KPMG

Inside Indirect Tax

January 2020

About this Newsletter

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

Global Rate Changes

- **Austria:**[i] Effective January 1, 2020, Austria reduced the VAT rate applicable to the sale of e-books and electronic publications as well as dog assistance services from 20 percent to 10 percent.
- **Czech Republic:**[ii] Effective May 1, 2020, the Czech Republic will apply the reduced VAT rate of 10 percent to sales of: (1) water treatment and distribution services; (2) wastewater collection and treatment, including other services related to these activities; (3) catering services, serving of beverages, under certain conditions; (4) renting or hiring books, brochures, leaflets, prospectuses, newspapers, magazines, periodicals, picture books, drawings, coloring books, sheet music and cartographic products if they are provided as public library and information or other services provided under the Library Act or as similar services provided under other legislation; (5) household cleaning services; (6) household window cleaning services; (7) home care for children, the elderly, the sick and disabled persons; (8) repair of footwear and leather products; (9) repair and adaptation of clothing and textile articles; (10) repair of bicycles; (11) hairdressing and barbers' services; (12) the sale of books, brochures, leaflets, prospectuses, newspapers, magazines, periodicals, picture books, drawings, coloring books, sheet music and cartographic goods (including in electronic format); and (13) drinking water sold to customers by a water provision system pursuant to the Water Supply and Sewerage Act.
- **Germany:** Effective December 18, 2019, books newspapers, magazines, and other publications in electronic formats are subject to the reduced rate of 7 percent. However, publications consisting entirely or mainly of video or audio content and advertising publications remain subject to the standard VAT rate

of 19 percent. In addition, effective January 1, 2020, Germany extended the application of the reduced VAT rate of 7 percent applicable to transportation of passengers by train for short distances to cover all distances. To read a report prepared by the KPMG International member firm in Germany, please click here.

- **Greece:**[iii] On December 23, 2019, Greece published a ministerial decision extending until June 30, 2020, the application of the reduced VAT rates on the islands of Lesbos, Chios, Samos, Kos, and Leros; the extended rate is 30 less than the standard VAT rates on these islands.
- **Ireland:**[iv] Effective January 1, 2020, Ireland increased the VAT rate applicable to food supplements from zero percent to 13.5 percent. Food supplements include certain vitamin, mineral and fish oil products. Certain other products, such as foods for specific groups, vitamins and minerals such as folic acid licensed as medicines and fortified foods, continue to benefit from the zero percent VAT rate.
- **Italy:** Effective January 1, 2020, Italy applies the reduced rate of 5 percent to sales of feminine hygiene products. In addition, driving school tuition fees are no longer VAT exempt. To read a report prepared by the KPMG International member firm in Italy, please click here.

The Americas

United States: VAT Imposed on Services Included in Sales Factor in California

The California Office of Tax Appeals recently held that, for the tax year at issue, VAT imposed on the provision of services was included in the sales factor. The taxpayer, a California-based consulting firm, provided services to clients within and without California. VAT was imposed and invoiced on sales of services to foreign customers. On its 2008 California franchise tax return (filed on a worldwide basis), the taxpayer included VAT collected as part of its receipts for services sold in its sales factor. This increased the taxpayer's sales factor denominator because the VAT was related exclusively to foreign sales. Upon audit, the Franchise Tax Board determined that the taxpayer improperly included VAT in the sales factor. The taxpayer protested the resulting corporate tax assessment to the Office of Tax Appeals (OTA).

Under California law for the 2008 tax year at issue, the term "sales" was defined as "all gross receipts of the taxpayer not allocated" as nonbusiness income. The taxpayer argued that, "all gross receipts" should be broadly construed, consistent with prior California cases, to include the "whole amount received." The FTB, however, argued that the regulation addressing the sales factor specifically allowed sales or excise tax (including VAT) on sales of tangible personal property to be included in the sales factor. The regulation did not, however, include similar language regarding sales of services, meaning in the

FTB's view, that such taxes imposed on sales of services were not included in the sales factor. After reviewing a number of cases addressing what was included in "all gross receipts," the OTA concluded that VAT (and other taxes) on sales of services should likewise be included in the sales factor. The OTA noted that the use of the term "includes" was a general term of enlargement and not a term of limitation. Further, the court in the Microsoft case had directly addressed a similar argument with respect to whether return of principal was included in the sales factor and had concluded that the term "all gross receipts" meant all gross receipts. The OTA noted that the sales factor statute was revised effective for tax years beginning on or after January 1, 2011 to adopt a new definition of gross receipts and that this decision concerned only the 2008 tax year. For more information, click here.

Argentina: Overview of Recent Indirect Tax Developments

On October 25, 2019, the tax authority of Argentina (*Administración Federal de Ingresos Públicos*, AFIP) published General Resolution 4614 in the official gazette, The Resolution introduces new reporting requirements related to innovative financial services effective November 1, 2019. Payment processing services established in Argentina are required to provide to the AFIP on a monthly basis the following information regarding vendors that signed up for the electronic payment management system: (1) the tax identification number of the customer (*Clave Única de Identificación Tributaria*, CUIT); (2) the uniform banking key number (*Clave Bancaria Uniforme*, CBU); (3) total amount of transactions in ARS; and (4) the commission amounts collected for the service. In addition, companies that administer, manage, or process asset transfers through electronic or digital platforms on behalf of individuals or legal entities resident in Argentina or abroad must provide details of accounts that identify each client and the debit and credit activity of such accounts, as well as the monthly balance.

On October 25, 2019, the AFIP published General Resolution 4615 in the official gazette. It which introduces rules on the input VAT refund available for sellers of food products subject to a zero rate. The Resolution clarifies that taxpayers in bankruptcy or prosecuted for tax crimes (including tax fraud) are not eligible to request a refund. The VAT refund is limited to the amount that results from applying the 21 percent VAT rate to the total amount of sales of food products subject to a zero rate. Taxpayers may request the VAT refund on a monthly basis through the AFIP's website (*Sistema Integral de Recuperos*, SIR). When filing the refund claim, taxpayers must provide relevant information on the sale of food products subject to a zero rate and on the related VAT incurred and must submit a report issued by a public accountant stating the reasonableness and accuracy of the input VAT. The AFIP will then verify the accuracy of the affidavit submitted, notify the taxpayer of the approved VAT refund amount and credit the relevant amount in the tax account system available on the AFIP's website. Taxpayers are entitled to appeal in cases where the AFIP does not approve the refund claim request.

On October 29, 2019, Argentina published Decree 741/2019, which updates the rules applicable to transactions between registered taxpayers and final consumers in the official gazette. Decree 741 repeals VAT Regulatory Decree chapter 73, which required registered taxpayers to charge VAT to a buyer if the buyer did not state that he was a registered taxpayer and the seller could not presume the buyer was a final consumer. According to the Argentinean VAT law, final consumers are considered as persons who purchase goods or services for their own private use or consumption. Decree 741 clarifies that this condition is fulfilled if the buyer reports that he is a final consumer by accepting the bill issued by seller under the rules established by the tax authority. Decree 741 further establishes that the tax authority will determine, for certain activities, the conditions to be met by sellers in order to define if the purchaser is a final consumer or not. As a consequence, purchasers are not considered final consumers if they do not purchase goods or services for their private use or consumption or report to the seller that they are a registered taxpayer, VAT exempt person, or are registered in the Simplified Tax System.

