the Irish tax authority released the Tax and Duty Manual – Registration Guidelines for DAC7, which offers technical guidance on the registration process for certain platform operators as mandated by Council Directive (EU) 2021/514 (DAC7). Under DAC7, starting January 1, 2024, platform operators, which could include online marketplaces, collaborative economy platforms, or other digital interfaces, are required to collect and automatically report information about the sellers using their platforms. These sellers could be individuals or businesses who are earning income through the sale of goods, rental of property, or provision of services.
- **Italy:**[xvii] On November 3, 2023, Italy implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. On November 20, 2023, the Italian tax authorities have further issued Protocol No. 406675/2023, which includes the implementing rules for this data reporting obligation. PSPs must electronically submit the required information through the tax authorities' SID system (*sistema di interscambio dati*) by the last day of the month following the reporting quarter. The tax authorities will then forward this information to the CESOP for storage, aggregation, and cross-checking. Eurofisc liaison officers will have access to this stored information to combat VAT fraud.
- **Italy:**[xviii] On November 20, 2023, the Italian tax authorities issued Protocol No. 406671/2023, which includes the implementing rules for the data reporting obligation for qualifying digital platform operators under DAC7.

- **Jersey:**[xix] On November 10, 2023, the Jersey government announced plans to implement the Crypto-Asset Reporting Framework (CARF) developed by the OECD. The announcement included several key initiatives: the expansion of the automatic exchange of information (AEOI) under the common reporting standard (CRS) to cover electronic financial products and central bank digital currencies; the introduction of regulations for indirect investments in digital currencies via investment entities and derivatives; modifications to the CRS to ensure accurate reporting; the establishment of due diligence procedures and reporting outcomes to enhance the usability of CRS information for tax administrations and reduce burdens on financial institutions. Finally, the government provided timelines for the implementation of these new rules, in line with the recommendations of the OECD and the applicable EU Directive for Administrative Cooperation (DAC8), setting the initial exchange of information for 2027.
- **Latvia:**[xx] On November 22, 2023, Latvia implemented the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Mexico:** On November 17, 2023, Mexico published an updated list of non-resident digital services providers that are compliant with their registration requirements. As of October 31, 2023, 198 entities are registered. To read a report prepared by the KPMG International member firm in Mexico, please click here.
- **OECD:** On November 10, 2024, the OECD announced that 48 countries committed to implement the OECD's global tax transparency framework for crypto-assets by 2027. The Crypto-Asset Reporting Framework (CARF), developed under a G20 mandate, enables the automatic exchange of tax-relevant information on crypto-assets. Unlike traditional financial products, crypto assets can be transferred and held without traditional financial intermediaries.
- **Ukraine:**[xxi] On November 17, 2023, Ukraine's Parliament accepted for consideration Bill No. 10225-1, which, among other things, would exempt from VAT virtual asset transactions, except for service tokens.

Developments Summary of the Taxation of the Digitalized Economy

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

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E-Invoicing Updates

- **China:**[xxii] On November 1, 2023, the State Taxation Administration of Beijing launched a pilot project for fully digitalized e-invoices. The pilot involves selected taxpayers in Beijing who use the e-invoice service platform. The legal effect and basic use of the digital invoices are the same as the existing paper invoices. The platform supports the issuance of VAT paper special invoices and VAT paper ordinary invoices. The State Taxation Administration of Beijing further published guidelines on the management of the total invoice amount, the collection of invoice data, and the issuance of "red" digital invoices or "red" paper invoices in case of errors or returns. The provinces of Hunan, Shandong, Anhui, Qinghai, Ningxia, and Guizhou have also announced they will start similar pilots on the same date.

- **European Union:**[xxiii] On November 22, 2023, the European Parliament approved three legislative resolutions (P9_TA(2023)0421, P9_TA(2023)0422, and P9_TA(2023)0423) regarding the VAT in the Digital Age (ViDA) initiative. While endorsing the initiative, the European Parliament proposed a one year delay in the implementation of the proposed measures to facilitate businesses compliance with the new rules.
- **Ghana:**[xxiv] On November 15, 2023, the Ministry of Finance of Ghana released the 2024 budget, proposing to use the Commissioner-General's certified invoice as the foundation for all deductible expenses for income tax purposes. Additionally, the budget proposes to initiate the second phase of the e-invoicing system, known as e-VAT.
- **Malaysia:**[xxv] On October 28, 2023, the Inland Revenue Board of Malaysia issued version 2.1 of the E-invoice Guidelines. The primary update is the following revised schedule for the roll-out of the e-invoicing system, which is based on taxpayers' annual gross receipts in 2022: (1) August 1, 2024, for taxpayers with annual revenues exceeding MYR 100 million; (2) January 1, 2025, for taxpayers with annual revenues between MYR 25 million and MYR 100 million; and (3) July 1, 2025, for all remaining taxpayers.
- **Pakistan:**[xxvi] On November 10, 2023, the Revenue Division of the Federal Board of Revenue of Pakistan issued Notification S.R.O. 1525(I)/2023 announcing amendments to the Sales Tax Rules, which will expand the application of the e-invoicing system to sales made by registered persons from a yet to be specified date.
- **Panama:**[xxvii] On October 20, 2023, the tax authority of Panama (DGI) issued Resolution 201-9775, establishing the following updated schedule for Panamanian taxpayers to adhere to the e-invoicing mandate upon their request for incorporation into the system: (1) companies with revenues of USD 1,000,000 or less must comply within 90 days; (2) companies with revenues between USD 1,000,000.01 and USD 2,500,000 must comply within 120 days; (3) companies with revenues of USD 2,500,000.01 or more must comply within 150 days.
- **Poland:**[xxviii] On November 28, 2023, the Polish Finance Ministry initiated consultations until December 18, 2023 on two legislative acts related to the universal implementation of the National e-Invoice System (KSeF), set to take effect on July 1, 2024. These acts include a technical regulation and an amendment to the existing invoice issuance regulation. The proposed technical regulation will mandate the use of KSeF by all taxpayers and will introduce new specifications for data access, QR code marking, and authorization methods. The amendment will align the current invoice issuance regulation with KSeF solutions, incorporating new provisions for continuous service invoices, which are invoices for ongoing services like utilities.
- **Saudi Arabia:**[xxix] On November 17, 2023, the Zakat, Tax and Customs Authority (ZATCA) announced the criteria of the Ninth group of taxpayers that will be required to comply with Phase 2 of the e-invoicing mandate. According to the announcement, effective June 1, 2024, taxpayers with revenues subject to VAT exceeded SAR 30 million during 2021 or 2022 must comply with Phase 2 requirements. Phase 2 consist of integrating taxpayer e-invoicing solutions with ZATCA's FATOORA Platform as well as including additional data fields and complying with the specified format. As the Phase 2 implementation continues in waves, ZATCA will continue notifying taxpayers of their mandatory compliance at least six months in advance.
- **Serbia:** On October 27, 2023, the Serbia published a law amending the Law on Electronic Invoicing effective January 1, 2024. The law introduces a shorter 10-day deadline for electronic recording of VAT, down from the previous 15 days. If a change impacting VAT recording occurs after this period, companies must correct the VAT recording within the deadline for the VAT return submission for the relevant tax period. The law further introduces

