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

- **Austria:**[i] Austria recently proposed a VAT zero-rate for the purchase and installation of solar panels on homes, effective January 1, 2024. The measure would be in place for 2 years and apply to installations with a power output of up to 35 kilowatts.
- **Barbados:**[ii] On October 19, 2023, the Barbados Revenue Authority published Policy Note 007/2023, which extends the application of the 7.5 percent temporary reduced VAT rate for household electricity through March 31, 2024. The reduced rate regime originally applied from August 1, 2022, through September 30, 2023, on the first 250 kilowatt hours of electricity provided to households. The reduced rate does not apply to any portion of the electricity bill that exceeds 250 kilowatt hours or to the provision of electricity to large power, secondary voltage power, time of use, streetlight, and general service tariff consumers.
- **Belgium:**[iii] On September 25, 2023, the Belgian government submitted a bill to parliament that would apply the 6 percent reduced VAT rate to human and veterinary medicines, hair prostheses, and certain activities of intermediary companies. It also proposed a VAT exemption for certain products stored in a warehouse other than a customs warehouse.
- **Belgium:**[iv] The Belgian government recently proposed to permanently extend the application of the 6 percent reduced VAT rate to the demolition and reconstruction of qualified residential dwellings, subject to certain amendments. The reduced VAT rate initially applied to 32 urban zones and excluded real estate developers; the government subsequently extended the regime nationwide to support the industry during COVID-19, subject to certain social conditions. Under the proposal, to be effective from January 1, 2024, the reduced VAT rate would no longer apply to sales by real estate

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developers but would remain for other eligible taxpayers. Transitional rules would apply to existing projects until December 31, 2024. In addition, the Belgian government proposed to extend the 6 percent reduced VAT rate to heat pumps for one year and to repeal the 6 percent reduced rate for the sale and installation of solar panels. For more information, click here.

- **Burkina Faso:**[v] On October 5, 2023, the Burkina Faso parliament adopted amendments to the country's VAT law, which includes measures introducing a VAT exemption for gold bars sold to state institutions that are responsible for gold production and marketing, as well as public orders for seeds, agricultural inputs, equipment, and services, and foodstuffs from cooperative companies. The amendments further exempt public procurements related to the importation and local purchase of war weapons, ammunition, and related military equipment intended for the Defense and Security Forces, including tools, spare parts, and lubricants for maintenance and repair from both VAT and customs duties. These measures apply retroactively from January 1, 2023, to December 31, 2023.
- **Cyprus:**[vi] The Cyprus government recently approved direct and indirect tax changes, including the application of a VAT zero-rate to meat and vegetables, from December 1, 2023, to May 31, 2024. To read a report prepared by the KPMG International member firm in Cyprus, click here.
- **Cyprus:**[vii] On October 13, 2023, Cyprus amended its VAT law to introduce a new category of VAT-exempt services for education at all levels of vocational training and retraining, as well as the provision of services and goods closely related to such education. These are services provided by "training providers," including vocational training centers that are certified by the Cyprus Human Resources Development Authority (HRDA). To read a report prepared by the KPMG International member firm in Cyprus, click here.
- **Czech Republic:**[viii] On October 23, 2023, the Czech Republic parliament approved a draft bill to combine the country's multiple reduced VAT rate regimes into a single 12 percent reduced rate, effective January 1, 2024.
- **Greece:**[ix] Effective November 1, 2023, Greece applies a 13 percent reduced VAT rate to items primarily or exclusively used for agriculture, livestock farming, or forestry, and a 4 percent reduced VAT rate for contractual services provided for works exclusively aimed at overcoming or removing architectural barriers that restrict the mobility of people with disabilities in public or private buildings, or buildings serving a public interest.
- **Greece:**[x] On October 19, 2023, the Greek tax authority published Circular No. E. 2060, clarifying that when a charging infrastructure operator and/or an electric mobility service provider carries out a single transaction with a customer-driver that involves charging an electric vehicle, the transaction is regarded as a provision of electrical energy for VAT purposes and is subject to a 6 percent VAT rate. This includes both the primary service of charging the EV and related services such as parking, reservations, and pre-locating the charging point. These services are considered integral to the overall transaction ensuring the successful execution of the primary action, which is charging or recharging electric vehicles. In addition, the customer-driver pays a unified fee for all services, without the option to select individual elements, irrespective of whether the charge is based on energy consumption, connection duration, or per-session rates. In addition, the same 6 percent VAT rate applies when the charging infrastructure operator sells electrical energy and related services to the electric mobility service provider, who then provides these services to the customer-driver.

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- **Guinea:**[xi] On September 26, 2023, Guinea adopted the fiscal year 2023 finance bill. The bill introduces VAT exemptions for the import of ambulances, hearses, firefighting trucks, and vehicles used for public infrastructure cleaning.
- **Ireland:**[xii] On October 10, 2023, the Irish government presented the 2024 budget to parliament. It includes measures to (1) extend the 9 percent temporary reduced VAT rate for gas and electricity for an additional 12 months; (2) reduce the VAT rate for audiobooks, e-books, and solar panels installed in schools to zero percent from January 1, 2024; and (3) reduce the flat-rate compensation for unregistered farmers to 4.8 percent. To read a report prepared by the KPMG International member firm in Ireland, please click here.
- **Italy:**[xiii] Effective September 30, 2023, Italy extended the application of the 5 percent super-reduced VAT rate for natural gas, thermal energy produced with natural gas under a service contract, and district heating services, for the months of October, November, and December 2023.
- **Laos:**[xiv] Laos recently proposed to revert its standard VAT rate to 10 percent. The standard VAT rate had been reduced to 7 percent in response to the COVID-19 pandemic and to encourage more businesses to register for VAT on January 1, 2022.
- **Lebanon:**[xv] On October 16, 2023, the Lebanese Customs Administration introduced a temporary VAT and customs duty exemption for devices and equipment that operate exclusively on solar and other clean energy to generate electricity from November 15, 2022, through December 31, 2023.
- **Malaysia:**[xvi] Malaysia's government recently proposed to increase the service tax rate from 6 percent to 8 percent and expand the scope of taxable services to include logistics, brokerage, underwriting, and karaoke services. To read a report prepared by the KPMG International member firm in Malaysia, click here.
- **Malta:**[xvii] Effective January 1, 2024, Malta will apply the 12 percent reduced VAT rate to custody and management of securities, management of credit, and credit guarantees by a person or body other than those who granted the credit, health care services, and specified hiring of a pleasure boat. To read a report prepared by the KPMG international member firm in Malta, click here.
- **Nigeria:**[xviii] On October 1, 2023, Nigeria's federal government announced an agreement with the country's labor unions to exempt diesel from VAT for 6 months.
- **Norway:**[xix] On October 6, 2023, Norway published the 2024 budget. If approved, the budget would (1) change the application of the VAT zero-rate for leased personal vehicles, by reducing VAT deductibility and causing an overall cost increase for the leasing sector; (2) extend the VAT exemption for newspapers to include electronic newspapers with mainly text and still pictures; (3) abolish the VAT exemption for hydrogen-based electric vehicles; and (4) exempt from VAT, off-road motorcycles used in reindeer husbandry from motor vehicle registration tax and allow VAT deductions
- **Peru:**[xx] On October 4, 2023, the Peruvian tax authority published Supreme Decree 214-2023-EF clarifying that for sales of metals by local mining producers to domestic jewelry manufacturers to be considered as a zero-rated export of goods the following requirements must be met: (1) the metal transferred is incorporated in the final product to be exported; (2) the local mining producer and the jewelry manufacturer are registered in specific registries; (3) the local mining producer and the jewelry manufacturer are not classified in any of the two lowest levels of Peruvian tax compliance; (4) the local mining producer must communicate with the tax authority about the delivery of the metal to the jewelry manufacturer within 5 days from the date of delivery; and (5) the jewelry made with the

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metal sold must be shipped within 60 business days to the national jewelry manufacturer. If the shipment does not occur within this period, the exporter of the final product becomes responsible for paying the corresponding taxes and a fine equivalent to 15 percent of the total invoice for the metal sale.