On October 30, 2019, the AFIP published General Resolution 4621 in the official gazette. The Resolution excludes micro enterprises whose average gross receipts in the past three years is below the amount set by the Secretary of Small Businesses to be able to register as a micro business from the VAT withholding system established for credit card payments. This applies regardless of whether a company is effectively registered. In addition, on November 21, 2019, the AFIP published General Resolution 4633, which excludes those companies managing electronic payments on behalf of third parties from the VAT withholding system established for credit card payments.

On October 30, 2019, the AFIP published General Resolution 4622 in the official gazette. The Resolution establishes a VAT and income tax withholding regime on payments collected and transferred by intermediaries (by electronic means) on behalf of merchants of goods and services effective November 19, 2019. According to the Resolution, withholding agents are companies that collect and transfer payments on behalf of third parties through electronic means. VAT taxpayers and persons subject to VAT that are not duly registered as taxpayers are subject to the withholding tax. The VAT withholding rates are: 0.5 percent, 1 percent, 3 percent, or 10.5 percent. The withholding is applied to the total amounts of the payments collected and transferred by electronic means. The applicable rate is determined according to the status of the merchant, its activity and the payment method used by its customers (e.g., debit card). The tax withheld is considered an advance payment and may be offset against the final tax liability of the taxpayer. In addition, on November 25, 2019, the AFIP published General Resolution No. 4636, which clarifies that merchants of goods and services that are not registered as VAT taxpayers or micro companies not registered as Simplified Tax taxpayers are also subject to the withholding tax if they carry out ten or more transactions per month, for an accumulative amount of ARS 50,000 ($830) or more. Moreover, General Resolution No. 4636 clarifies that withholding agents must report the amounts withheld to the AFIP using the SIRE System, established by General Resolution No. 3726.

On December 14, 2019, Argentina published Executive Branch Decree 37/2019 which removes the taxation limit of ARS 4 for each USD of the Free On Board (FOB) price exported. The Decree further replaces Annex I of Decree 793 with a new Annex I, and creates an Annex II with Mercosur-harmonized customs positions. Goods listed in Annex II are subject to a 9 percent tax. As a consequence of the changes, tax on soybeans is increased from 24.5 percent to 30 percent of the FOB value, tax on maize and wheat from 6.5 percent to 12 percent, and on meat and milk from 4.5 percent to 9 percent, among other products.

Source: Argentina - Tax information regimes introduced for innovative financial services (Nov. 4, 2019), News IBFD; Argentina - Input VAT refund – resolution published (Nov. 4, 2019), News IBFD; Argentina - Transactions between registered VAT taxpayers and final consumers – regulated (Nov. 5, 2019), News IBFD; Argentina - VAT and income tax withholding regime – resolution published (Nov. 7, 2019), News IBFD; Argentina - VAT and income tax withholding regime – resolution amended (Dec. 3, 2019), News IBFD; Argentina - VAT withholding system and electronic payments amended (Dec. 5, 2019), News IBFD; Argentina – Tax on exports increased (Dec. 16, 2019), News IBFD.

Brazil: Overview of Recent Indirect Tax Developments

On October 11, 2019, Brazil published two consultation solutions clarifying that the application of the cumulative or non-cumulative regime to calculate the federal social security contributions (PIS and COFINS) from the sale of products such as gasoline and diesel oil is determined by the system used by the retailer. The consultation solutions also clarify that tax credits are determined by the tax regime that applies to the retailer, provided there is no limitation to the company's commercial activity. Therefore, credits cannot be calculated for the resale of goods, including resale of fuels.

On October 11, 2019, Brazil published a consultation solution clarifying that for determining the PIS and COFINS credits on resale transactions, only those goods and services used as inputs in the products can be taken into consideration. Legal, advertising, and other expenses are not included in the credit calculations for these transactions as they are not considered inputs. The concept of PIS/COFINS credit is a gray area in Brazil as the categorization as input may vary between taxpayers.

On October 11, 2019, Brazil published a consultation solution clarifying that wind farm maintenance services are considered construction services and its associated revenue is subject to the non-cumulative PIS and COFINS regime. However, the income is subject to the cumulative PIS and COFINS regime if the maintenance services are linked to the same management contract or subcontract under which the construction work was performed and the performance of the maintenance is unconditional.

On October 11, 2019, Brazil published a consultation solution clarifying the calculation method for PIS and COFINS credits for certain investments. Generally, credits are allowed even if they are linked to revenue that is suspended, exempt, zero-rated, or not subject to PIS and COFINS. However, if a business performs taxable and non-taxable transactions credits are only allowed on a proportional basis. The proportional method does not apply to entities entirely subject to the non-cumulative regime or to entities that have limited income suspended, exempted, zero-rated, or are not subject to PIS or COFINS.

On October 15, 2019, Brazil published Normative Instruction 1,911/2019, which consolidates the PIS and COFINS regulations. In addition to consolidating PIS and COFINS regulations, the Instruction aims to gather numerous positions adopted by the Brazilian tax authority previously issued as formal consultations and normative opinions. Article 765 of the Instruction withdraws or repeals over 50 normative instructions. With this action, the tax authority redefines certain relevant items. For example, the concept of "input" is now determined by Article 172 of Normative Instruction No. 1.911/19. From the taxpayer's standpoint, the new definition of "input," which takes into consideration the criteria of essentiality and relevance, is generally taxpayer-favorable and in line with the position of Brazil's Supreme Court. Over the past 17 years since the creation of the non-cumulative regime, there has been disagreement about whether certain expenditures should be considered as "inputs." The new normative instruction clarifies certain items are now clearly defined as "inputs" including: goods and services, together with those used after the manufacturing process that have their use imposed by law; fuels and lubricants used in machinery, equipment or vehicles; transport services of products in preparation performed in or between establishments of the legal entity; and personal protective equipment. On the other hand, certain restrictions that were already applied and adopted by the federal tax authority through formal consultations are now formally regulated. These restrictions apply with regard to: packaging used in the transport of finished products; goods and services applied in the development phase of intangible assets that are not yet completed or that are concluded and exploited in areas other than the production or manufacture of goods and the provision of services (for instance, research and development); transport services of finished goods performed in or between establishments of the legal entity; and goods and services used, applied or consumed in commercial operations. Normative Instruction 1,911 further sets forth the exclusion of the state VAT (ICMS) from the PIS/COFINS' tax base, in line with a decision of the Brazilian supreme court (Formal Consultation No. 13/2018), the ICMS values to be excluded from the tax base must be the amount effectively collected—not the amount mentioned on an invoice. To read a report prepared by the KPMG International member firm in Brazil, please click here.

On December 19, 2019, Brazil published Complementary law 170/2019 (*Lei Complementar* 170/2019), which extends to temples and social charity entities those VAT benefits (*Imposto sobre Circulação de Mercadorias e Serviços*, ICMS) that may be granted by federal states.

On December 31, 2019, Brazil published consultation solution No. 99015 which clarifies that revenue from export services provided abroad is subject to PIS and COFINS. However, the revenue from export services provided to foreign entities in Brazil is subject to PIS and COFINS.