a new mandate for taxpayers to electronically record the VAT incurred on expenditures, such as when importing goods, regardless of their ability to deduct the VAT. This new requirement will apply for tax periods starting after August 31, 2024. To read a report prepared by the KPMG International member firm in Serbia, please click here.

- **Uruguay:**[xxx] On November 20, 2023, the tax authority of Uruguay (DGI) published resolution No. 2.389/2023. This resolution mandates all VAT taxpayers to issue e-invoices starting from July 31, 2023. While the general deadline for compliance is January 1, 2024, providers of personal services only have until May 1, 2024, to comply. Businesses that register as VAT taxpayers between August 1, 2023, and April 30, 2024, must begin issuing e-invoices by May 1, 2024. However, this resolution does not apply to taxpayers with an annual revenue of less than 4 million Indexed Units (approximately USD 494,000), taxpayers under the simplified tax regime (known as "monotributo"), and non-residents subject to the nonresident income tax, among others.

E-invoicing Developments Timeline

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

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Other Indirect Tax Developments and News from Around the World

The Americas

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

- **KPMG in Brazil** published a report (in Portuguese) discussing recent tax developments including several concerning the federal tax on industrialized products (IPI) and state sales tax (ICMS). The developments include the clarification of the IPI exemption for certain vehicles, changes in the IPI Table effective from November 1, 2023, the characterization of product packaging as industrialization for IPI, and the validation of ICMS credits for intermediate products used in the production process.
- **KPMG in Canada** published a report discussing tax measures in the 2023 Fall Economic Update delivered by the Canadian Ministry of Finance on November 21, 2023. The Fall Economic Update includes, among other things, new rules for the goods and services tax (GST) / harmonized sales tax (HST) joint venture elections, which allow taxpayers to choose simplified GST/HST accounting under certain circumstances. The Fall Economic Update further reaffirms Canada's commitment to move ahead with its longstanding plan to enact legislation for a digital services tax (DST).
- **KPMG in Chile** published a report discussing recent tax developments in the country. These include guidance from the tax authority on the application of VAT exemptions for several activities. These activities are performed by rural sanitary service operators, the administration

and maintenance of an educational platform, transactions conducted by the University of Chile, and the sale of fixed assets and lease of real estate by the Chilean Air Federation and affiliated air clubs. The report also discusses the VAT treatment of benefits for victims of work accidents.

United States: Louisiana Clarifies Peer-to-Peer Car Sharing Platform's Obligations

On November 14, 2023, the Louisiana Department of Revenue recently issued Revenue Ruling 23-001, which addresses the tax collection and remittance requirements for vehicle lease or rental transactions facilitated through peer-to-peer vehicle sharing platforms. Legislation enacted in 2020 expanded the definition of a "dealer" required to collect state and local sales tax to include anyone who operates, maintains, or facilitates a peer-to-peer vehicle sharing program and collects some portion of the amount paid under a vehicle sharing program agreement. Another section of Louisiana law excludes any person who offers or facilitates the furnishing of rental cars by rental car companies from the definition of a marketplace facilitator.

The taxpayer at issue was in the business of operating, maintaining, and facilitating an online platform that connected vehicle owners with drivers who wanted to lease or rent vehicles on a short-term basis for use in Louisiana. The Department ruled that through its operation, maintenance, and facilitation of a peer-to-peer vehicle sharing program, the taxpayer at issue met the definition of a dealer. Due to its collection of a portion of the amount paid under the vehicle sharing program agreements, the taxpayer would be required to collect and remit sales tax on transactions facilitated on its vehicle sharing platform. The taxpayer would also be responsible for collecting and remitting the separate automobile rental tax that would be due on taxable rentals made through the platform. The ruling then addressed the taxpayer's reporting and remittance requirements. The state sales tax and the automobile rental tax (state and local portions) would be remitted electronically to the Louisiana Department of Revenue. Local sales taxes would be required to be remitted to the appropriate local sales tax collector, presumably because "these businesses are statutorily excluded from the definition of marketplace facilitator and are ineligible to file or remit to the Louisiana Sales and Use Tax Commission for Remote Sellers." For further details on this and other sales tax developments in U.S. states, subscribe to KPMG's This Week in State Tax.