- **Peru:**[xxi] On October 11, 2023, the Peruvian tax authority extended the application of the VAT exemption and VAT refund regimes applicable to the publishing industry. The VAT exemption regime applies to the import or sale of books/e-books and related publishing products. The VAT refund regime allows taxpayers to recover excess VAT incurred by publishers on the purchase and import of capital goods, raw materials, electronic prepress services, and graphic services to produce books and related publishing products.
- **Portugal:**[xxii] On October 10, 2023, Portugal's government submitted its 2024 Budget Bill. If approved, the budget would (1) remove the VAT exemption for essential food items; (2) exempt tickets to certain events that are sold to those who accompany individuals with a proven permanent disability of at least 60 percent and who depend on them for access from VAT; (3) apply the 13 percent reduced VAT rate to juices and aerated waters when served as part of restaurant services; (4) allow travel agencies to benefit from a simplified VAT refund regime for expenses related to organizing events; (5) extend the VAT exemption for transfers of agricultural products like fertilizers; and (6) extend application of the 6 percent reduced VAT rate for electricity until December 31, 2024.
- **Romania:**[xxiii] On September 29, 2023, the Romanian parliament published a bill with proposed VAT rate changes for several products and services effective January 1, 2024. According to the bill, the standard 19 percent VAT rate would apply to non-alcoholic beverages, foods with added sugar, the right to use certain sports facilities, and passenger transport by specific vehicles. These are currently subject to reduced VAT rates of 9 percent or 5 percent. The bill would further increase the VAT rate from 5 percent to 9 percent for the delivery of certain buildings for social purposes, dwellings under specific conditions, high-efficiency low-emission heating systems, and access to various recreational and cultural events. Moreover, the bill would clarify the term "dwelling which at the time of delivery can be inhabited as such" as it applies for the reduced VAT rate on the sale of dwellings, by introducing additional criteria on the degree of finishing and the necessary facilities that must be fulfilled and includes a transitory provision for 2024 regarding the reduced VAT rate for specific dwellings. Finally, the bill would remove the VAT exemption for deliveries of services and goods related to construction and medical equipment to state-owned hospitals.
- **Saint Lucia:**[xxiv] Effective October 2, 2023, St. Lucia implemented the 2 percent health and security levy. The levy applies a 2.5 percent tax rate on specified services and imported goods but does not apply to zero-rated or exempted sales.
- **Slovak Republic:**[xxv] On October 6, 2023, the Slovak Republic proposed to (1) increase its standard VAT rate from 20 percent to 22 percent, along with consumption tax rates to products with negative externalities such as tobacco products, outdoor advertising, diesel, and gasoline; (2) abolish the reduced VAT rates that apply to food, recreation, sports, printed publications, from July 1, 2024; (3) introduce taxes on sweetened beverages, outdoor advertising, and the excess profits of banks from interest; (4) end consumption tax exemptions for electricity, coal, and natural gas; and (5) increase the excise duties on gasoline and diesel by 5 percent, from July 1, 2024.
- **Tunisia:**[xxvi] On October 15, 2023, the Tunisian government submitted its Finance Bill 2024 to parliament. It proposes to introduce a 7 percent reduced VAT rate on imported electric vehicles and motorcycles and extend the 3 percent sales tax that applies to tourist restaurants and coffee shops to also cover tourist accommodations.

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- **Vietnam:**[xxvii] The Vietnamese government is consulting on a draft resolution to extend application of the 8 percent reduced standard VAT rate through the middle of 2024. The reduced rate does not apply to telecommunications, banking, mining products, and goods and services subject to excise (special sales) tax.

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Digitalized Economy Indirect Tax Updates

Côte d'Ivoire: Implementation of VAT Compliance Requirement for Nonresident Digital Services Providers

On October 9, 2023, Côte d'Ivoire's tax authority published an explanatory note on its VAT on digital services rules, announcing implementation of a new simplified VAT compliance mechanism for nonresident digital services providers to collect and remit 18 percent VAT on the sale of digital services to customers in Côte d'Ivoire**.** The explanatory note provides that its enforcement will commence in April 2024.

The regime applies to nonresident operators of digital platforms regardless of their legal form. A digital platform is defined as any website or application using software solutions to remotely connect service providers with customers, facilitate transactions between these parties, and, if applicable, allow for online payment of said transactions. The regime also covers digital platforms owned by service sellers that do not play an intermediary role in concluding transactions other than their own. Websites or platforms that conduct both non-revenue-generating activities and paid services fall within the scope of the regime. However, their obligations are limited to the revenues they derive from paid services. This includes social networks that allow some users to connect and freely exchange information but have other user categories that broadcast their advertisements on the network for a fee. The VAT collection requirement applies to digital services, which include, but are not limited, to online advertising services, online data services**,** online markets, online food and delivery, online housing rentals, online vehicle rentals**,** digital content services**,** online gaming services**,** cloud computing services**,** social network platforms to the extent they offer paid services**,** and search engines to the extent they offer paid services.

Moreover, the VAT collection requirement applies to both sales made to direct consumers (B2C) and to sales made to business customers (B2B). B2C sales are defined as services provided to "non-commercial users." B2B sales are defined as services provided to commercial users or between digital platforms. In general, digital services are subject to VAT in Côte d'Ivoire if the user, beneficiary, or recipient of the service is located within Côte d'Ivoire at the time-of-service delivery. The customer location may be established based either on the details chronicled by the platform on their individual profile or, in the absence of such details, through geolocation data or the IP address associated with the device employed during the transaction.

Commissions earned by intermediary platforms are also subject to Côte d'Ivoire VAT if either the operator of the digital platform, the vendor of the underlying goods or services, or the purchaser or user of the goods or services is situated in Côte d'Ivoire. For B2C sales, taxpayers may continue to issue receipts to customers according to their current business processes. These receipts remain valid and recognized by the tax authority. For B2B sales,

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while retaining their current methods, nonresident companies must include the following details to enable VAT recovery for B2B customers: customer name, customer taxpayer identification number, nature of the service, date of the service, and relevant amounts. For more information, please click here.

France: Proposal to Improve Enforcement of VAT Digital Economy Rules in Latest Budget

On September 27, 2023, France published the 2024 Finance Bill. If approved, it would introduce several measures to combat tax fraud, focusing particularly on VAT non-compliance in the digital economy. First, the Finance Bill would boost the resources available to the French tax authorities for detecting fraud by extending for two more years an initial experiment that allows tax and customs administrations to identify fraud through data collection from online platforms and expanding the data collected and offenses targeted. Additionally, authorized public finance agents would be authorized to conduct undercover investigations for serious offenses. Second, the Finance Bill would update the legal framework for VAT fraud, addressing the challenges of the digital economy. It would introduce a digital injunction to combat fraudulent practices, enabling the removal of websites belonging to non-EU companies that provide services and sell intangible goods online to French consumers without paying VAT. Finally, the Finance Bill would require domestic purchasers of certificates for hydrogen, renewable gas, and electricity guarantees of origin to self-assess VAT and would modify the VAT rules for imports to prevent non-compliance with the VAT rules by dishonest online sellers using drop shipping (i.e., situations in which sellers only manage marketing and sales). For more information, click here. To read KPMG's previous discussion of measures in France's 2024 Finance Bill, please click here.

Eurasian Economic Union: List of Digital Services for VAT Purposes Published

On October 10, 2023, the Council of the Commission of the Eurasian Economic Union (EAEU) officially published its list of digital services that are subject to VAT. The EAEU is a free trade agreement between Russia, Armenia, Belarus, Kazakhstan, and Kyrgyzstan. The digital services list contains 14 types of services provided through information network technology, including:

1. Providing rights for use of any types of software, games, and information databases;
2. Advertising services and provision of space for software, games, and information databases;
3. Providing platforms for posting information on sale/purchase of goods, services, property rights;
4. Services to provide technical, organizational, information and other opportunities to establish contacts and conclude transactions between sellers and buyers (including trading platforms operating in real time);
5. Maintaining presence in the information networks for personal or entrepreneurial activities, supporting electronic resources, ensuring access to other users;
6. Storage and processing of information;
7. Providing real-time computing power for posting information in the information system;
8. Providing domain names and hosting services; administering websites and information systems;
9. Providing automated services (e.g., search systems, translation);

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10. Providing the right to use electronic publications and audiovisual works;
11. Providing data on potential buyers; and
12. Granting access to search engines; and
13. Provision of services for maintaining statistics on websites.

According to the new rules, the VAT will be collected at the location of the buyer of the digital services included in the list for cross-border transactions within the EAEU. The list comes into force in 30 calendar days after its official publication, but not earlier than the date when the Protocol introducing the VAT treatment of digital services takes effect. It will apply from the first day of the month following the month of its entry into force. To read KPMG's previous discussion of the EAEU's VAT on digital services proposal, please click here.