On December 31, 2019, Brazil published consultation solution No. 318 which clarifies that PIS and COFINS credits are allowed for telephone and internet services provided directly to customers, and financing, insurance, and collection services. However, PIS and COFINS credits are disallowed for services provided between a consultant and its affiliates, or to other parts of an organization, including administrative, accounting, legal, and commercial departments.

Source: Bloomberg Law News Oct. 16, 2019, Brazil Gazettes Consultation Solution Clarifying Calculation of Social Security Contributions for Single-Phase Products; Bloomberg Law News Oct. 16, 2019, Brazil Gazettes Consultation Solution Clarifying Calculation of Credits for Resale of Goods; Bloomberg Law News Oct. 16, 2019, Brazil Gazettes Consultation Solution Clarifying Social Security Contribution for Wind Farms Construction, Maintenance Services; Bloomberg Law News Oct. 16, 2019, Brazil Gazettes Consultation Solution Clarifying Tax Credit Calculations for Investment Entities; Brazil – PIS and COFINS regulations – consolidated (Oct. 17, 2019), News IBFD; Brazil – Government to present tax reform proposal in four phases (Nov. 20, 2019), News IBFD; Brazil – ICMS exemption extended to temples and social charity entities (Dec. 24, 2019), News IBFD; Brazil – Commission to consolidate tax reform proposal – announced (Dec. 24, 2019), News IBFD; Bloomberg Law News Jan. 6, 2020, Brazil Gazettes Consultation Solution Clarifying Tax Treatment of Revenue From Export Services; Bloomberg Law News Jan. 8, 2020, Brazil Gazettes Consultation Solution Clarifying Social Contribution Credits for Telephone, Internet Services.

Costa Rica: Overview of Recent Indirect Tax Developments

The parliament on Costa Rica recently approved Bill No. 20.661 which introduces a new 1.5 percent tax on video services, including cable and satellite television, pay-per-view, and other similar subscription services. This includes video on demand services provided via the internet or other digital platforms. If a service provider is not resident in Costa Rica, the tax is generally to be withheld by the issuer of the credit or debit card used for payment or other intermediary processing online payments.

Effective October 1, 2019, Costa Rica introduced a simplified VAT compliance regime for agricultural businesses and their services suppliers. The regime enables covered businesses to issue electronic invoices and enables coffee and cane producers and beekeeping businesses to file a single annual return, while other agricultural businesses and fishing businesses will file every four months. Agricultural services providers are allowed to voluntarily sign up for the simplified regime. Agricultural production or fishing businesses must be registered with the General Taxation Directorate as taxpayers and with the Ministry of Agriculture and Livestock. Agricultural service suppliers need only register with the Ministry of Finance. On November 26, 2019, Costa Rica published a draft decree that amends the special VAT regime for the agricultural sector. The amendments in the draft decree are related to the transition rules for the registration of taxpayers in the VAT special regime for the agricultural sector, and the extraordinary (one time only) tax period for the first year under the special regime.

On October 15, 2019, Costa Rica published Resolution No. DGT-DGH-R-60-2019 which expands the applicability of mandatory registration rules to claim reduced VAT rates and VAT exemptions to include exporters, marketers and distributors. However, taxpayers under the simplified tax regime are exempt from the registration obligation. Other taxpayers can request to be exempt from the registration obligation. On November 25, 2019, Costa Rica published Resolution DGT-DGH-R-68-2019 amending provisions of Resolution DGT-DGH-R-60-2019. Resolution DGT-DGH-R-68-2019 adds construction services rendered to the National Social Security as a case where a reduced VAT rate applies; amends the calculation process to determine the percentage of VAT exemption or reduced rate applicable to service providers; and amends specific requirements for each case under which a VAT exemption or reduced rate is applicable.

On November 26, 2019, Costa Rica published Resolution DGT-DGH-73-2019 which regulates the procedure to obtain the VAT exemption for imports and national purchases of buses and vessels used for passenger transportation. The exemption also applies to the leasing agreements of those goods and to the renting of the properties needed to offer the transportation services. The Resolution establishes the registration of the taxpayer in the electronic system for exemptions (EXONET); the procedure to request the exemption through EXONET; and the specific requirements to obtain the exemption based on the type of exemption requested, (i.e., buses or vessels).

On December 2, 2019, the tax authority of Costa Rica published a draft resolution containing proposals for a charging mechanism that would apply to VAT on digital services. According to the draft resolution, Costa Rican issuers of debit cards or credit cards would collect VAT for those purchases made through some 200 digital platforms (listed in the document). The digital platforms included in this list could opt to register with the tax authority; otherwise, the VAT collection would fall to the issuers of the debit cards or credit cards. The collection mechanism would apply one month after the tax authority provides the official list of vendors or intermediaries. To read a report prepared by the KPMG International member firm in Costa Rica, please click here.

Source: Orbitax, Costa Rica Introducing New Tax on Video Services; CCH, Global VAT News & Features, Costa Rica Simplifies VAT For Agricultural Businesses (Oct. 3, 2019); Costa Rica - Amendment of regulations on special VAT regime for agricultural sector – discussion draft published for comments (Dec. 2, 2019), News IBFD; Costa Rica - Resolution regarding VAT exemption on buses and vessels for passenger transportation – gazetted (Dec. 2, 2019), News IBFD; Costa Rica - Amendment to resolution regarding VAT reduced rates and exemptions – gazetted (Dec. 2, 2019), News IBFD; Bloomberg Law News Dec. 5, 2019, Costa Rica MOF Seeks Comments on Draft Resolution for VAT on Cross-Border Digital Services.

Mexico: Supreme Court Decision on Constitutionality of Rules Limiting Tax Offsets

In November 2019, the Supreme Court of Justice of Mexico (*Suprema Corte de Justicia de la Nación* (SCJN)) issued a decision in three "*amparo en revision*" actions and concluded that a legislative rule limiting tax offsets to the same type of tax was constitutional in these three actions. Under Mexico's legal system, decisions declaring a tax law as "unconstitutional" do not have the effect of invalidating the measure. Rather, the reach of the court's injunctive relief—amparo—is limited to those taxpayers that petitioned the court and obtained a favorable ruling. All other taxpayers must comply with the law as written—even though the law may be unconstitutional—until each taxpayer obtains an amparo and invokes the protection of the federal courts.

The cases dealt with an income tax law (*Ley de Ingresos de la Federación para el Ejercicio Fiscal 2019*), which established that effective January 1, 2019, taxpayers could only offset certain tax balances related to the same type of tax. Concerning VAT, the use of balances generally would be limited to credit in subsequent months. This rule is effective for taxes imposed under the income tax law during 2019. One reason for this measure limiting tax offsets was that this treatment would address perceived tax evasion opportunities. Taxpayers disagreed with this limitation, and filed amparo lawsuits asserting that the limitation was unconstitutional and noting in particular that it could affect a taxpayer's cash-flow. To read a report prepared by KPMG, please click here.