Miscellaneous Developments in the Americas

- **Belize:**[xxxi] On November 24, 2023, Belize's tax authority issued Ruling no. 04/2023, which clarified the General Sales Tax (GST) treatment for former international business companies (IBCs), effective from December 1, 2023. This ruling came after the abolition of the IBCs regime in Belize and the introduction of the Companies Act, 2022. It provides that these former IBCs are now covered by the Companies Act, 2022. With this change, previous tax laws pertaining to these companies are no longer applicable and will vary case by case. The ruling states that a company registered and established in Belize and with jurisdiction there is considered a GST resident, while a company registered in Belize but not established there is not considered a GST resident. Services provided to nonresident companies are considered zero-rate exported services. Taxpayers providing services to nonresident companies must show evidence that the recipient company has jurisdiction in another country.
- **Colombia:**[xxxii] On September 23, 2023, the Colombian Supreme Administrative Court overturned tax authority rulings that prevented taxpayers from applying the VAT paid on the acquisition, construction, formation, or import of productive fixed assets as an income tax credit over several tax years. The court considered that the provision allowing taxpayers to credit, for income tax purposes, the amount of VAT paid in the acquisition, construction, formation or import of productive fixed assets does not forbid the possibility to split the

VAT paid to be credited over several tax years. It clarified that while some tax benefits allow the taxpayer to use excess tax credits over several tax years, it does not imply a general limitation for splitting tax credits in other cases. Therefore, it revoked the rulings that required taxpayers to credit the total amount of VAT paid against income tax in the year in which the VAT was paid or in subsequent years.

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Europe, Middle East, Africa (EMEA)

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

- **KPMG in Bahrain** published a report discussing the publication of an updated general VAT guide on November 16, 2023. The updates concern the conditions for issuing electronic documents without obtaining prior approval from the National Bureau for Revenue (NBR).
- **KPMG in Bulgaria** published a report discussing a new electronic service, introduced by the tax authority in October 2023, that enables registered taxpayers ascertain whether they can claim VAT deductions/refunds related to bad debts.
- **KPMG in the Czech Republic** published a report discussing a recent decision of the Supreme Administrative Court (SAC) on the VAT treatment of marketing services provided alongside the distribution of pharmaceuticals. In the case, a taxpayer in the Czech Republic, who distributed pharmaceuticals within the Czech Republic and provided marketing services to a foreign group company treated the marketing services as a separate transaction that is not subject to VAT in the Czech Republic. The tax authority argued that these services were part of the main pharmaceutical transaction and should be included in the VAT base for the sale of pharmaceuticals in the Czech Republic. The SAC emphasized that it was necessary to distinguish between the recipient of the marketing services (the one who ordered the services and benefited from it) and the recipient of the marketing information (the one whom the content of the marketing service was intended to influence). The SAC concluded that the taxpayer did not provide any marketing services or other services to its customers other than medicine. The customers were only the recipients of the marketing information. Therefore, payment for the taxpayer’s marketing services cannot be regarded as part of the consideration of the drugs sold in the Czech Republic.
- **KPMG in Germany** published a report discussing recent VAT developments including recent court decisions on deducting import VAT and the concept of legitimate expectation in the case of illegal administrative actions as well as tax authority guidance on the proposed e-invoicing requirements, the application of the reduced VAT rate to the sale of woodchips, and the application of the reduced VAT rate on short-term rental of living spaces and rooms.
- **KPMG in Germany** published a report discussing recent VAT developments including proposed legislation that would, among other things, implement mandatory e-invoicing, increase the threshold for the application of cash accounting, and reduce the period of validity for the reduced VAT rate for gas and heat. The report further discusses recent tax authority guidance on the VAT treatment applicable to letting and leasing of land with operating equipment, as well as the application of the VAT exemption to laboratory services.
- **KPMG in Ghana** published a report discussing tax and customs measures in the 2024 budget. Proposed indirect tax measures include the commencement of the second phase of the VAT e-invoicing program, an extension of the VAT zero-rate on African prints and

locally assembled vehicles for two years, and the introduction of VAT exemptions for the importation of raw materials for the pharmaceutical industry and locally produced sanitary pads. The proposal also includes an expansion of the environmental excise duty to plastics and industrial and vehicle emissions. Proposed customs measures include the introduction of an import duty waiver on the importation of commercial electric buses for public transportation and local assemblers of electric vehicles.

- **KPMG in Ireland** published a report discussing a recent Tax Appeal Commission decision rejecting a taxpayer's appeal to apply the VAT margin mechanism to the purchase and resale of second-hand cars. The appellant, a specialist in importing and selling high-end second-hand cars, failed to provide the necessary proof to show that it was eligible to use the margin scheme. The audit by the tax authorities revealed that none of the purchase invoices mentioned "margin mechanism" and some invoices listed the appellant's VAT registration number. As a result, the Commissioner decided that Irish VAT should apply to the full resale price of the car, not just the profit margin.
- **KPMG in Nigeria** published a report discussing a recent Tax Appeal Tribunal Lagos Zone decision in which the tribunal found that the provision of software licenses and upgrades by the taxpayer who was not located in Nigeria was a taxable sale of goods or services for VAT purposes because such services were consumed in Nigeria. However, the tribunal held that the tax authority cannot impose interest and penalties on additional VAT assessments that the taxpayer objects to within the statutory period for objection.
- **KPMG in Oman** published a report discussing Decision No. 521/2023, amending the Oman VAT Executive Regulations effective October 30, 2023. The Decision outlines additional circumstances and conditions for VAT refunds. These include VAT paid by non-profit charitable organizations on purchases directly related to charitable activities, VAT paid on import of goods from a non-taxable person in excess of the VAT due, and VAT paid on import of goods for re-export where customs duty paid is refunded. The conditions for refund in all cases include a minimum refund claim of OMR 15, submission of a refund application for each tax period, and submission of relevant documents. The Oman tax authority should decide on the refund application within 30 days from the submission of all documents and refund the approved amount within 15 days from the date of notification of the refund decision.
- **KPMG in Oman** published a report discussing Royal Decree No. 80/2023 (RD 80/23), granting the Minister of Finance the authority to allow tax exemptions under the Oman Income Tax Law, Oman Excise Tax Law, and Oman VAT Law effective November 9, 2023.
- **KPMG in Poland** published a report discussing, among other things, a recent Regional Administrative Court ruling that the provision of electricity to foreign partners by a company offering EV charging services are not taxable in Poland, refuting the tax authority's position that the sale of electricity should be taxed in Poland.
- **KPMG in Serbia** published a report discussing amendments to the VAT Rulebook that are effective January 1, 2024. The amendments pertain to the method of maintaining records on passengers' requests for VAT refunds by sellers who are VAT payers. A new, more detailed Form EZPPPDV has been introduced for recording passengers' requests for VAT refunds, which includes the serial number of the record, the buyer-passenger's name and passport number, and the method of VAT refund. The data in the EZPPPDV Form must be presented within seven days from the end of the tax period in which the original certified request for a VAT refund was received. Sellers who are required to use a fiscal device must keep these records in electronic form on the tax authorities' portal, while those who are not required to use a fiscal device can keep records in paper or electronic form, using the new

EZPPPDV Form, without the obligation to enter data on the portal, unless requested by the tax authorities.