Source: Eurasian Economic Union; Kazakhstan; Russia; Armenia; Belarus; Kyrgyzstan; Uzbekistan – EAEU Publishes List of Digital Services for VAT Purposes, (October 18, 2023), News IBFD

European Union: European Council Adopts Crypto Asset Reporting Requirement

On October 24, 2023, the European Union published the Eighth Directive on Administrative Cooperation, concerning the reporting and automatic exchange of information on crypto-asset transactions and on advance tax rulings for high-net-worth individuals (DAC8). DAC8 will require all crypto asset service providers, without regard to size or location, to report transactions of clients residing in the EU. In some cases, reporting obligations will also cover non-fungible tokens (NFTs). DAC8 further requires financial institutions to report on e-money and central bank digital currencies; extends the scope of the automatic exchange of advance cross-border rulings for high-net-worth individuals who hold a minimum of EUR 1 million in financial or investable wealth, or in assets under management (excluding the individual's main private residence); and establishes a common minimum level of penalties for situations of serious non-compliance. DAC8 is effective January 1, 2026, with the first report for 2026 being due to the tax authorities by January 31, 2027. To read KPMG's previous discussion of DAC8, please click here.

Source: European Union – DAC8 Directive Published in Official Journal of the European Union, (October 30, 2023), News IBFD

Other Developments

- **Australia:**[xxviii] On October 11, 2023, the Australian Tax Office (ATO) issued a notice on the new reporting regime for sharing economy platforms, "The Sharing Economy Reporting Regime" (SERR). The SERR requires sharing platforms to collect and report seller transaction information. This information includes personal, contact, business, and financial details. The notice states that covered taxpayers may need to update their systems to ensure they collect the correct information. Platforms offering taxi services, including ride-sourcing, and short-term accommodation began this data collection on July 1, 2023. All other platforms in the sharing economy must commence data collection from July 1, 2024. SERR mandates reporting twice a year, with deadlines on January 31 and July 31 for the periods of July to December and January to June, respectively.
- **Australia:**[xxix] On October 24, 2023, the ATO issued a notice reminding nonresident sellers of goods or services in Australia of their GST obligations. Nonresidents are required to register for the Australian GST if their taxable gross receipts from sales connected with Australia is AUD 75,000 or more in a 12-month period. Covered nonresidents include sellers of low value goods, digital services, and electronic distribution platforms that facilitate such sales. A simplified GST registration can be completed online through the tax authority website.

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- **Belgium:**[xxx] The Belgian government published guidance in the form of FAQs on the implementation of the DAC7 reporting obligations for digital platform operators. Among other things, the guidance clarifies that the term "platform" includes any software that allows users to connect with merchants for a relevant activity and does not include software that enables payments, advertisements, or user redirection only. Further, the term "registered seller" includes users with a profile or contractual relationship with the platform operator. In addition, the sale of intangible assets such as cryptocurrencies or copyrights is not subject to reporting. The seller's address is their principal residence or the address of the head office, and the seller is considered resident in the country that issued the Tax Identification Number (TIN). Platform operators must keep records of all due diligence procedures and reporting obligations for 10 years. Finally, the guidance clarifies that the information received can be used for tax collection.
- **Belgium:**[xxxi] On September 25, 2023, the Belgian government submitted a bill to the Chamber of Representatives. If approved, the bill would introduce, effective January 1, 2024, a joint liability for marketplaces with the seller for the sale of goods subject to Belgian VAT facilitated through their platform when the VAT collection liability does not fall on the marketplace.
- **Canada:**[xxxii] On October 17, 2023, the Canadian Parliamentary Budget Officer projected that Canada's scheduled implementation of a digital services tax (DST) would increase federal government revenues by CAD 7.2 billion over 5 years. For KPMG's previous discussion on Canada's proposed DST, click here.
- **Chile:**[xxxiii] On October 13, 2023, Chile published an updated list of nonresident providers of digital services that are subject to VAT withholding by financial institutions.
- **Costa Rica:**[xxxiv] On October 1, 2023**,** Costa Rica published an updated list of foreign providers of digital services that are subject to withholding by financial institutions.
- **Cyprus:**[xxxv] The Cypriot tax authority published a guidance on the tax treatment of income from properties rented out through online platforms or other means registered with the Deputy Ministry of Tourism. According to the circular, this income is considered business income and is subject to income tax, but it is exempt from the Special Defense Contribution (SDC). To qualify for this exemption, the property must be registered, the owner must be VAT-registered and charge a 9 percent VAT on the property income, and the rental must be short-term and made to different persons each time. If the owner is an individual, the profit is subject to contributions to the General Healthcare System (GHS), payable by the owner through self-assessment. This also applies if the property management is assigned to a manager.
- **Ecuador:**[xxxvi] Ecuador recently published an updated list of foreign providers of digital services that are subject to withholding by financial institutions.
- **Egypt:**[xxxvii] Egypt recently published a regulation that applies a zero VAT rate to e-commerce transactions conducted outside of Egypt. This includes e-commerce export services and electronic transactions, provided the vendor has copies of the following documents: (1) the electronic tax invoice, (2) proof of payment through an external bank transfer or other approved method, and (3) the service contract between the service provider in Egypt and the service recipient abroad. If these e-commerce services are used within Egypt, they will be subject to VAT.
- **Egypt:**[xxxviii] On October 11, 2023, the Egyptian tax authority announced that taxpayers who provide certain internet services, such as website design, distance education, e-learning, and various consultancy services, must register for tax. This also applies to self-employed individuals offering services online.

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- **European Union:**[xxxix] On October 18, 2023, the European Commission closed the infringement proceedings, launched in January 2023, against Romania, Lithuania, Luxembourg, and Italy following the enactment of measures to transpose DAC7 into domestic legislation.
- **European Union:**[xl] On October 23, 2023, the European Parliament's Committee on Economic and Monetary Affairs approved a 1-year delay to the VAT in the Digital Age (ViDA) proposal. This vote does not bind the EU Finance Ministers, which are scheduled to vote on the proposal in December. The ViDA package proposes three major changes to the EU VAT rules: a real-time digital reporting system for cross-border businesses; expanded marketplace rules for platforms facilitating passenger transport and short-term accommodation; and an expanded single VAT registration and compliance mechanism under the One Stop Shop. To read KPMG's previous discussion of the ViDA package, please click here.
- **India:**[xli] India recently updated its GST compliance portal to include a feature allowing unregistered vendors selling through e-commerce platforms to enroll and obtain an ID. Additionally, it developed two APIs for e-commerce platform operators to track the enrollment IDs of these vendors. These APIs enable the extraction of details of unregistered vendors using the enrollment ID and the validation of their mobile numbers and email IDs.
- **Ireland:**[xlii] On October 23, 2023, Irish Revenue updated its guide for implementing the EU DAC7 reporting requirements. The obligations, which begin from January 1, 2023, require initial registration by November 30, 2023, and initial reporting by January 31, 2024. The updated guide confirms the opening of the registration portal on November 1, 2023, and includes changes such as the confirmation of the average annual foreign exchange conversion rate, an example of a business model connecting sellers and users indirectly, and updates on obligations related to elections and de-registrations in Ireland and other EU Member States. The guide also clarifies data protection obligations for platform operators.
- **Italy:**[xliii] The Italian Council of Ministers approved the legislative decree implementing the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024.
- **Japan:**[xliv] On August 31, 2023, the Japanese Ministry of Finance published its proposed 2024 tax reform package. The package would amend the Japanese Consumption Tax (JCT) to require an online platform operator to collect JCT on behalf of nonresident sellers using the platform. If approved, the measure will become effective April 1, 2024.
- **Malta:**[xlv] On October 26, 2023, the Maltese tax authority issued an XML schema guide for the EU DAC7 reporting requirements. The guide explains the different data elements needed for digital platform operators to integrate their information technology (IT) systems into the tax authority's reporting portal.
- **Netherlands:**[xlvi] On October 20, 2023, the Dutch tax authority announced a waiver of default penalties until July 1, 2024, for non-Dutch taxpayers who are not in compliance with the one-stop-shop (OSS) mechanism of the EU VAT e-commerce package. The tax authority will further refund any default penalties already paid and will close all outstanding disputes in favor of the taxpayers, except when taxpayers deliberately did not pay the full VAT due. The EU VAT e-commerce package was implemented in July 2021, and it requires both non-EU and EU providers to charge VAT on all cross-border services to consumers and on intra-EU distance sales of goods. It abolishes the low-value consignment relief and introduces simplification measures, most notably several OSS mechanisms that facilitate reporting and remitting all EU VAT due in one country. Given the current technical constraints and the unclarity about the applicable rules in several EU Member States, the tax authority considers it unfair to impose default penalties. This announcement has now been codified in a Decree of November 13, 2023.