Europe, Middle East, Africa (EMA)

Austria: Amendments to VAT Law

Austria recently implemented amendments to the VAT law, which are effective January 1, 2020. The amendments implement the EU VAT Quick Fixes which (1) provide for a simplified and uniform treatment for call-off stock arrangements; (2) require the identification number of the customer as well as the proper fulfilment of a VAT recapitulative statement to become an additional condition for the zero-rating of intra-EU sales of goods; (3) establish uniform criteria in determining the VAT treatment of chain transactions; and (4) introduce a common framework for the documentary evidence required to claim a VAT exemption for intra-EU sales of goods.

The amendments further raise the threshold for the application of the small entrepreneurs' regime from EUR 30,000 ($33,400) to EUR 35,000 ($39,000). Moreover, VAT credits are granted for the purchase of motorcycles (e.g., motorbikes, motor-assisted bicycles, quads, scooters) with a CO2 emission value of zero grams. Also, the transfer of assets, or parts thereof, of agricultural and forestry businesses is no longer regarded as a taxable transaction for VAT purposes. Finally, the margin scheme is applicable for the sale of art works, subject to a number of conditions.

Source: Austria - Tax Reform Bill and Bill on Countering of Tax Fraud – details on VAT measures (Oct. 30, 2019), News IBFD.

Bulgaria: Overview of Recent Indirect Tax Developments

On October 3, 2019, the director of the National Statistical Institute of Bulgaria issued an order regarding the Intrastat thresholds and their statistical values for 2020. The thresholds for Intrastat reporting are BGN 290,000 ($165,000) for dispatches and BGN 470,000 ($267,500) for arrivals. The thresholds for declaring statistical values are BGN 15,800,000 ($9 million) for dispatches and

BGN 7,600,000 ($4.3 million) for arrivals. The threshold for simplified reporting of single low-value transactions remains at BGN 222 ($126).

On November 20, 2019, the Supreme Bar Council of Bulgaria challenged the constitutionality of a recent amendment to the VAT Act before the Constitutional Court. Effective January 1, 2018, a taxpayer should register mandatory for VAT if the taxable threshold of BGN 50,000 ($ 28,500) is reached for a period not exceeding two consecutive months (including the current one). The application for the VAT registration should be filed within 7 days from exceeding the threshold. If the taxpayer fails to submit the application within this time limit and the tax authority proceeds with the VAT registration *ex officio*, the person will be liable to pay VAT on the taxable sales with which the threshold is exceeded until the date of the registration. The VAT is due on the taxable sales with which the threshold is exceed, the receipt of services subject to reverse charge mechanism, as well as on intra-EU acquisitions performed during the taxable period. However, the Bulgarian VAT legislation does not allow for a voluntary VAT registration with retroactive effect. The amendment therefore aims to provide for a mechanism to ensure the collection of VAT due in the case of late VAT registration, but prohibits taxpayers to register for VAT with a retroactive effective.

On December 6, 2019, Bulgaria published a law amending the VAT Act effective January 1, 2020. The amendments implement the EU VAT Quick Fixes which (1) provide for a simplified and uniform treatment for call-off stock arrangements; (2) require the identification number of the customer as well as the proper fulfilment of a VAT recapitulative statement to become an additional condition for the zero-rating of intra-EU sales of goods; (3) establish uniform criteria in determining the VAT treatment of chain transactions; and (4) introduce a common framework for the documentary evidence required to claim a VAT exemption for intra-EU sales of goods. Bulgaria further amended the conditions under which foreign companies are required to register for VAT. The threshold for mandatory VAT registration of BGN 50,000 is no longer applicable for nonresidents making taxable sales in Bulgaria. Therefore, if a VAT registration obligation arises for such persons, the application for VAT registration must be submitted to the National Revenue Agency at least seven days before the VAT becomes due on the first sale taxable in Bulgaria. Bulgaria further introduced new rules for an aggregated computation of the VAT registration threshold (currently BGN 50,000) in case of successive undertaking of the same economic activity in a single commercial site by related parties or by parties acting coherently. These rules will not apply when the economic activity is interrupted for more than one month. Moreover, the construction, improvements and repairs of publicly owned infrastructure performed by a taxpayer for no consideration are considered outside the scope of VAT if the infrastructure is used in the taxpayer's economic activities, even if it is available for use by other persons. In such cases, those taxpayers are allowed to deduct VAT incurred on expenses which are part of their general costs or are components of the price of taxable sales carried out as part of the taxpayer's economic activities. The amendments further expand the definition of a "new building" for VAT purposes and amend the definition of improvements to a building. In this respect, creation of a new asset by a lessee of a rented asset will not be considered an improvement. Changes are also introduced to the rules for VAT deduction adjustments regarding the improvements of assets. Other amendments include: (1) the introduction of rules on taxable events for goods arriving in the continental shelf or the exclusive economic zone of Bulgaria, as well as for goods being re-exported from such areas; (2) the possibility to issue a documents other than a cash receipt for "distant payments" via debit/credit card; and (3) the introduction of new sanctions for non-compliance with the reporting requirements regarding the call-off stock simplification. To read a report prepared by the KPMG International member firm in Bulgaria, please click here.

On December 31, 2019, Bulgaria published further amendments to the VAT Act, which are effective January 1, 2020. These amendments clarify that with respect to the documentary evidence required to claim a VAT exemption for intra-EU sales of goods, taxpayers can either use the documentary evidence included in the Quick Fixes package or use the documents evidencing the shipment as provided in the regulations for the application of the VAT Act.

Source: Bulgaria - Intrastat thresholds for 2020 announced (Oct. 10, 2019), News IBFD; Bulgaria; European Union - Amendments to Value Added Tax Act – adopted (21 Nov. 2019), News IBFD; Bulgaria - Supreme Bar Council challenges constitutionality of VAT provision concerning VAT due on supplies made prior to VAT registration (Nov. 26, 2019), News IBFD; Bulgaria - Amendments to various tax acts gazetted – Value Added Tax Act (Dec. 6, 2019), News IBFD; Bulgaria - Changes to VAT Act proposed (Dec. 18, 2019), News IBFD; Bulgaria - Amendments to CIT, VAT and Local Taxes and Duties Acts – gazetted (Dec. 31, 2019), News IBFD.

Czech Republic: Digital Services Tax Under Consideration by Parliament

On November 27, 2019, the government of the Czech Republic submitted a bill proposing the introduction of a 7 percent digital services tax (DST) to the Chamber of Deputies. If approved, the tax would apply to companies that are part of corporate groups generating annual gross receipts of more than EUR 750 million ($836 million) and with a tax base relating to taxable digital services rendered in the Czech Republic exceeding CZK 100 million ($4.4 million). The government expects that the act will enter into effect in mid-2020.

The bill identifies three types of taxable services: the performance of targeted advertising campaigns, the use of multilateral digital interfaces, and the provision of user data. Taxable services would be services provided via a digital interface (i.e., any software such as a website or an application accessible to users). The user would be any legal entity or an individual or a unit without legal personality, accessing a digital interface using technical equipment. Where such services would be rendered via technical equipment located in the Czech Republic (i.e., the user's equipment is in the Czech Republic), the provision of such services would be treated as taxable, giving rise to a tax liability. A primary clue would be the location of the equipment's IP address.