- **KPMG in Sweden** published a report discussion a recent Supreme Administrative Court ruling that a holding company, providing management services to its subsidiaries, has the right to recover VAT on costs related to the disposal of shares in its subsidiaries as the restructuring was aimed to improve efficiency, increase sales, and secure funds for the corporate group.

Roundup of Latest Court of Justice of the European Union Cases

- On November 16, 2023, the Court of Justice of the European Union (ECJ) published the nonbinding opinion of its Advocate General (AG) in *Bydgoszczy v B. sp. z o.o.*, Case C-606/22, regarding whether taxpayers can adjust the taxable amount and claim a refund if they overpaid VAT due to an error in price calculation in sales made to final consumers. The AG stated that VAT is due even if an incorrect tax rate was applied. The agreed or received price, inclusive of the correct VAT amount, is the determining factor. The AG noted that while consumers paid a higher final price due to the miscalculation, this does not prevent the tax from being refunded nor results in unjust enrichment of the taxpayer if a fixed price was previously agreed. Therefore, the AG recommended the ECJ to rule against a practice by national tax authorities that views an adjustment of the owed tax in the tax return as inadmissible if goods and services were sold at an excessive VAT rate and only cash register receipts were issued, without VAT invoices.
- On November 23, 2023, the ECJ published its judgment in *Westside Unicat*, Case C-352/22, regarding whether the services provided by a video chat recording studio to the operator of an internet streaming platform should qualify as “admission to events” and therefore be taxable where the event takes place. The ECJ held that services provided by a video chat recording studio to an internet streaming platform operator, which consist of creating digital content in the form of interactive erotic video sessions, while being necessary for the operator to stream content do not grant customers access to that content. Therefore, these services do not qualify as services related to admission to events and are therefore not taxable where the event takes place.

Source: European Union; Poland - ECJ Advocate General Opines on VAT Taxable Amount Adjustment with Unchanged Price: Dyrektor Izby Administracji Skarbowej w Bydgoszczy (Case C-606/22) (VAT) (November 16, 2023), News IBFD; European Union; Romania - ECJ Decides on Place of Supply Rules Applicable to Live Streamed Interactive Sessions: Westside Unicat (Case C-532/22) (VAT) (November 23, 2023), News IBFD.

European Union: Overview of VAT Committee Working Papers

On November 20, 2023, the European Commission VAT Committee held its 123rd meeting and published documents resulting from that meeting. The VAT Committee is composed of representatives of the Member States’ tax authorities and was set up to promote the uniform application of the provisions of the VAT Directive. Because it is an advisory committee only and has not been attributed any legislative powers, the VAT Committee cannot take legally binding decisions. It can however give some guidance on the application of the Directive.

In Working Paper No. 1069, Slovakia asked about the interaction between the new VAT Small and Medium Enterprises (SME) mechanism effective from January 1, 2025), the One-Stop-Shop (OSS) Union mechanism and the Import One-Stop-Shop (IOSS). Under the SME mechanism, certain small businesses with gross receipts below a specific threshold can benefit from simplified procedures for VAT registration, record-keeping, and returns. The OSS and IOSS are two EU-wide VAT compliance mechanisms for remote sellers of goods and services to consumers. The VAT Committee concluded that the SME and OSS mechanisms can be used together. However, businesses using the SME mechanism must opt out to use the IOSS Mechanism.

In Working Paper No. 1071, Slovakia asked about VAT rules for intra-EU transactions under the new SME mechanism. The VAT Committee provided two alternatives, one with retroactive VAT identification number provision and one without. Due to the issue's complexity, the VAT Committee asked for opinions from delegations.

In Working Paper No. 1072, the Czech Republic consulted about a domestic measure effective from January 1, 2024, to limit VAT deductions on certain passenger vehicles. The VAT Committee asked for more information and emphasized the need to ensure fairness between domestic and foreign-produced cars.

In Working Paper No. 1073, the VAT Committee aimed to clarify the new SME mechanism and agree on a common approach to issues such as eligibility and exemption termination. The Working Paper provides an in-depth discussion on the new mechanism including its scope, the interaction with other special mechanisms, the operation of the SME mechanism for both the domestic exemption and the new intra-EU exemption, how to apply for the mechanism, the reporting obligations under the SME mechanism, and how to leave the mechanism. The Working Paper highlights that more discussions are necessary on certain technical aspects, including clarifying the persons eligible for the mechanism, how the SME mechanism operates if a Member State applies multiple thresholds, how to handle corrections, when the exemption ceases to apply, and how to handle individual "EX" identification issues.

In addition to these papers, the VAT Committee published an Information Paper on the options exercised by Member States under certain articles of the VAT Directive and one Information Paper on recent ECJ judgments.

Source: European Union – VAT Committee Discusses SMEs scheme, VAT Treatment of NFTs, Limitation of Input VAT Deductions at 123rd Meeting (November 21, 2023), News IBFD.