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- **Netherlands:**[xlvii] On October 24, 2023, the Dutch State Secretary for Finance stated that while the Netherlands supports the ongoing efforts for finalizing the Pillar One OECD multilateral convention, it would prefer prioritizing a "Pillar One" agreement (a Digital Services Tax) at the EU level if an international agreement proves infeasible. Although not ruling out a unilateral Digital Services Tax (DST), the State Secretary emphasized the significant challenges of implementing it in the short term.
- **OECD:**[xlviii] The OECD recently updated its FAQs on the Model Reporting Rules for Digital Platforms, providing further interpretative guidance. The update clarifies the definition of personal services, stating that non-customized pre-recorded digital content and pre-scheduled activities do not fall under this category. It also explains that a business is not considered a platform if it is the only buyer on a website, and that software facilitating the design and operation of merchant websites is not a platform unless it connects sellers to users for relevant activities. The update further provides guidance on verifying seller information, including using all available information and any publicly available automatic checking tools. Lastly, it addresses how to treat transactions involving vouchers and barter transactions, and how to report on multiple parties registered as sellers.
- **Uganda:**[xlix] On October 20, 2023, the Ugandan Revenue Authority issued a notice on implementing the 5 percent digital services tax (DST), effective from July 1, 2023. The notice provides that nonresident providers of relevant services must register via the Uganda Revenue Authority (URA) website. Taxpayers who are already registered for the VAT on digital services will be automatically registered for DST, possibly without notification, as their online compliance portal account may be updated to include a DST section. For more information, click here.
- **Zambia:**[l] As part of its 2024 budget, Zambia released a proposal to establish a new framework for cross-border electronic services and an electronic invoicing system, as well as measures to allow businesses involved in hydroelectric power generation to claim VAT refunds on eligible goods purchased for seven years before operations began.

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

France: New E-Invoicing Implementation Deadlines Proposed

On October 17, 2023, the French Congress received a draft amendment to the 2024 finance bill (Amendment No. I-5395) outlining a new timeline for implementing the e-invoicing and e-reporting mandates. It would occur in two stages:

- September 1, 2026: All taxpayers would be required to have the capability to receive electronic invoices. Large and medium-sized taxpayers would be required to comply fully with the e-invoicing and e-reporting mandates.
- September 1, 2027: Small, micro, and enterprise taxpayers would be required to comply fully with the e-invoicing and e-reporting mandates.

The draft amendment states that these deadlines may be delayed by one quarter if necessary. For more information, click here.

Other Developments

- **Belgium:** On September 29, 2023, the Belgian Council of Ministers agreed that mandatory e-invoicing should be introduced for business-to-business (B2B) transactions effective January 1, 2026. An earlier proposal would have provided a phased implementation depending on the annual gross receipts of the taxpayer. The current proposal mandates e-invoicing for all taxpayers effective January 1, 2026. Belgium will use the European Pan-European Public Procurement Online network as the default standard for structured e-invoicing. However, taxpayers can mutually agree to use another e-invoicing system if it meets the European standard. To read a report prepared by the KPMG International member firm in Belgium, please click here.
- **Colombia:**[li] On October 18, 2023, the tax authority of Colombia (DIAN) published Resolution 00743, which establishes the terms, requirements, procedures, and deadlines for the e-invoice lottery system known as "La Factura Electronica Me Premia." Individuals can participate by providing their personal ID card to the invoice issuer, if the issuer not classified as large taxpayers or excluded by the Resolution. The DIAN will randomly select winning invoices from those properly validated by the tax authority and issued to identified final consumers. The DIAN will announce the dates for lottery prize drawings.
- **Ireland:** On October 13, 2023, the Irish tax authority initiated a public consultation to collect feedback on the possible introduction of e-invoicing and digital reporting requirements in Ireland. The consultation details the tax authority's plans for real-time digital reporting and e-invoicing in business-to-business (B2B) and business-to-government (B2G) transactions, as well as the current state of e-invoicing and e-reporting mandates in the European Union (EU) and other European countries. The consultation also includes proposals for implementing the EU's VAT in the Digital Age (ViDA) initiatives. The deadline to submit comments on this document is January 12, 2024. To read a report prepared by the KPMG International member firm in Ireland, please click here.
- **Israel:**[lii] On October 23, 2023, the tax authority of Israel announced a postponement in the initial implementation of the e-invoicing mandate. The original effective date of January 1, 2024 has been moved to April 1, 2024. The first phase of the mandate applies to transactions of NIS 25,000 or more. Taxpayers will be allowed to claim VAT deductions using a tax invoice without an allocation number, which will be generated by the e-invoicing system, until March 31, 2024.

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- **Mauritius:**[liii] On September 18, 2023, the Mauritius Revenue Authority (MRA) issued the Value Added Tax (E-invoicing) Regulations 2023 to clarify the operation of the electronic invoicing system and the obligations of taxpayers. The regulations outline the required content for e-invoices and the registration process and system requirements for both solution providers and taxpayers. The regulations became effective on October 2, 2023.
- **Malaysia:**[liv] On September 29, 2023, the Malaysian tax authority released a new version 1.0 of the E-invoicing Specific Guideline, providing further guidance on specific areas such as transactions with buyers; periodic statements and bills; disbursements and reimbursements; employment perks and benefits; certain employee expenses incurred on behalf of the employer; self-billed e-invoices; monetary payments to agents, dealers, or distributors; cross-border transactions; profit distribution (e.g., dividend distribution); foreign income; currency exchange rate; API overview; and cybersecurity. Additionally, the Malaysian tax authority issued an e-invoice catalog containing the codes that should be used in certain fields of electronic invoices.
- **Poland:**[lv] On October 24, 2023, the Ministry of Finance of Poland submitted a draft regulation to the Parliament. The regulation would update the VAT return to accommodate the National e-Invoicing System. The proposed changes include modifying the logical structure of the VAT return (also known as the schema JPK_VAT) to require an identification number for invoices in the National e-Invoice System. Additionally, new markers would be added for invoices issued during system malfunctions or unavailability. Finally, the regulation would shorten the refund period from 60 to 40 days. If approved, the changes will take effect on July 1, 2024.
- **Romania:** On October 27, 2023, Romania published Law 296/2023 which mandates the use of e-reporting and e-invoicing starting in 2024. The new law imposes deadlines of January 2024 for e-reporting and July 2024 for e-invoicing and provides a grace period through March 2024 during which no fines will be imposed. To read a report (in Romanian) prepared by the KPMG International member firm, please click here.
- **Serbia:**[lvi] On October 23, 2023, the Ministry of Finance of Serbia published its Budget for 2024, which proposes to include measures to restructure the e-invoicing system to enhance its efficiency in combating the gray economy. Specifics of the changes will be disclosed later.
- **Zambia:**[lvii] On September 29, 2023, Zambia's Finance Minister presented the 2024 Budget Statement, which proposes to significantly enhance the e-invoicing system. While details have not been disclosed, the budget aims to prevent fraudulent VAT refund claims. If approved, the changes will take effect on January 1, 2024.

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 calendar of developments 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 Chile** published a report discussing recent tax developments, including tax authority guidance on the VAT treatment of 3rd party ad publications through a Chilean website, services provided by a foreign entity, and the computation of additional VAT refunds.
- **KPMG in Trinidad and Tobago** published a report discussing tax measures in the 2024 budget, including the extension of the tourism upgrade project incentive into 2026. This initiative provides a reimbursable grant to eligible tourism accommodation enterprises, including hotels and guesthouses, to assist in upgrading their facilities.

United States: Customized Digital Video and Bar Prep Services Subject to Communications Services Tax in Florida

The Florida Department of Revenue recently issued two Technical Assistance Advisements concluding that certain types of services were subject to the state Communications Services Tax.

In Technical Assistance Advisement- TAA 23A19-001, the taxpayer offered customers the ability to customize messages pre-recorded by talent, such as entertainers, musicians, athletes, or other social media personalities. The messages were viewed, downloaded, or streamed through the taxpayer's website or mobile application using the customer's own internet access; they were not transmitted to the public or other customers. The taxpayer collected payment for the messages and transmitted most of the payment to the individual who recorded the message. The taxpayer's position was that it was providing a personal/information service and not a taxable video service because the messages were customized. Further, customers were not paying for and did not receive access to digital content such as movies, television shows, and sporting or news events. The taxpayer also asserted that if it was required to collect communications services tax, it should be required to do so on only the amount it retained and not the portion of the cost paid over to the talent. The Department of Revenue disagreed, concluding that the taxpayer's charges were subject to communications services tax on the full amount of the sales price collected from the customer. In the Department's view, the services involved the "transmission of video, audio, or other programming service to a purchaser," and they were included in the definition of taxable video services. Consistent with other rulings, the Department noted its position that if a service were a taxable video service, it could not also be an information service. Therefore, the taxpayer's offerings that included audio or video were "video services" subject to the communications services tax.