The provision of a targeted advertising campaign would be defined as the placement of a targeted campaign on a digital interface and the provision of accessory services. The use of a multilateral digital interface would be defined as allowing for the conclusion of a transaction among multilateral digital interface users to facilitate the delivery of goods, the provision of services, or the mere provision of user access to a multilateral digital interface. The provision of user data would be defined as the provision of a set of data on users collected or created based on their activity on digital interfaces. A partial tax base would be calculated for each individual group of services while focusing on the extent to which the taxable services would be provided in the territory of the Czech Republic.

The bill specifies a minimum threshold for the taxation of each category of digital service. For the provision of targeted advertising campaigns and the provision of user data, the sum of payments for a particular service rendered in the Czech Republic would need to exceed CZK 5 million ($222,000). The use of multilateral digital interfaces would be liable to DST if the number of user accounts on the interface exceeds 200,000. Corporate groups whose sum of payments for taxable services rendered in the EU member states, Switzerland, Norway and Iceland account for 10 percent or less of their total revenue from these states would be excluded from the DST. The bill also specifies other exceptions.

The DST's taxable period would be the calendar year. After registration, taxpayers would have to pay monthly instalments and keep records of their digital services, sorted by individual deliveries of taxable services as needed for the preparation of tax returns. Its applicability would be time-restricted, with the last taxable period being 2024. To read a report prepared by the KPMG International member firm in the Czech Republic, please click here.

European Union: ECJ Clarifies When Subsidies Should be Included in the Tax Base

On October 9, 2019, the Court of Justice of the European Union (ECJ) published its judgment in *C GmbH & Co. KG*, Case C-573/18, regarding the VAT treatment applicable to subsidies. In the case at hand, two German producer organizations, a registered cooperative and a company in the form of a GmbH (the organizations), served as wholesalers of fruits and vegetables grown by their member producers. Each organization operated a fund (operational fund) that was financed by their members' contributions and financial assistance from the EU. The organizations entered into agreements with their members regarding the sale of capital goods and proceeded with placing orders with third parties (the vendors). Part of the cost of the capital goods was covered by the operational funds. As a consequence, the organizations invoiced the producers concerned, as the case may be, 50 percent or 75 percent of its acquisition costs plus VAT, the remaining costs being financed by the operational fund. The members, according to the agreements, had to (1) use the acquired capital goods for a specified period, (2) sell their production to the organizations for marketing purposes and (3) pay to the organizations a "financial contribution" on the sale of their production. The financial contributions aimed at financing the operational funds. Following the termination of the period that was specified in the agreements, the organizations transferred the ownership of the capital goods to their member producers for no consideration. The organizations deducted the VAT incurred on the cost of the purchased capital goods, but accounted for VAT only on the amounts invoiced to the producers because they considered that the rest of the amounts (i.e., the amounts coming from the operational funds) were not part of the consideration but financial assistance to the growers. The German tax authority challenged this approach arguing that the taxable amount of the sale made to the producers consisted of the net amounts paid by the organizations to the vendors.

The ECJ first observed that the provision in the EU VAT Directive relating to the computation of the tax base is intended to tax the full value of goods or services and prevent the payment of a subsidy to result in a lower VAT payment. The subsidy should (1) enable the operator to sell particular goods or services to be regarded as consideration, (2) allow the sale of goods or service to be made at a lower price than without the subsidy, clearly benefiting the purchasers, and (3) represent a clearly identifiable consideration. For this reason, the provision includes in the taxable amount, as consideration, the subsidies that are directly linked to the price of these sales. In the case at hand, the ECJ found that the payments made by the operational funds to the organizations were effected for the purchase of capital goods that benefited their members (i.e., the growers that used the capital goods). In addition, the price that the producers paid had been reduced by the amounts received from the operational funds. The ECJ concluded that the payments made by the operational funds had been granted exclusively for the purpose of selling those capital goods and, therefore, constituted payments directly linked to their price. Moreover, the payments at issue had to be considered as subsidies granted by a third party since the operational funds, which made the payments, qualified to be third parties because they had legal capacity and the organizations could not use those funds for personal purposes, but only for the support of their members. The ECJ closed its analysis stating that its reasoning ensured the preservation of fiscal neutrality because the producers in the case at hand could not benefit against other producers, who, without any intervention by the organizations or payments received from operational funds, paid the VAT on the entire price of the capital goods.

Source: DE: ECJ, Oct. 9, 2019, Case C-573/18, C GmbH & Co. KG v. Z Tax Office, Case Law IBFD.

European Union: Zero-Rating of Exports Should Not be Denied if the Customer is not Identifiable

On October 17, 2019, the ECJ published its judgment in *Unitel Sp. z o.o. w Warszawie*, Case C-653/18, regarding the conditions for zero-rating the export of goods. In the case at hand, a Polish taxpayer sold mobile phones to two Ukrainian companies. The taxpayer considered the sale to be an export of goods and thus zero-rated the sale. The Polish tax authority carried out an audit and found that the goods had not been acquired by the Ukrainian purchasers, as had been stated on the invoices, but by other, unidentified companies. For this reason, the Polish tax authority denied the application of the zero rate and applied the standard rate.

The ECJ observed that an export is zero-rated if: (1) the right to dispose of the goods as owner has been transferred to the person acquiring the goods, (2) the vendor establishes that those goods have been shipped outside the EU, and (3) as a result, the goods have physically left the territory of the EU. However, the EU VAT Directive does not include a condition that the person acquiring the goods outside the EU must be identified. The ECJ further recalled that Member States must not go beyond what is necessary to ensure the collection of VAT, meaning that they must not make the application of the zero-rating subject to formal requirements disregarding whether substantive requirements (e.g., that the goods have left the territory of the EU) have been satisfied. Moreover, according to settled case law, if the taxpayer knew or should have known that it was involved in transactions that were part of tax evasion it should be refused the right to zero rate the export, but it should not be held liable for actions of third parties over which it has no influence. In this respect, the ECJ has previously held that if it is verified that the goods have left the EU there is no risk of tax evasion or loss of tax that would justify the refusal to apply the zero-rating. However, the ECJ concluded that in the case at hand, the right to zero rate should be refused if (1) the national court verified that it could not be ruled out that the fraud committed outside the EU was detrimental to the EU VAT system, and (2) the taxpayer knew or should have known that it participated in such fraudulent transactions.

Source: PL: ECJ, Oct. 17, 2019, Case C-653/18, Unitel Sp. z o.o. w Warszawie v. Dyrektor Izby Skarbowej w Warszawie, Case Law IBFD.

European Union: Transfer of Debt Held in an Enforcement Proceeding Is Subject to VAT

On October 17, 2019, the ECJ published its judgment in *Paulo Nascimento Consulting*, Case C-692/17, regarding whether the transfer of debt held in an enforcement proceeding is subject to VAT or qualifies as VAT exempt financial service. In the case at hand, the taxpayer, a real estate company established in Portugal, provided real estate services to another company, which then refused to pay the fee for the services. The taxpayer subsequently brought its debtor to court, which recognized a total debt of EUR 170,859.62 ($190,500) owed to the taxpayer. The Portuguese Court of First Instance issued an enforceable Judicial Order and credited to the taxpayer real estate property of the debtor in an amount of EUR 606,000 ($676,000). Under the proceeding, the taxpayer was to return the excess amount (the credited value less the recognized debt plus execution costs) to the executional body assigned by the court. The taxpayer transferred the rights deriving from its position in the enforcement proceedings to another company for an amount of EUR 351,619.90 ($393,100). The taxpayer accounted for VAT on the value of the real estate services provided (EUR 125,000 ($139,500)) and remitted the VAT to the tax authority. The taxpayer classified the remaining amount (EUR 200,369.90 ($223,500)) as "other non-specified income" and did not calculate any VAT in this regard. The Portuguese tax authority assessed VAT to the taxpayer for the full amount received (EUR 351,619.90) plus interest as it considered that the transfer of the rights which derived from the enforcement proceedings was part of the taxable economic activity of the taxpayer, and the transaction should not be exempt from VAT.