Miscellaneous Developments in EMEA

- **Bulgaria:**[xxxiii] On October 31, 2023, Bulgaria announced new Intrastat reporting thresholds for 2024 as follows: (1) for intra-EU dispatches, the Intrastat reporting threshold will increase from BGN 1,000,000 to BGN 1,900,000, and the threshold for declaring statistical value will increase from BGN 29,300,000 to BGN 37,200,000; (2) for intra-EU acquisitions, the Intrastat reporting threshold will increase from BGN 700,000 to BGN 1,650,000, and the threshold for declaring statistical value will increase from BGN 11,000,000 to BGN 16,000,000. In addition, the threshold for simplified reporting of single low-value transactions will increase from BGN 390 to BGN 500.
- **Bulgaria:**[xxxiv] On November 7, 2023, the Bulgarian parliament accepted for consideration a bill to harmonize its VAT law with the EU VAT rules and case law, effective from January 1, 2025. Among other things, the bill includes measures to remove the need for non-EU entities to have an accredited representative for VAT registration, introduce new thresholds for small business registration, allow entities to charge VAT for sales made during an unregistered period, and impose penalties for non-issuance of receipts and false financial data declaration.
- **Cabo Verde:**[xxxv] Cabo Verde recently proposed to introduce a VAT self-invoicing regime, effective from January 1, 2024. Under the proposed regime, purchaser-created invoices must satisfy the following requirements: (1) the self-invoice must be based on a prior

agreement between the taxpayer transferring the goods or providing the services and the purchaser or recipient; (2) the purchaser must provide evidence that the vendor of the goods or services was informed of the invoice issuance and accepted its content; and (3) the self-invoice must be issued in a specialized series of invoicing, explicitly indicating the words "self-billing."

- **Croatia:**[xxxvi] On November 6, 2023, the Croatian Ministry of Finance initiated a consultation on a draft bill to amend the VAT law. If enacted, the bill will increase the VAT registration threshold from EUR 39,817 to EUR 40,000; raise the VAT-exempt gift threshold from EUR 21 to EUR 22; and increase the VAT exemption threshold for specific deliveries of goods by passengers from EUR 98 to EUR 100. Furthermore, the bill includes measures to allow VAT deductions for advances paid with invoices, permit tax base reductions for bad debts, and introduce procedures for correcting errors in VAT invoices.
- **Cyprus:**[xxxvii] On November 16, 2023, the European Commission closed the infringement proceedings, launched on July 15, 2021, against Cyprus with respect to the application of a reduced VAT rate for dwellings. The proceedings were initiated because Cyprus applied the reduced rate regardless of the economic situation of the beneficiaries and the area of the dwelling concerned.
- **Denmark:**[xxxviii] On November 8, 2023, the Danish tax authority published Tax Council Binding Answer No. SKM2023.522.SR, clarifying that taxpayers may deduct import VAT incurred on leased assets imported from non-EU countries. In this case, the taxpayer imported leased assets from a non-EU country for use in Denmark under a lease agreement with a hire purchase provision, which allowed the taxpayer the option to purchase the assets from the lessor. The Tax Council confirmed that the taxpayer could deduct import VAT because the consideration was for the purchase of assets, not leasing services. Furthermore, the taxpayer had the right to dispose of the assets as an owner under the hire purchase provision, and the cost of the assets had a direct link with the taxpayer's economic activity.
- **Denmark:**[xxxix] On November 13, 2023, the Danish tax authority published Tax Council Binding Answer No. SKM2023.538.SR, clarifying the application of the VAT self-assessment mechanism to telecommunication services. In this case, the taxpayer, a telecommunication service provider, sought clarification on whether the self-assessment mechanism applied to the installation of subscriptions, interconnection services, number porting, renting space on infrastructure, and unsuccessful technician visits. The tax authority clarified that the self-assessment mechanism applies when telecommunications services are sold to customers who resell them. This also applies to ancillary services, such as necessary equipment and extra technician hours, when they are resold. However, the mechanism does not apply to number porting, as it does not qualify as a telecommunication service, nor does it apply to the rental of digital infrastructure, given that lessees fully utilize the space without meeting the resale condition.
- **Denmark:**[xl] On November 23, 2023, the Danish tax authority published City Court Decision No. SKM2023.557.BR, in which the court ruled that a taxpayer, employed in the wine industry, who sold his privately collected wine through an online platform, did not engage in an unregistered commercial business subject to VAT, as the sales were of private property.
- **Egypt:**[xli] On November 21, 2023, Egypt updated its VAT rules, requiring taxpayers to pay VAT in the same foreign currency in which goods or services were bought. However, taxpayers can deviate from this rule by paying VAT in Egyptian pounds (EGP), provided the amount paid in EGP is equal to or more than the VAT amount in foreign currency. Payments must be made to a bank registered with the Central Bank within a month of revenue collection.