In Technical Assistance Advisement- TAA 23A-009, the taxpayer provided bar exam preparation services that were delivered through the taxpayer's web-based learning platform. In addition to outlines and practice bar exams and essays, students had access to pre-recorded lectures that could be viewed on-demand from the taxpayer's website or app. One issue presented in the TAA for the Department's consideration was

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whether the provision of on-demand video lectures subjected the entire price of tuition to communications services tax. In the Department's view, the taxpayer was providing digital video services because its online courses "included the transmission of video programming services to a purchaser and the purchaser's interaction, if any, required for the selection or use the programming service." The Department concluded that when the taxpayer received consideration from students to access its online courses, which included video services subject to communications services tax, the taxpayer was engaged in the sale of communications services. As such, communications services tax should be charged on all tuition received from sales to customers with a Florida service address. For more information, click here.

Miscellaneous Developments in the Americas

- **Brazil:**[lviii] The Brazilian federal tax authority recently announced that it will establish working groups to discuss the administration of the proposed dual VAT regimes in the proposed tax reform, with the goal of having necessary processes and infrastructure in place if enacted. As a reminder, the tax reform would introduce a new federal VAT (*Imposto sobre Bens e Serviços*, "IBS"), consisting of a dual VAT regime including (1) a Tax on Goods and Services to replace the State Value Added Tax (ICMS) and the Municipal Tax on Services (ISS); and (2) the Contribution on Goods and Services (Contribuição sobre Bens e Serviços "CBS"), that will replace the Federal PIS/ COFINS contributions as well as the federal excise tax on manufactured products ("IPI"). Further, on November 8, 2023, the Brazilian Senate approved its version of the tax reform proposal and remitted it for approval in the Chamber of Deputies. To read KPMG's previous discussion of Brazil's tax reform proposal, please click here.
- **Dominican Republic:**[lix] On October 3, 2023, the Dominican Republic issued General Standard (Norm) No. 06-23, which designates certain entities as withholding and collection agents for VAT purposes involving the transfer of industrialized goods and services (locally known as ITBIS) when involved in transactions using credit cards, debit cards, or other electronic payment instruments, including payment aggregators and electronic payment entities. Such designated entities are required to withhold ITBIS, at a rate of 2 percent of the invoiced amount when the natural or legal person is registered as a taxpayer with active status; if the natural or legal person is not registered as a taxpayer, or their status is suspended or deregistered, withholding is at a rate of 18 percent of the invoiced amount. There is an exclusion from withholding when the natural or legal person is registered as a taxpayer with active status and their main activity is the sale of goods and provision of exempt services. Where ITBIS is withheld, it is considered an advance for the period in which the withholding occurred. In addition to the withholding requirements, General Standard (Norm) No. 06-23 further includes rules governing financial services provided by payment aggregators, electronic payment entities, and certain others that are exempt from ITBIS. General Standard (Norm) No. 06-23 is effective from October 3, 2023.
- **Ecuador:**[lx] On September 4, 2023, the tax authority of Ecuador published Resolution No. NAC-DGERCGC23-00000021, which establishes the procedure for international specialized agencies, non-governmental organizations, and private legal entities designated as executors in international agreements, government-to-government credits, or multilateral organizations to submit VAT payment verification requests for VAT refund purposes. The resolution provides that these entities are required to register in the National Register of Taxpayers (RUC), identify the registration code of the agreement or credit, and possess a signed project registration form for VAT budget compensation, as well as a certificate from

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a financial institution. They must also provide a pre-validation report of sales vouchers, a list of sales vouchers supporting the VAT value, and a document certifying the renewal of expired agreements if applicable. Furthermore, the VAT payments for which budgetary compensation is requested must have been made with funds from these agreements or credits.

- **Ecuador:**[lxi] On September 27, 2023, the tax authority of Ecuador published Resolution No. NAC-DGERCGC23-00000026, amending the VAT withholding rules applicable for specified entities. The amendments include the addition of public sector entities, organizations of the central and decentralized government, universities, and polytechnic schools in Ecuador to the list of withholding agents. Moreover, companies exclusively established for the development of public projects through a public-private association are not subject to VAT withholdings, provided that this benefit is stated in the economic documents and in the awarded economic-financial plan. In addition, individuals and companies categorized as entrepreneurs within the Simplified Regime for Entrepreneurs and Popular Businesses (RIMPE) are not subject to VAT withholdings, when payments are made with a credit or debit card, wire transfer, or any other electronic payment method, including through an entity of the national financial system.

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Europe, Middle East, Africa (EMEA)

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

- **KPMG in Croatia** published a report discussing recent tax law amendments adopted by the Croatian parliament, including introduction of a new VAT bad debt relief regime, which becomes effective January 1, 2024. The regime provides that taxpayers can reduce their VAT payments based on partial or full bad debts that have existed for more than one year, subject to certain conditions, such as suing the debtors or initiating enforcement procedures and informing the tax authority of performed corrections.
- **KPMG in Germany** published a report discussing a tax authority guidance on the VAT status and right to recover VAT for research institutions published in January 2023. The guidance expands the range of activities that can be classified as business activities for research institutions, potentially enabling them to reclaim VAT for more research activities. Unlike the previous position, which limited entrepreneurial activities to in-house research, contract research, and technology transfer for long-term income, the new rules include basic research as a business activity if it boosts sales and strengthens market position. The tax authority does not require a strong link if the basic research and business sales activities are within the same organizational unit.
- **KPMG in Germany** published a report discussing recent tax developments, including recent tax authority guidance and rulings on the recovery of import VAT, the planned implementation of an e-invoicing mandate, and the application of the reduced VAT rate to woodchips.

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- **KPMG in Ireland** published a report discussing tax measures in Ireland's 2024 budget. They include an increase in the VAT registration thresholds from January 1, 2024, and an increase in the funds of the Charity VAT Compensation program from EUR 5 million to EUR 10 million.
- **KPMG in Nigeria** published a report discussing a recent decision of the Tax Appeal Tribunal (TAT) on the VAT treatment of rental income. In the case, the TAT ruled that rental income is not subject to VAT because it does not qualify as either a taxable sale of goods or a sale of services. Specifically, it held that while the VAT law defines taxable goods to include tangible and intangible products, assets, and property transfers, it excludes money, securities, and "interests in land." Thus, rental income from land and buildings does not constitute a taxable sale of goods. Furthermore, a lease granting possessory rights to a tenant is not considered a taxable provision of services.
- **KPMG in Sweden** published a report discussing a proposal to increase the excise tax rate on gambling from 18 percent to 22 percent, effective July 1, 2024.
- **KPMG in Sweden** published a report on the Swedish Supreme Administrative Court (SAC) decision in *Volkswagen Finans Sverige AB* regarding calculation of the deductible proportion of residual VAT in a company with both taxable and tax-exempt transactions. Under Swedish law, the computation of the proportional deduction is based on reasonable grounds which the Swedish tax authority interpreted to mean on a usage basis. The EU VAT Directive, on the other hand, provides that the proportion of deductible VAT is to be based on an apportionment of taxable gross receipts over total gross receipts. The taxpayer argued that the Swedish VAT Act provision on apportionment based on reasonable grounds is not compatible with the directive, as it neither identifies the turnover-based method as a main rule, nor specifies any alternative methods that can or shall be applied. The SAC held in favor of the taxpayer that the Swedish law did not correctly implement the EU VAT directive and that the usage-based apportionment method cannot be applied in Sweden since such a method has not been implemented in Swedish law (i.e., in application only). As the provisions of the EU VAT directive have a direct effect, a company cannot be refused if it requests to use a gross receipts-based method.

Roundup of Latest Court of Justice of the European Union Cases

- On October 5, 2023, the Court of Justice of the European Union (ECJ), published its decision in *YD*, Case C-146/22, in which it held that EU Member States may apply different reduced VAT rates to foodstuffs with the same main ingredient, depending on whether they are sold in shops or prepared and served hot for immediate consumption. This is acceptable if these foodstuffs either do not have comparable properties despite having a common main ingredient or if the differences between them significantly influence the consumer's decision to purchase one over the other. To read a report prepared by the KPMG International member firm in Poland, please click here.
- On October 5, 2023, the ECJ published its decision in *BV Osteopathie Van Hauwermeiren*, Case C-355/22, in which it held that a national court cannot maintain the effects of a national law provision it found to be incompatible with the EU VAT directive on the basis of an alleged impossibility of refunding the VAT wrongly levied to the customers of the services provided by a taxpayer. In particular, the large number of persons affected or the lack of an accounting system enabling the taxpayer to identify those services and their value is not relevant.