The ECJ first analyzed whether the transaction in the case at hand is subject to VAT. The ECJ concluded that the debt, of which the rights to recovery were assigned, originated in a contract arrangement that was made in the course of the taxpayer's taxable activity (i.e., the provision of real estate services). Therefore, the transaction should be considered an extension of the taxpayer's economic activity. The ECJ further clarified that the transaction could be considered a sale of goods if the taxpayer was able to dispose the awarded property as owner before it transferred its position in the enforcement proceedings. If that was not the case, the transaction should be considered an assignment of intangible property (relating to rights over immovable property), which would be a provision of services. The ECJ highlighted that the transaction, regardless of whether it was a sale of goods or services, was different than the transaction in *GFK Financial Services* (Case C-93/10, October27, 2011), in which the transfer of debt was outside the scope of VAT because the difference between the face value and the price of the transferred debt reflected its economic value. In contrast to GFK Financial Services, the taxpayer transferred its position that derived from enforcement proceedings relating to the recovery of debt for consideration. As a consequence, the transaction should be subject to VAT. The ECJ then addressed whether the transaction should be considered a VAT exempt financial service relating to the granting and the negotiation of credit and the management of credit by the person granting it. According to its settled case law, the provision at issue in the EU VAT Directive entails the provision of capital or a deferred payment on a purchase of goods and remuneration by way of interest payments. In the case at hand, it was evident that the debtor did not have any obligation to pay interest as a remuneration for credit granted to it and, therefore, even if there was a provision of services, it would not be VAT exempt.

Source: PT: ECJ, Oct. 17, 2019, Case C-692/17, Paulo Nascimento Consulting – Mediação Imobiliária Lda v. Autoridade Tributária e Aduaneira, Case Law IBFD

European Union: A Subsidiary Should Not Constitute a Fixed Establishment According to Advocate General

On November 14, 2019, the ECJ published the Opinion of its AG in *Dong Yang Electronics sp. z o.o.*, C-547/18, regarding whether a subsidiary may constitute a fixed establishment of a parent company established outside the EU. In the case at hand, Dong Yang Electronics (Poland) ("Dong Yang") assembles printed circuit boards for LG Display established in Korea ("LG Korea"). This assembly qualifies as a service for VAT purposes, with the right to levy VAT being allocated to the country where the customer is established or has a fixed establishment. Dong Yang obtains the components from a subsidiary of LG Korea (LG Poland Production), although LG Korea remains the owner. After assembly, Dong Yang Electronics sends the printed circuit boards back to LG Poland Production. Dong Yang issues invoices, without VAT, to LG Korea, because it has a contract with LG Korea and thus regards LG Korea as the purchaser of its services. Furthermore, LG Korea assured Dong Yang that it did not have a fixed establishment for VAT purposes in Poland. The Polish tax authorities argued that Dong Yang should have charged Polish VAT to LG Korea because LG Poland Production qualifies for VAT purposes as a fixed establishment of LG Korea and this fixed establishment is the actual beneficiary of the services of Dong Yang Poland. The contractual structure of the business model means that LG Korea has access to the personnel and technical resources of LG Poland Production. According to the Polish tax authorities, on the basis of the type of services performed and their use, Dong Yang Poland, as vendor, should have determined for which fixed establishment of the customer the service was performed. It would thus have determined that LG Korea had a fixed establishment in Poland.

The AG first concluded that, in principle, a subsidiary of a company established outside the EU should not be regarded as a fixed establishment for VAT purposes. According to the AG, this is evident from the text of the relevant provisions of the EU VAT Directive. The AG further noted that a different conclusion is only conceivable if the contractual structure chosen by the customer were to infringe the prohibition of abusive practices, which does not appear to be the case in the relationship between Dong Yang Poland and LG Korea. Abuse requires, among other things, that a tax benefit is obtained. Because LG Korea could have recovered the Polish VAT, had it been payable, there is no tax benefit. The AG further highlighted that the case at hand is different than in *DFDS* (Case C-260/95, February 20, 1997) in which the ECJ held that a subsidiary may qualify as a fixed establishment. In that case the subsidiary assisted the parent company with the sale of travel services. However, the issue in Dong Yang was whether the entity receiving services had a fixed establishment in the EU. The AG further concluded that a service provider does not have to examine inaccessible contractual relationships between its customer and their subsidiaries in order to determine that the customer actually uses this subsidiary as if it was a fixed establishment for VAT purposes. Insofar as there are no indications to the contrary, a taxpayer may rely on a written statement from its customer that it does not have a fixed establishment. The ECJ must now decide whether to follow the nonbinding Opinion of its AG. To read a report prepared by the KPMG International member firm in the Netherlands, please click here.

European Union: Proposed Amendments to EU VAT Rules

On November 8, 2019 the Economic and Financial Affairs Council (ECOFIN) of the EU approved two proposals amending the EU VAT rules. EU finance ministers reached an agreement on a proposal requiring payment service providers (PSPs) to provide Member State authorities with certain payment data from cross-border sales. According to the proposal, as soon as more than 25 cross-border payment transactions per quarter per payee are made, the payee's PSPs would be required to collect, transmit and retain for three years certain data, including: the BIC; the payee's business name; the payee's VAT identification number, if available; the IBAN or any other identifier which unambiguously identifies the payee and its location; and the identification of the payment transaction and payment refunds. This information would be made available to Member States' national authorities, who would transfer it to the future central electronic system of payment information (CESOP). The latter would then centralize the data and forward it to Eurofisc officers, who would determine any e-commerce VAT fraud. These new reporting requirements would be effective January 1, 2024. To read a report prepared by the KPMG International member firm in Luxembourg, please click here.

EU finance ministers further reached a political agreement on a proposal to update to already-existing special VAT rules for EU small and medium enterprises (SMEs), giving more opportunity for cross-border activities. The new rules will ensure a uniform domestic gross receipts threshold of EUR

85,000 ($93,500) for companies doing business only in their own Member State and an EU-wide EUR 100,000 ($110,000) threshold in gross receipts for SMEs doing business cross-border to be eligible for exemption in another Member State. Qualifying SMEs will be able to take advantage of further simplifications in dealing with VAT obligations such as registration and reporting. The new and improved VAT scheme for SMEs should enter into force in January 2025.

On December 30, 2019, the Europe Union published Council Directive (EU) 2019/2235 amending the EU VAT Directive and Excise Tax Directive, which zero-rate sales to armed forces and exempt such sales from excise duties when these forces are deployed outside their own Member State and take part in a European defense effort.