- **Egypt:**[xlii] The Egyptian Tax Authority (ETA) recently outlined the necessary documents for speeding up the VAT refund process for previously paid taxes. These include the original copy of Export Form 13 or a customs certificate for exported products, original sales invoices, customs report of local and imported purchases, goods receipts list, certificate of local input tax percentage, inventory checklist, production equation with relevant documentation, financial statements, and a certificate from a chartered accountant verifying the input tax deducted values.
- **European Union:**[xliii] On November 9, 2023, the Group on the Future of VAT (GFV) held its 43rd meeting. The agenda for the meeting included discussions on transforming the VAT and excise duty exemption certificate into an electronic form, the possibility of including amendments in a late submitted One Stop Shop (OSS) VAT return, and suggestions for additional topics and clarifications to be included in the Explanatory Notes on the new VAT SME mechanism. Following the meeting, the group published a presentation explaining the main aspects of the proposed EU Customs reform.
- **European Union:**[xliv] The European Commission recently published the minutes from the 34th meeting of the VAT Expert Group (VEG), which was held on October 26, 2023. Among other things, the meeting discussed new rules for expert groups' meetings, stipulating that all meetings are to be held online with one physical meeting per year when necessary. The group also discussed the new SME mechanism, and updates on the European Commission's ongoing work, including the ViDA package, the EU Customs reform, the VAT e-commerce package, the travel and tourism package, and the reporting on vouchers. Additionally, the VEG discussed issues with checking the validity of VAT ID numbers in Germany and the VAT treatment of donated and recycled goods.
- **Greece:**[xlv] On November 2, 2023, the Greek Public Revenue Authority clarified that income from Contracts for Difference (CFDs) is not exempt from VAT. It stated that under both Greek and EU laws, a VAT exemption applies solely to derivatives traded on the stock market, excluding over-the-counter derivatives like CFDs. CFDs are financial derivatives that are not traded on an exchange but are mainly used for risk hedging. They involve parties agreeing to compensate each other for the difference in the price movement of an underlying asset, which could be a stock index, stock price, or the value of a commodity such as natural gas or electricity.
- **Greece:**[xlvi] On November 14, 2023, the Greek tax authority launched a consultation on a draft bill that includes proposed changes to its short-term rental laws. Specifically, the bill stipulates that short-term leasing is subject to VAT. It defines short-term leasing as renting for less than 60 days with only accommodation and bed linens provided. Additionally, the bill proposes to replace the 'Residence Tax' with a "Resilience to Climate Crisis" fee for hotels, rented rooms, tourist villas, short-term leases, and tourist residences.
- **Greece:**[xlvii] On November 16, 2023, the European Commission closed the infringement proceedings, launched on June 9, 2021, against Greece with respect to the broad application of the VAT exemption of postal services. The proceedings were initiated because Greece applied the VAT exemption to certain postal services that did not meet the essential needs of the population.
- **Iceland:**[xlviii] On November 24, 2023, the Icelandic tax authority published an announcement clarifying the transitional rules for the end of the VAT exemption regime for the importation and resale of environmentally friendly vehicles (e-vehicles). This regime waives VAT up to a certain maximum amount for these vehicles. The announcement clarified that VAT does not apply to payments within the specified maximum amount for purchases of these vehicles that are ordered and paid in full or in part before the end of the year, even if these

vehicles are not delivered until the new year. However, payment of balances in excess of the authorized maximum amounts is subject to VAT, whether it is made before or after the end of the year. The regime ends on December 31, 2023, and from January 1, 2024, these vehicles will be fully subject to VAT.

- **Ireland:**[xlix] The Irish Revenue recently issued a new Tax and Duty Manual (TDM) providing guidance on the VAT treatment of Cost Sharing Groups (CSGs). The TDM provides that certain transactions carried out by CSGs may be exempt from VAT, provided they meet specific conditions. For this purpose, it defines a CSG as an independent entity, created for administrative convenience by individuals who each engage in an activity in the public interest, which is exempt from or not subject to tax. The primary purpose of a CSG is to provide its members with the necessary services to conduct their activities. The group, however, must recover from its members the exact amount of each member's share of the joint expenses. The VAT exemption applies only to groups whose members carry out activities in the public interest, but it can also extend to members who undertake taxable activities, provided those services are directly necessary for their VAT exempt or non-taxable activities. Moreover, the exemption applies irrespective of whether the services are provided to all or some members, and whether the services are identical or different. The CSG can only recover the exact amount of each member's share of the joint expenses, with no profit element included. If a profit element is included, the exemption will not apply, and standard VAT rules will apply.
- **Jersey:**[l] On October 31, 2023, Jersey's parliament accepted a bill for consideration that includes measures to implement the country's 2024 budget. The bill proposes measures to (1) extend GST group registrations to groups that include both online retailers based outside Jersey and those established in Jersey; (2) change the GST registration requirements so that sales made to businesses in Jersey by overseas retailers are not included when calculating a business's gross receipts for GST registration; (3) renumber the conditions relating to the sale of goods into Jersey for clarity in the GST law; and (4) revise the definition of "aircraft" in the GST Law to prevent small operators from importing private planes for individual use as zero-rated imports.
- **Kenya:**[li] On October 31, 2023, the Kenya Revenue Authority (KRA) released a guide on how to apply for Withholding VAT Exemption. This exemption, introduced in the Finance Act 2023, is available to registered manufacturers who have invested at least KES 3 billion in the previous three years, starting from July 1, 2022.
- **Kenya:**[lii] On October 31, 2023, the KRA published a guide on the tax amnesty introduced under the Finance Act 2023. The amnesty allows for automatic relief from penalties, interest, or fines on tax debt if all principal tax was paid before December 31, 2022. If the principal tax was not fully paid by this date, taxpayers can apply for relief on penalties, interest, or fines accrued up to December 31, 2022, provided they pay all outstanding principal taxes by June 30, 2024, and meet certain conditions. These conditions include clearing all principal tax by June 30, 2024, and agreeing to and honoring a payment plan agreement, with the first installment due on the date of the amnesty application. Any remaining penalties and interest after June 30, 2024, will not qualify for amnesty, and defaulting on the payment plan without a valid reason will lead to enforcement measures.
- **Kenya:**[liii] Effective January 2024, the KRA will simplify the VAT return filing process by introducing pre-filled returns. To assist taxpayers, the KRA has released a step-by-step guide on how to file these auto-populated VAT returns through the government portal, iTAX.
- **Lithuania:**[liv] Effective January 1, 2024, Lithuania will increase the Intrastat reporting thresholds to EUR 400,000 for intra-EU dispatches and EUR 550,000 for intra-EU

acquisitions, up from EUR 300,000 and EUR 500,000, respectively. Furthermore, businesses with sales below EUR 10 million for dispatches or EUR 7 million for acquisitions will not be required to provide statistical value information.