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- On October 5, 2023, the ECJ published its decision in *Deco Proteste – Editores*, Case C-505/22, in which it held that granting customers an introductory gift for their subscription to a periodical is considered ancillary to the main service of selling periodicals. Accordingly, there is no sale of goods that is made free of charge, and the publisher does not have to pay VAT on the introductory gift, but only on the subscription. To read a report prepared by the KPMG International member firm in Portugal, please click here.
- On October 26, 2023, the ECJ published its decision in *Gebühren Info Service GmbH (GIS),* Case C-249/22, in which it held that an EU Member State has the right to impose VAT on public broadcasting activity. This applies (a) even if the activity is funded by a mandatory statutory fee and is paid by anyone operating a broadcast receiver within the terrestrial broadcasting area of the relevant public broadcasting body, and (b) irrespective of whether the activity is considered services provided for consideration.

Source: European Union; Poland – ECJ Decides on Application of Different VAT Reduced Rates Based on Subjective Requirements: *Dyrektor Krajowej Informacji Skarbowej (TVA pour boissons chaudes lactées)* (Case C-146/22) (VAT), (October 5, 2023), News IBFD; European Union; Belgium - ECJ Decides on Possibility of Denying Refund of VAT Levied in Breach of EU Law: *Osteopathie Van Hauwermeiren* (Case C-355/22) (VAT), (October 5, 2023), News IBFD; European Union; Poland - ECJ Decides on Application of Different VAT Reduced Rates Based on Subjective Requirements: *Dyrektor Krajowej Informacji Skarbowej (TVA pour boissons chaudes lactées)* (Case C-146/22) (VAT), (October 5, 2023), News IBFD; European Union; Austria - ECJ Decides on VAT Treatment of Public Service Broadcasters' Programme Fees: *GIS* (Case C-249/22) (VAT), (October 26, 2023).

United Kingdom: Supreme Court Clarifies Application of VAT Exemption to Loan Administration Services

On October 11, 2023, the UK Supreme Court published its decision in *Target Group Ltd*, [2023] UKSC 35, regarding whether loan administration services qualify as VAT-exempt services. In this case, the taxpayer provided loan administration services to a third-party bank. The bank would create and finalize loan agreements with its customers, after which the taxpayer would manage all aspects of loan administration. The services involved creating individual loan accounts, corresponding with customers about payments, sending payment instructions, operating the accounts daily, dealing with missed payments and arrears, agreeing on payment plans with customers in arrears, and closing accounts once loans are settled. In 2015, the taxpayer requested a ruling from HMRC, seeking confirmation that its transactions should be exempt from VAT because it was providing a bundled provision of payment processing services. HMRC denied the petition, ruling that the services were loan account management which is subject to VAT at the standard rate. The taxpayer appealed this decision to the First-tier Tribunal, the Upper Tribunal, and the Court of Appeal, but lost at all levels.

Before the Supreme Court, the taxpayer put forward two arguments: (1) it issued instructions that automatically led to payments from a borrower's bank accounts to the third party's bank accounts and (2) it made entries into the borrower's loan accounts. It further argued that accounting entries, being the modern way of effecting value movements, were enough to effect a payment transfer. As such, changes in borrower loan accounts altered the borrower's financial and legal situation, thus qualifying for exemption. The Supreme Court disagreed with the taxpayer. Referring to the 1997 ECJ decision in *Sparekassernes Datacenter*, Case C-2/95, it stated that for services to be exempt from VAT as financial services, they must broadly

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and distinctly result in fund transfers and alter the legal and financial situation of the involved parties. This requires functional participation and performance, not just instructions leading to a payment or transfer. Therefore, the Supreme Court held that the taxpayer's loan administration services did not qualify for the exemption.

Source: United Kingdom – Supreme Court Confirms That Administration Services Supplied to Bank Are Not Exempt from VAT, (October 12, 2023), News IBFD.

Miscellaneous Developments in EMEA

- **Bahrain:**[lxii] The Bahraini National Bureau for Revenue (NBR) published a guideline on VAT deregistration. The guidelines provide that mandatory deregistration applies to resident taxpayers who either stop their activities or whose annual sales fall below the voluntary registration threshold of BHD 18,750. It also applies to nonresident VAT payers who stop providing taxable sales to non-registered individuals in Bahrain. Voluntary deregistration is applicable to resident taxpayers whose annual sales fall below the mandatory registration threshold of BHD 37,500, but who are above the voluntary registration threshold. Nonresident taxpayers cannot voluntarily deregister. The deregistration process is managed via the NBR portal and requires NBR approval and settlement of any outstanding liability.
- **Belgium:**[lxiii] The Belgian government submitted a bill to parliament, which includes measures to (1) clarify when taxpayers must include their VAT ID numbers upon issuing invoices for their annual list of VAT-liable customers, except for zero-rated intra-EU transactions;
  (2) apply VAT at zero-percent for certain products stored in a warehouse other than a customs warehouse, subject to certain conditions; (3) set up a national electronic system to store data submitted by payment service providers; and (4) introduce special provisions for the joint liability of taxable electronic interface operators.
- **Burkina Faso:**[lxiv] Effective October 17, 2023, Burkina Faso allows mining companies that deliver more than 50 percent of their gold production to state institutions to request a refund of excess deductible VAT.
- **Congo (Republic of):**[lxv] On October 12, 2023, the Congolese government approved changes to the VAT rules applicable to the upstream oil sector. The changes include applying VAT to all domestic transactions by oil companies and subcontractors, applying a zero VAT rate on their foreign transactions, exempting certain imports by these companies except for crude and refined hydrocarbons, and establishing a dedicated tax service for VAT credit audits.
- **Croatia:**[lxvi] The Croatian parliament approved VAT amendments transposing the EU Directive requiring payment service providers to report on cross-border payments and their recipients into national law, effective January 1, 2024.
- **Cyprus:**[lxvii] Cyprus recently launched a new "Integrated Tax Transformation Project" focused on streamlining, modernizing, and enhancing its tax regime and laws.
- **Denmark:**[lxviii] On September 29, 2023, the European Union extended through December 31, 2026, the authorization it granted Denmark to apply a VAT flat-rate regime for specified vehicles. The regime allows taxpayers who have registered a vehicle solely for business to use it for private purposes and calculate the taxable amount for private use on a daily flat-rate basis. The simplified calculation method is limited to 20 days of private use per year.
- **Egypt:**[lxix] The Egyptian Tax Authority (ETA) recently issued Regulation No. 87 of 2023, which implements steps to speed up the VAT refund process for diplomats and embassies through the use of an electronic platform for VAT refunds. The process includes the following steps.

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First, the VAT refund tax research department reviews the application for the VAT exemption against the original tax invoices. If these invoices have been approved for VAT purposes, a request is sent to the general department of the VAT research authority to start the VAT refund process within five working days. Additionally, a monthly list of the VAT amounts that have been refunded is sent to the embassy or diplomat. Finally, a notification is sent to the Ministry of Foreign Affairs. This streamlined process aims to make the VAT refund process quicker and more efficient for diplomats and embassies.

- **European Union:**[lxx] The European Commission recently announced it is working on a proposed taxpayer rights initiative that is expected to focus on VAT and double taxation. With respect to VAT, the proposal would include measures to accelerate VAT refunds and ease access to bad debt relief.
- **European Union:**[lxxi] On October 17, 2023, the EU's VAT Expert Group (VEG) published additional topics to be included in the Explanatory Notes on the new small and medium-sized enterprises (SMEs) mechanism, which becomes effective January 1, 2025. The new rules for SMEs introduce higher VAT registration thresholds, including for SMEs with VAT obligations in another Member State. The VEG suggestions include clarifying the following: (1) correction of quarterly reports, (2) taxpayers' right to deduct VAT, (3) invoicing rules and obligations, and (4) compatibility of the SME mechanism with other VAT mechanisms. The VEG also requested clarifications on certain topics, such as transactions covered by the VAT exemption under the SME mechanism, explanation of the interaction between the threshold for the SME mechanism and the threshold for distance sales of goods, and suggested adapting the language for non-experts in VAT. To read KPMG's previous discussion of the VAT SME mechanism, click here.
- **European Union:**[lxxii] On October 24, 2023, the European Commission published a report on the 2021 VAT Gap stating that EU Member States lost an estimated EUR 61 billion in VAT revenues in 2021 due to various factors including fraud, evasion, and miscalculations. However, the VAT gap, which is the difference between expected and actual VAT revenue, decreased by about EUR 38 billion compared to 2020. The European Commission attributes the improvement to targeted policy responses such as the digitalization of tax systems and real-time transaction reporting. It also notes that government support measures during the COVID-19 pandemic may have contributed to this decrease. In light of this, the European Commission emphasized the need for a cross-border digital reporting system based on e-invoicing for business-to-business transactions, as outlined in the VAT in the Digital Age (ViDA) Proposals, to effectively combat VAT fraud, particularly missing trader or carousel fraud.
- **European Union:**[lxxiii] The European Parliament recently approved, at committee stage, draft legislation to alter the process for adopting legislation at the EU level. These proposals were supported in a European Parliament resolution last year and include measures such as increasing the use of qualified majority voting instead of requiring unanimous approval from all Member States. The proposals also suggest that the Parliament should have the right to initiate, amend, or revoke legislation, and should be responsible for selecting a Commission President.
- **France:**[lxxiv] On October 4, 2023, the French government updated the list of airlines deemed to be qualified to use the VAT zero-rate regime. The regime applies to several transactions involving aircraft used for international commercial traffic by qualifying airlines. Taxpayers included on the list are exempted from the obligation to produce a specific certificate to each vendor to benefit from the VAT zero rate.
- **Greece:**[lxxv] On October 2, 2023, the Greek tax authority published Decision No. A. 1147 changing the implementation date of a previous decision regarding the placement of non-

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EU and domestic goods in a free zone. The new date is now set for February 1, 2024, instead of September 30, 2023. The previous decision pertained to zero-rating these goods when placed in a free zone and the VAT payment procedures when they leave the free zone for consumption within the country. The date change is to align with the implementation of software related to the digitization of non-EU and domestic goods in the free zone customs regime. The current decision took effect on September 29, 2023.