Italy: Amendments to VAT Law

On December 19, 2019, Italy published Law No. 157, which implements VAT amendments introduced by Law Decree No. 124.The amendment introduced by the Law Decree No. 124 and confirmed by Law No. 157 were effective October 27, 2019 while the new provisions introduced by Law No. 157 are effective December 25, 2019, unless otherwise specified. Effective December 19, 2019, the Law increases the criminal penalties (i.e., imprisonment time) that can be imposed for VAT violations to 2 years to 8 years (previously 1 year to 6 years). The Law further reduces the thresholds for VAT violations that can trigger criminal penalties as follows: (1) in the case of unfaithful VAT returns if the evaded tax is higher than EUR 100,000 ($111,000) –previously EUR 150,000 ($166,000) – and if the under-declared taxable base is more than 10 percent of the total gross receipts or if the evaded tax amount is higher than EUR 2 million ($2.2 million) – previously EUR 3.3 million, and (2) for failing to make VAT payments when the under-payment is higher than EUR 150,000 – previously EUR 250,000 ($277,000).

The Law also clarifies that no VAT is due on sales of fuel and other fuel products (e.g., gasoline and diesel) while they are stored under an excise duty suspension regime in a tax warehouse also used as a VAT warehouse. In addition, no VAT is due if: (1) the goods are removed from a warehouse operator who meets the legal "trustworthy" requirements and files an adequate guarantee, and (2) the goods, which are removed from the warehouse, are owned by the warehouse-keeper and the warehouse has a storage capacity of not less than 3,000 cubic meters. The Law further precludes the possibility for frequent exporters to purchase fuel and other fuel products without VAT, under the special arrangement for exporters.

Moreover, the Law expands the application of the requirement of the purchaser to self-assess VAT under the reverse-charge mechanism to sales of services rendered under contract works mainly performed at the premises of the customer by using assets owned by the customer. This requirement is effective once required EU approval is obtained. For transactions performed effective July 1, 2020, the tax authority will prepare pre-filled VAT ledgers and returns for taxpayers established in Italy and will make them available on the taxpayer's profile on the tax authority's website. Taxpayers will have the possibility to make any appropriate changes to the proposed drafts. The Law further reduces the filing frequency for the reporting of cross-border transaction (so called *Esterometro* reports to be filed by taxpayers established in Italy) from a monthly to quarterly filing frequency effective January 1, 2020.

Effective July 1, 2020, the Law introduces a tax receipt lottery that allows retail customers to win cash prizes exempt from income tax. To participate, customers must provide the retailer a lottery code to be downloaded from an online portal. Customers can report to the tax authority retailers who refuse to include the lottery code of customers wishing to join the lottery or do not electronically transmit the customer's lottery code to the tax authority.

On December 27, 2019, Italy published Law No. 160 (the Budget Law) which amends the VAT law effective January 1, 2020, unless otherwise specified. The Budget Law implements the EU VAT Quick Fixes which (1) provide for a simplified and uniform treatment for call-off stock arrangements; (2) require the identification number of the customer as well as the proper fulfilment of a VAT recapitulative statement to become an additional condition for the zero-rating of intra-EU sales of goods; (3) establish uniform criteria in determining the VAT treatment of chain transactions; and (4) introduce a common framework for the documentary evidence required to claim a VAT exemption for intra-EU sales of goods.

The Budget Law also amends the requirement for routine exporters to provide their vendors with a letter of intent in order for the purchase to be zero-rated. Routine exporters will no longer be required to provide their vendors with a copy of the letter of intent and the receipt from the Italian tax authority. Routine exporters are further no longer required to post the letter of intent in a special ledger. However, vendors of routine exporters are now required to indicate the reference number issued by the tax authority when confirming the receipt of the letter of intent. In exchange, the vendor is no longer required to provide details of the letter of intent in its annual VAT return. The Budget Law further amends the sourcing rules for short-term leasing of yachts effective April 1, 2020. Such leasing will be outside the EU when the customer provides adequate proof that the boat is used outside EU territorial waters.

Finally, the Budget Law introduces a tax on single-use products that are used for packaging, protection or delivery of goods or foodstuff and that are made, totally or partially, out of synthetic organic polymers. The tax does not apply to plastic products that have multiple uses, are compostable, are medical devices, or are used as medicine packaging or protection. The tax is EUR 0.45 ($0.50) per kilogram of plastic contained in the single-use product. Persons liable for the plastic tax are manufacturers, importers, persons performing intra-EU acquisitions, and vendors to final consumers. The tax is expected to become effective July 1, 2020. To read two reports prepared by the KPMG International member firm on the VAT amendments, please click here and here.

Italy: Digital Services Tax Introduced Effective January 1, 2020

The Budget Law published on December 27, 2019 introduces a three percent digital services tax (DST) effective January 1, 2020. The final text includes several amendments from the proposal discussed previously, especially regarding the services that are exempt from DST and the computation method of the DST. The DST applies to entities (whether separately or on a group basis) with total worldwide revenue of not less than EUR 750 million ($826.6 million) and revenue of not less than EUR 5.5 million ($6 million) obtained in Italy from the digital services in the prior calendar year.

The DST applies to the gross revenues (net of VAT and other indirect taxes) resulting from the following services: (1) the placing on a digital interface of advertising targeted at users of that interface; (2) the making available to users of a multi-sided digital interface that allows the users to be in contact and to interact with each other, and that may also facilitate the provision of sales of goods or services directly between users; and (3) the transmission of data collected from users and generated from the use of digital interfaces. However, the following services are excluded from the DST: (1) the sale of goods or services directly between users of a multi-sided digital interface; (2) the sale of goods or services purchased via a vendor's website; (3) the making available of a digital interface for the primary purpose of enabling the entity making it available to provide digital content to users or to provide communication services to users or to provide payment services to users; (4) making available a digital interface for the provision of regulated financial services by regulated financial entities; (5) the transmission of data by regulated financial entities; (6) the management of digital platforms for the exchange of electricity, gas, and carbon credits; (7) making available a digital interface for the sale of goods subject to excise duties; and (8) services provided to companies that are deemed to be a parent, subsidiary or sister company according to the Italian Civil Code.

The DST applies if the user of the taxable service is located in Italy during the calendar year. A user is deemed in Italy if the advertising appears on the user's device when the device is used in Italy in that tax period to access the digital platform. For digital platforms enabling user interfaces, the users is considered in Italy if the service requires a digital platform that facilitates sales of goods or services directly between users and the user employs the device in Italy to access the digital platform and concludes a transaction on the platform. For all other digital platforms, the user is in Italy if the user has an account that enables the user to access the digital platform and that account has been opened using a device in Italy. Finally, for services related to the transmission of data collected from users, users are considered in Italy if the data generated from the use of a device in Italy to access a digital interface, during that tax period or any previous one, is transmitted in that tax period. A device would be deemed to be used in Italy mainly by reference to the Internet Protocol (IP) address of the device or any other geolocation method.