- **Luxembourg:**[lv] Luxembourg's government recently proposed to broaden the use of VAT self-assessment to include various electronic devices and raw or semi-finished metals.
- **Norway:**[lvi] On November 8, 2023, the Norwegian tax authority issued Binding Advance Statement No. 12/2023 clarifying the VAT treatment of the shipping and deposition of CO2. The tax authority held that shipping services are subject to VAT. It also stated that the turnover of CO2 deposition service on the continental shelf, being "completely ready for use" outside the VAT area, is VAT exempt. Furthermore, the tax authority allowed the company to deduct VAT related to the shipment and deposition of CO2, investments and operations of the reception facility, and other infrastructure used for the CO2 shipment.
- **Norway:**[lvii] On November 23, 2023, the Norwegian tax authority published a Principle Statement clarifying the VAT treatment of the acquisition and use of solar cell systems that produce electricity for private use, where surplus power is sold back to the electricity provider, as well as combined systems used in registered businesses that sell their excess electricity. According to the tax authority, a registered business can claim a VAT refund for electricity purchased from a power company if it is used in taxable business activities or resold, but not for personal use. Moreover, the sale of surplus electricity is taxable, and a solar plant can claim a VAT refund for purchase and maintenance costs if it uses self-generated electricity for taxable activities.
- **OECD:**[lviii] On November 27, 2023, the OECD published a report on Effective Carbon Rates 2023. The report analyzes carbon pricing mechanisms, such as fuel excise taxes, carbon taxes, and emissions trading systems, in 72 countries responsible for about 80 percent of global greenhouse gas emissions. Using the Effective Carbon Rate, the report assesses the impact of these pricing tools on promoting low or zero-carbon alternatives. It also offers data to help policymakers refine carbon reduction strategies and highlighted the benefits of carbon pricing, including cost-effective emission reductions and stimulating low-carbon technologies. Lastly, it examines the potential decrease in CO2 emissions and revenue generation from effective carbon rates and carbon price floors.
- **Sierra Leone:**[lix] On November 3, 2023, Sierra Leone published the Finance Act 2024, which, among other things, amends the GST registration threshold to 500,000 Sierra Leonean new leones from 100 million old leones, amends the list of GST-exempt machinery and telecommunication services, and require resident and nonresident taxpayers selling digital products and services to pay tax on all income derived from sources in Sierra Leone.
- **Slovakia:**[lx] On November 14, 2023, the Slovak Parliament accepted for consideration Bill No. 38, which would increase the VAT registration threshold from EUR 49,790 to EUR 75,000 effective July 1, 2024. The Bill would further introduce transitional provisions for cancelling VAT registration and for allowing voluntary VAT registration for taxpayers whose gross receipts exceed the previous threshold, provided they notify the tax authority in writing by July 15, 2024. The Bill would also prevent taxpayers from facing penalties for failing to register for VAT if their revenue stays within the revised gross receipts limit.
- **South Africa:**[lxi] On October 25, 2023, the South African Revenue Service (SARS) issued Binding General Ruling (VAT) 62 (Issue 2), regarding the VAT implications for a lender charging fees in a securities lending arrangement. The BGR clarifies that effective April 1, 2023 such arrangements qualify as VAT exempt "financial services."

- **Türkiye:**[lxii] On November 24, 2023, Türkiye published Presidential Decision No. 7846, which removes the right to deduct input VAT on imports within the scope of import surveillance and protection measures applied at customs. The goods subject to safeguard measures on importation (e.g., antidumping, additional financial obligation, tariff quotas) are published by the Ministry of Trade. However, the Ministry of Trade has not published a list of goods which are subjected to the surveillance measures. Categories of goods that are generally subject to surveillance measures include hot and cold drinks, dried nuts, fish, toys, foodstuff, chemicals, glass fibers and tubes, parts of land vehicles, industrial machines, and parts, unmanned aerial vehicles (drone), iron and steel goods, ceramic goods, and paper and Plastic goods.
- **Türkiye:**[lxiii] On November 24, 2023, the Parliament of Türkiye accepted for consideration an Omnibus Bill, which would, among other things, authorize the President of the Republic to partially or completely abolish or reinstate the right to a VAT refund and to determine the goods or services whose right of return is restricted in this way.
- **United Arab Emirates:**[lxiv] On October 30, 2023, the Federal Tax Authority of the United Arab Emirates issued guidelines on how to apply the VAT self-assessment requirement (reverse charge) for domestic sales of electronic devices. The guidelines define electronic devices as mobile phones, smart phones, computer devices, tablets, and their components. The guidelines clarify that the purchaser must self-assess VAT when electronic devices are traded for resale or manufacturing purposes. Sellers must obtain a written statement from buyers confirming their VAT registration and intent, while the buyer should report the self-assessed VAT in their VAT return. These rules apply to goods sold from the UAE mainland to a Designated Zone, but not to direct or indirect exports. Non-compliance results in the seller charging VAT and denial of VAT credits for the buyer.
- **United Kingdom:**[lxv] On October 30, 2023, HM Revenue and Customs (HMRC) initiated a consultation on draft regulations that aim to implement interest charges on late payments of penalties associated with the use of electronic sales suppression (ESS) tools. ESS tools, which can include physical devices, software, and computer codes, are used by businesses to manipulate electronic sales data, thereby reducing the value of individual transactions and evading taxes. The Finance Act 2022 introduced new powers and penalties, making it a crime to possess, create, distribute, and promote ESS tools as a measure to combat this non-compliance. The regulations would introduce interest charges on the late payment of ESS penalties.
- **United Kingdom:**[lxvi] On November 22, 2023, UK Chancellor of the Exchequer delivered the Autumn Statement 2023, announcing several key tax measures. With respect to VAT, the government will consult on the VAT treatment of private hire vehicles in early 2024, in response to the July 2023 High Court ruling in Uber Britannia Ltd. Additionally, the VAT zero rate relief on women's sanitary products will be extended to include reusable period underwear from January 1, 2024. The Construction Industry Scheme will also undergo reforms, including the addition of VAT as part of the Gross Payment Status compliance test.
- **United Kingdom:**[lxvii] On November 17, 2023, the First-Tier Tribunal (FTT) published its judgment in Simple Energy Limited, TC08995, regarding the VAT treatment applicable to a refer-a-friend scheme. In the case, the dispute focused on the treatment of a GBP 50 credit given to existing customers (the referrers) under the taxpayer's refer-a-friend scheme. The taxpayer argued that this credit was a discount, while HMRC contended that it was non-monetary consideration for a provision of services by the referrer to Bulb. The FTT referred to several key cases on the concept of sale and taxable amount, as well as cases involving discounts. The FTT concluded that the referral activity met the tests for consideration,

regardless of how the taxpayer delivered its side of the bargain. The FTT found that there was a direct legal link between the actions of the referrers and the credits they received, and that the price (a credit for each successful referral) was the subjective value in money put by the taxpayer and its customers on the service performed by referrers.