- **Ireland:**[lxxvi] On October 13, 2023, the Irish tax authority published guidance outlining the VAT rules for the sale of medical equipment and appliances, including COVID-19 testing kits. While most medical goods are subject to VAT at the standard rate, certain items, such as COVID-19 testing kits, vehicles for persons with disabilities (excluding mechanically propelled road vehicles), orthopedic appliances, aids for hearing impaired, artificial limbs (excluding teeth, eyeglasses, and contact lenses), walking frames, crutches, and automated external defibrillators, are eligible for a zero VAT rate. Parts or accessories used with these goods are also zero-rated.
- **Italy:**[lxxvii] On October 22, 2023, the Italian tax authority issued Letter No. 449/2023, providing guidance on VAT refunds for purchases made in Italy by nonresident companies. The letter was in response to a nonresident company that bought goods in Italy from a Finnish vendor and sold them to customers in Italy. The agency explained that these purchases created a VAT refund claim which the company could request through an online process without registering for VAT.
- **Italy:**[lxxviii] The Italian Department of Finance published the latest lists of companies subject to the VAT split-payment system. The designation applies for 2024. It includes companies controlled by government ministries and by central and local public bodies, as well as companies listed on the FTSE MIB index of the Italian Stock Exchange. The mechanism, introduced in 2017, is an anti-tax evasion measure that requires government departments and certain companies to pay the VAT payable under a contract directly to the state, rather than to the vendor.
- **Kosovo:**[lxxix] The Kosovo Ministry of Finance recently submitted a draft law to parliament that includes tax procedural measures such as a penalty regime for tax infractions and a penalty reduction in the case of voluntary disclosure. The draft law further stipulates that cross-border issues may be interpreted following EU VAT principles and ECJ judgments if Kosovo's tax laws do not cover a specific VAT transaction for goods and services.
- **Latvia:**[lxxx] On November 3, 2023, Latvia's government submitted to parliament a bill proposing to increase the VAT registration threshold from EUR 40,000 to EUR 50,000 from January 1, 2024.
- **Maldives:**[lxxxi] On September 25, 2023, the Maldives Inland Revenue Authority (MIRA) published the thirtieth amendment to the country's Goods and Services Tax (GST) Regulation. The amendments (1) require agents of foreign tourist vessels to register with MIRA and collect GST on goods and services provided by the vessel; (2) expand the conditions that would deem a good or service as being provided in the Maldives; (3) expand the scope of "a business conducted continuously or permanently" to include, among other things, sale of goods or services through a permanent establishment, by a partnership, or through a registered vessel. It also outlines how to manage wrongfully collected GST, including a specific timeline for accounting for such amounts.
- **Netherlands:**[lxxxii] Effective January 1, 2024, the Netherlands will amend the VAT rules regarding limitations of the VAT recovery right for business gifts. Currently, if a business spends less than EUR 227 per recipient/employee on gifts each year, it can deduct the VAT

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on that expenditure if the recipient could have deducted more than 30 percent of the VAT if they bought the gift themselves. However, if the expenditure equals or exceeds EUR 227, VAT cannot be deducted (not even for the VAT on the first EUR 227). Previously, any contribution from the recipient toward the gift could reduce the expenditure, potentially to zero. From 2024, personal contributions will no longer be deducted from the expenditure when calculating the EUR 227 threshold. The personal contributions however are still taken into account to determine the amount of unrecoverable VAT.

- **Romania:**[lxxxiii] On October 2, 2023, Romania's tax authority issued guidelines for VAT refunds paid in other EU Member States. The guidelines provide that taxpayers who have made eligible transactions in another EU Member State can apply for a VAT refund using forms on the tax portal. They are to be submitted electronically by September 30 of the following year. Refunds can be requested for periods of three months to a year, with minimum amounts of EUR 400 for periods longer than three months but less than a year, and EUR 50 for a full year or less than three months. The Romanian tax authority will verify the application and, if satisfactory, forward it to the relevant EU Member State. The EU Member State must respond within four months, and if rejected, the taxpayer can appeal.
- **Slovenia:**[lxxxiv] On October 10, 2023, the Slovenian parliament accepted a bill for consideration to amend the Slovenian VAT law. The bill includes measures to implement the EU Directive requiring payment service providers to report on cross-border payments and their recipients, effective January 1, 2024. The bill further proposes to extend the VAT self-assessment requirement for sales of emission rights until December 31, 2026. Additionally, it explicitly specifies that the VAT cost-sharing mechanism should be permissible only for services provided to members of the cost-sharing agreement in the context of activities serving the public interest.
- **South Africa:**[lxxxv] On October 5, 2023, the South African tax authority published revised guidance on the application of the VAT law to fixed property (i.e., real estate) and construction transactions. The guide covers various topics including: definitions of enterprise, commercial accommodation, goods, fixed property, and second-hand goods; the interaction between VAT and other indirect taxes; accounting for VAT; changes in use from taxable to private or exempt purposes; changes in use from non-taxable to taxable purposes; subsequent sale or disposal of goods or services partly applied to taxable sales; the relationship between landowners and contractors; VAT implications for developers and speculators; and the VAT treatment of rental pool agreements.
- **South Africa:**[lxxxvi] On October 25, 2023, the South African tax authority clarified that securities lending arrangements constitute VAT-exempt financial services. Therefore, securities lending fees that a borrower pays to a lender for borrowing shares or other securities constitute consideration for an exempt sale.
- **Sweden:**[lxxxvii] On October 19, 2023, the Swedish tax authority issued Statement No. 8-2530261, announcing a change in its position on whether certain EV charging stations constitute immovable or moveable property for VAT purposes. According to the tax authority, charging poles, even when mounted on concrete foundations in the ground and connected to buried electrical cables, are not considered fixed property because they are not a permanent part of the land. Moreover, charging boxes, even when mounted on building walls and sometimes connected to a building's electrical system, are not considered fixed property merely due to their connection. Finally, items that are installed and included as an essential part of a building or structure, and without which the building or structure would be incomplete, are considered fixed property.

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- **Switzerland:**[lxxxviii] On October 25, 2023, the Swiss tax authority initiated a consultation process on proposed changes to the VAT ordinance to incorporate VAT rate and administration provisions from the updated Value Added Tax Act adopted in June 2023. The proposed changes aim to: (1) streamline tax compliance for taxpayers under the balance or flat rate tax systems, particularly small and medium-sized businesses; (2) mandate the use of the electronic portal for balance and flat-rate methodologies, annual settlements, and group taxation related applications and declarations; (3) adjust and approve the revised net and flat tax rates; (4) provide clarity on VAT deductions and import tax exemptions; and (5) establish a VAT reporting process for taxable cash payments of CHF 15,000 or more. The review period is open until February 8, 2024, and the changes are anticipated to be implemented starting January 1, 2025.
- **Ukraine:**[lxxxix] On October 10, 2023, Ukraine's State Fiscal Services (SFS) clarified that a gratuitous transfer of assets under a loan agreement is subject to VAT in Ukraine. The VAT base for these transactions should be determined based on the contractual value of the goods. However, if the transferor independently manufactures the goods, the VAT base cannot be lower than the usual market price. For previously acquired goods, the VAT base cannot be lower than the initial acquisition price. The contractual value of goods for VAT purposes includes any funds and the value of any tangible and intangible assets received as compensation for the provision of the goods.
- **Ukraine:**[xc] On October 19, 2023, the SFS clarified that the provision of advertising services by a Ukrainian taxpayer to a Ukrainian resident is subject to VAT, as the services are sourced to Ukraine. However, the provision of advertising services to a nonresident is not subject to VAT in Ukraine, as these services are sourced outside Ukraine.
- **United Arab Emirates:**[xci] On October 8, 2023, the United Arab Emirates (UAE) tax authority published guidance clarifying the new self-assessment requirement that applies to the domestic sale of electronic devices. Under this regime, buyers of qualifying electronic devices are responsible for accounting for VAT on the value of the electronic devices and for meeting all UAE VAT obligations resulting from the sale, subject to specified conditions. The guide covers the scope of covered transactions, compliance and reporting requirements for sellers and buyers, and exceptions in cases of direct and indirect imports, exports, and sales made in designated zones. In addition, the Ministry of Finance clarified that parts are considered related to electronic devices if they are normally used for the manufacture or operation of these devices, or if they are replacements for such parts. However, parts that enhance the functioning or enjoyment of electronic devices, but are not necessary for their operation., SIM cards or similar external smart cards are not considered necessary to the operation of the electronic devices. To read KPMG's previous discussion of the self-assessment regime, please click here.
- **United Kingdom:**[xcii] The UK's Department for Culture, Media and Sport recently launched a consultation on a gambling levy. The proposed levy would be paid by gambling operators to the Gambling Commission. The levy would apply to businesses with a gross gambling yield of more than GBP 500,000 at a rate of between 0.4 percent and 1 percent, depending on the nature of the receipts. It would be introduced from 2024 and would be fully in force from 2027. The consultation, which seeks views on the levy's operation and funding areas, as well as governance and accountability arrangements, will close on December 14, 2023. The levy will require parliamentary approval to become law.
- **United Kingdom:**[xciii] The UK government recently launched consultation on draft legislation that would provide that no part of any UK law or regulation could be quashed or voided for being incompatible with EU law, specifically in relation to VAT and excise law. However,

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the superseded EU provisions will continue to have effect for the purpose of interpreting VAT and excise law. The draft legislation is proposed to be included in the country's next Finance Bill.

- **United Kingdom:**[xciv] On September 29, 2023, the UK's First-Tier Tribunal (Tax Chamber) (FTT) published its decision in *JPMorgan Chase Bank, NA ("JPM")*, [2023] UKFTT 856 (TC), in which it held that services provided by a US-based taxpayer to a UK VAT group member constituted a single taxable transaction. The services at issue were divided into support services and business delivery services. The support services included human resources, real estate, and legal. They are generic and not specific to a particular part of the UK business. The business delivery services consisted of quantitative research, technology, operations, and market risk. These services undertook and fulfilled transactions in securities for clients of the UK business. The taxpayer acknowledged that separately, the support services were taxable. On the other hand, the business delivery services were provided to each of the "Markets" business areas or to the entire Markets business segment (as a whole) and are exempt. The taxpayer argued that if the services were considered a single transaction, the entire transaction should be exempt on the grounds that the financial transactions made by the UK-based group member on behalf of its clients were exempt. HMRC countered that even if there was a single transaction, it would not fall within the exemption for financial services. The FTT dismissed the appeal, agreeing with HMRC that the taxpayer was providing a single provision of technical or administrative service, which

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Asia Pacific (ASPAC)

did not qualify for VAT exemption. The FTT found that the services were closely linked and essential for the UK-based VAT group member's whole business, and that splitting them would be artificial. However, it held that the services were not covered by the financial services exemption and were therefore taxable.

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

- **KPMG in Australia** published a report discussing a consultation on a draft tax authority guidance explaining the GST treatment of combination foods, i.e., food that is a combination of one or more foods, at least one of which is subject to GST. The draft guidance is being issued in response to a recent court decision holding that a strawberry-flavored yogurt with cookie pieces and white chocolate chips that constituted combination food may be subject to GST. To read KPMG's discussion of the court decision, please click here.
- **KPMG in Cambodia** published a report discussing recent tax authority guidance on the increase of the rate of the Public Lighting Tax (PLT) (applicable to sales of alcohol, beverages, and tobacco products) from 3 percent to 5 percent. It also released a piece on the advertising tax regime.
- **KPMG in Malaysia** published a report discussing tax proposals in the 2024 budget, including a proposal to increase the service tax rate from 6 percent to 8 percent.
- **KPMG in Singapore** published a report discussing a recent decision of the Goods and Services Tax (GST) Board of Review upholding a tax authority decision rejecting a taxpayer's

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GST deduction on goods bought from a local vendor. The decision was based on the taxpayer's failure to demonstrate that the goods were purchased and traded. The GST legislation allows taxpayers to deduct GST incurred on expenditures, provided the taxpayer receives goods or services for taxable sales and has a tax invoice to support the claim.

India: GST Council Recommendations from 52nd Meeting

On October 7, 2023, India's Goods and Services Tax (GST) Council, in its 52nd meeting, made several recommendations for change to the GST regime. For personal and corporate guarantees, the council recommended clarifications of the taxability of personal guarantees offered by directors to banks or financial institutions against company loans, and the taxability of corporate guarantees provided for related persons, including those offered by a holding company to its subsidiaries. The recommendations provide that when no consideration is paid by the company to the director, directly or indirectly, for providing a personal guarantee, the open market value of the said transaction may be treated as zero with no tax payable. Additionally, when a guarantee is provided by related parties, the taxable value of a corporate guarantee will be one percent of the amount of such guarantee, or the actual consideration, whichever is greater.

The Council also recommended several changes to GST rates. These include a zero rate for food preparation of millet flour in powder form and that containing at least 70 percent millet by weight when sold in a loose form, and 5 percent if sold pre-packaged. It recommends keeping extra neutral alcohol, used for manufacturing alcoholic liquor, outside GST. The Council further suggests reducing the GST rate on molasses from 28 percent to 5 percent and exempting services such as the provision of water, public health, sanitation, solid waste management, and slum improvement provided to government authorities.

Furthermore, the Council recommended the introduction of an amnesty program for filing appeals against demand orders when an appeal could not be filed within the allowable time. It also suggests allowing refunding GST incurred in relation to sales to special economic zone units/developers. Lastly, the GST Council recommends that bus operators organized as companies should be able to pay GST on their transactions after utilizing their GST credit, shifting the current liability from electronic commerce operators (ECOs) to bus operators.

Following the recommendation of the GST council, India's tax authority issued Notification 52/2023-Central Tax and Circular 204/16/2023-GST, which provide clarifications on the taxability of personal and corporate guarantees. The taxable value of providing a corporate guarantee to any banking company or financial institution on behalf of a related person shall be deemed to be 1 percent of the amount of such guarantee or the actual consideration for the guarantee, whichever is higher. This is treated as a taxable service, even if provided without any consideration. The taxable value is determined based on the GST law. This does not apply to personal guarantees provided by a director to banks or financial institutions for securing company credit facilities.

Source: India – GST Council Recommendations Include Valuation of Corporate Guarantees, (October 9, 2023), News IBFD; Orbitax, India Clarifies GST on Corporate Guarantees, October 30, 2023.

Miscellaneous Developments in ASPAC

- **Australia:**[xcv] The Australian Taxation Office (ATO) is resuming its standard debt collection practices and has issued warnings to businesses to fulfill their tax obligations to avoid having their debts disclosed to credit reporting agencies. As of July 2023, the ATO has

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issued Notices of Intent to disclose business tax debts to more than 22,000 businesses with a tax debt of at least AUD 100,000 that is overdue by more than 90 days. Businesses have 28 days from the issuance of the intent to disclose to pay their debt or enter into a payment arrangement to prevent disclosure.

- **New Zealand:**[xcvi] On October 24, 2023, the New Zealand tax authority issued Interpretation Statement No. IS 23/08, along with accompanying Fact Sheet Nos. 23/08 FS 1 and 23/08 FS 2, clarifying the GST treatment of transactions between unit title body corporates (UTBCs), their members, and third-party vendors. Among other things, the tax authority clarified that if a UTBC's sales to third parties exceed NZD 60,000, it is liable to register for GST. The statement also discusses the impact of this registration and covers rules on compulsory and voluntary GST registration, GST liability upon registration, and deregistration. Additionally, it details how taxable periods and accounting basis are determined if a UTBC registers for GST. Finally, it provides guidance on the GST treatment of specific transactions for UTBCs, both registered and unregistered.
- **Pakistan:**[xcvii] Pakistan's Federal Board of Revenue (FBR) recently appointed a task force to advise on improvements to its tax administration. The task force will recommend improvements in the management and use of internal and third-party data for tax administration and enforcement, with a focus on enhancing collection processes and reducing costs. It will also review ongoing tax reforms, assess progress, and suggest further changes to boost tax collections, close loopholes, and improve taxpayer dispute mechanisms. The task force will identify necessary structural reforms at the tax agency and potential gaps in technical capacity.

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