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

- **KPMG in Cambodia** published a report discussing tax authority Instruction No. 37444 GDT clarifying the computation of the specific tax and VAT levied on the sale of locally produced non-alcoholic beverages.
- **KPMG in Malaysia** published a report discussing Finance (No. 2) Bill 2023 which was released on November 7, 2023. The Bill proposes several changes, including expanding the definition of a "seller" to include individuals who sell low-value goods. The Bill also proposes to allow sellers of low-value goods to issue credit and debit notes and grants the finance minister the power to exempt certain goods and individuals from the requirement to collect sales tax on sales of low-value goods. It clarifies that sales tax does apply to the importation of low-value goods and restricts the ability to deduct service tax paid but subsequently refunded to sales made to final consumers. Lastly, the Bill proposes to permit taxpayers subject to the tourism tax to request an exemption from the tourism tax invoicing requirements.
- **KPMG in Malaysia** published a report discussing recent tax developments. These include guidance from the tax authority on sales tax drawbacks and exemptions from sales tax payments on goods destined for export. The report also covers amendments to exemptions for excise and customs duties, changes to the list of transactions exempt from sales tax, and the latest guidelines on e-invoicing.
- **KPMG in the Philippines** published a report discussing a recent Court of Tax Appeals (CTA) ruling in which the CTA outlined the requirements for a valid claim for a refund or credit of VAT pertaining to zero-rated sales and the essential components of valid VAT zero-rated sales of services. According to the CTA, a claimant must be a VAT-registered taxpayer involved in zero-rated or effectively zero-rated sales, with foreign currency exchange proceeds properly accounted for per Bangko Sentral ng Pilipinas (BSP) rules. To prove that sales of services are zero-rated, the taxpayer must demonstrate that the recipient is a foreign corporation doing business outside the Philippines or a nonresident person not engaged in business who is outside the Philippines when the services were performed. The services rendered must not involve processing, manufacturing, or repacking goods and must be performed in the Philippines by a VAT-registered person.
- **KPMG in Sri Lanka** published a report discussing the budget proposals for 2024 that include tax measures relating to direct tax, value added tax (VAT), and tax administration. Besides proposing an increase in the VAT rate, the budget encourages the use of point-of-sale machines and plans to eliminate most VAT exemptions, retaining only those for health, education, and essential foods.

Miscellaneous Developments in ASPAC

- **Australia:**[lxviii] According to news reports, the Australian government is seeking expert advice on the possible implementation of a carbon border adjustment mechanism, along with exploring other alternatives. This mechanism would impose a carbon price on imports equivalent to what would have been charged if the goods were produced domestically. The review will consider insights from two rounds of consultations with Australian industries, environmental groups, research experts, international trade partners, and local communities. The government expects to receive the advice by September 30, 2024.
- **Fiji:**[lxix] On November 3, 2023, the Fijian Revenue and Customs Authority released an updated VAT guide covering a range of topics, including how to calculate VAT, how to determine when VAT is due, and details about tax invoices, debit notes, and credit notes. The guide further clarifies the application of VAT on discounts and rebates, the VAT treatment of both multi-redemption and non-multi-redemption vouchers, and the procedures for claiming deductions and calculating VAT credits.
- **India:**[lxx] On October 27, 2023, the Central Board of Indirect Taxes and Customs (CBIC) issued Circular No. 203/15/2023-GST, providing clarifications on the sourcing rules under the GST for transport, advertising, and co-location services. According to the Circular, transportation services should be sourced at the location of the recipient if known, otherwise the location of the service provider. This applies to standard transportation and mail or courier services. In the advertising sector, the sourcing for selling space on structures for advertising should be the location of the structure. In the case where the advertising company seeks to display its advertisement on structures provided by a vendor, and there is no sale of space or rights to use immovable property, the service should be sourced where the recipient is located. Co-location services, which include hosting and IT infrastructure provisioning services, should be sourced where the service recipient is located. However, if an agreement only involves renting physical space with basic infrastructure, it should be considered as the provision of renting immovable property and should be sourced at the location of the property.
- **India:**[lxxi] On October 27, 2023, the CBIC issued Circular No.204/16/2023-GST, providing clarifications on the GST treatment of personal and corporate guarantees. According to the Circular, a director providing a personal guarantee to secure credit facilities for their company is considered a provision of services for GST purposes, even without consideration, and the taxable value of such service is the open market value. If no consideration can be paid to the director for this service, the open market value of this service may be treated as zero, and therefore, no GST is payable on such service. Moreover, when a company provides a corporate guarantee to a bank or financial institution for credit facilities to a related company, or when a holding company does so for its subsidiary, this activity is treated as a provision of services for GST purposes.
- **New Zealand:**[lxxii] On November 6, 2023, the Inland Revenue of New Zealand initiated a consultation on Exposure Draft No. PUB00427, which aims to clarify the GST treatment of subdivision projects through a proposed question and answer document. According to the Exposure Draft, a subdivision project becomes taxable if it is conducted regularly or continuously and includes, or plans to include, sales to another party for payment. Determining whether a project is continuous or regular depends on each specific case. Factors that may influence this include the subdivision's scale, the amount of development work, the number of lots created and sold, the time and effort invested, the financial investment level, the level of repetition, and whether the subdivision is part of an existing taxable activity. Typically, a small-scale subdivision that creates one additional lot and sells

the bare land is not taxable. Similarly, a small-scale subdivision that creates one additional lot and constructs and sells a single house on that lot is usually not considered a taxable activity.

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About Inside Indirect Tax

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

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Footnotes

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