The DST is computed based a proportion of taxable revenues realized by the taxable person in the tax period that is obtained in Italy. Determination of that proportion varies depending on the taxable service. For advertising services, the tax base is computed based on the proportion of the number of times an advertisement has appeared on a user's device in the tax period. For digital platforms enabling user interfaces, the tax base is computed based on the proportion of the number of underlying transactions concluded on the digital interface by a user located in Italy in the tax period. For all other digital platforms, the tax base is computed based on the proportion of the number of users who hold an account opened in Italy, allowing them to access all or part of the services available on the digital interface, and who have used that interface during the relevant tax period. Finally, for services related to the transmission of data collected from users, the tax base is computed based on the proportion of the number of users from whom all or part of the data sold in that tax period have been generated or collected as a result of having used a device to access a digital interface while the users were in Italy.

Taxpayers are required to pay the DST by February 16 of the calendar year following the one in which the revenue arises. Taxpayers are required to file an annual return by March 31 of the same year. Taxpayers must keep a separate monthly ledger to identify revenues subject to DST. Companies belonging to a group are required to appoint a single company of the group to fulfill the obligations resulting from the DST. Non-established companies that do not have a permanent establishment in Italy or an Italian VAT number are required to obtain a special identification number for DST purposes. Persons established in Italy and belonging to the same group as non-established DST taxpayers are held jointly liable for the DST compliance of the non-resident. Finally, the penalty and interest regime follows the Italian VAT rules. To read a report prepared by the KPMG International member firm in Italy, please click here.

Kenya: Amendments to VAT Law

On November 7, 2019, Kenya published the Finance Act, No. 23 of 2019 which, among other things, amends the VAT ACT. The Finance Act defines a concessional loan to mean a loan with at least a 25 percent grant element. It also broadens the definition of imported services to include services purchased by persons not registered for VAT. Moreover, VAT will be applicable to sales made through a digital marketplace; a "digital marketplace" means "a platform that enables, by electronic means, direct interaction between buyers and sellers of goods and services." While the new provisions have empowered the Cabinet Secretary to make regulations to implement the marketplace provisions, they provide no timeline for promulgation. While stakeholder consultative meetings have been held, there are no indications when regulations may be issued. The Finance Act further expands the list of sales that are exempt from VAT to include plant, machinery, and equipment used with regard to certain plastics recycling plants; electric accumulators and accessories; certain sales of corn, flour, and wheat; certain “motherboards” and parts to manufacture them; and goods for construction of housing. Finally, the Finance Act expands relief for goods exported from special economic zones and adds propane gas and agricultural pest control products to the list of zero-rated sales. To read a report prepared by the KPMG International member firm in Kenya, please click here.

Nigeria: Services Provided to a Foreign Related Company Do not Qualify as Exported Services

On November 13, 2019, the Tax Appeal Tribunal of Nigeria published its decision in *Allan Gray Investment Management Nigeria Ltd*. regarding whether services provided by a Nigerian company to a related non-resident company are subject to VAT. In the case at hand, a Nigerian company had executed a marketing and distribution agreement with its parent management company, incorporated and resident in South Africa. The agreement required the Nigerian company to market and distribute the parent company’s equity funds in Nigeria for a fee. The Nigerian company considered its services to the parent company as exported services that were exempt from VAT. The tax authority challenged whether the services qualified as “exported services” under the VAT law.

The tribunal held that the parent company was effectively carrying on business in Nigeria based on its appointment of the Nigerian company as the sole and exclusive local representative of its equity funds in Nigeria. Although the parent company was not physically present in Nigeria, it was legally present through the appointment of the Nigerian company as an agent to market and distribute its services in Nigeria. As a consequence, the services performed by the Nigerian company in Nigeria on behalf of its related non-resident parent company did not qualify as exported services and were, therefore, liable to VAT in Nigeria. To read a report prepared by the KPMG International member firm in Nigeria, please click here.

Norway: Amendments to VAT Law

Norway recently adopted the 2020 Budget, which removes the VAT exemption on imports of goods valued below NOK 350 ($38) in two phases. Effective January 1, 2020, the threshold is removed for all food and beverages, restricted goods such as endangered animal species, certain chemicals and medicines, and certain other taxable goods, such as motor oil. Effective April 1, 2020, as part of this change, a simplified registration and reporting mechanism for the computation and payment of VAT will be established, with the responsibility for the payment of VAT placed on the foreign seller or the e-commerce platform offering goods to Norwegian consumers. This mechanism will apply to goods with value up to NOK 3,000 ($327), although food and drink, alcohol, tobacco and restricted goods are excluded from this scheme and will remain subject to the standard import rules. Nonresident taxpayers are liable for VAT on such sales if their annual gross receipts exceed NOK 50,000.

In addition, Norway requires digital platforms mediating real estate leasing services to report information about lessors to the tax authority effective January 1, 2020. However, the duty of disclosure does not apply to those who act solely as rental agents for rooms, cabins, apartments, etc. in hotels, boarding houses or similar enterprises, or the rental of properties owned by the state, county councils or municipal authorities. The platform must provide the following information: (1) the name and organization number of the party providing the information; (2) the Norwegian national identity number, D number or organization number, name, address and account number to whom the lease amount is paid; (3) the amount per rental (after deducting the fees, etc. paid by the tenant to the rental agent); (4) any fee, etc. the tenant pays to the rental agent for each rental; (5) commission the landlord has paid to the rental agent per rental or per billing period; (6) the number of days in the rental period for every rental (from date and to date); and (7) the property's street address, or if none is available, the land register address. The submission deadline is the first of February following the end of the fiscal year (i.e., February 1, 2021 for 2020).

Source: CCH, Global VAT News & Features, Norway Lists 2020 Tax Changes (Jan. 3, 2020).

Serbia: Amendments to VAT Law

On October 7, 2019, Serbia published the Law on Amendments to the VAT Law. The amendments are effective January 1, 2020, unless otherwise specified. The Law introduces the concept of a voucher and specifies differing VAT treatment for single-purpose and multi-purpose vouchers. A voucher is defined as an instrument for which there is an obligation to be accepted as a fee or part of the fee for the goods or services provided, under condition that the following is stated on the voucher or related document: type of goods or services provided; identity of the vendor of the goods or services; and terms of use of the voucher. If the place of delivery of the goods or sourcing of the services to which the voucher relates and the amount of VAT that should be calculated and paid for sale of the goods or services is known at the time of issuance of the voucher, the respective voucher is considered a single-purpose voucher. The taxpayer who makes the transfer of a single-purpose voucher in its own name is obliged to calculate VAT at the moment of transfer of voucher, and not at the moment of the sale of goods or services to which the voucher relates. A multi-purpose voucher is defined as a voucher that is not a single-purpose voucher and transfer of a multi-purpose voucher by a taxpayer in its own name is not subject to VAT. If the transfer of the multi-purpose voucher is made by a taxpayer who does not perform a sale of goods or services, it is considered that the taxpayer provides advertising, distribution, or other services.

Moreover, the Law amends the sourcing rules for sales of goods and services. If the goods are sold on a boat or in an aircraft or train during the transport of passengers, the sale will be sourced at the place of the departure of the respective transport. The provision of meals and beverages on board of boat, aircraft, or train during the transport of passenger is sourced at the place of departure of the boat, aircraft or train. In case the transport of passengers is performed in both directions, the return journey is considered as a separate transaction. For telecommunication services and radio and television broadcasting services provided electronically, the Law empowers the competent minister to define, in a special rulebook, the criteria and assumptions for determining the place of establishment, permanent establishment, permanent residence or residence of the recipient of services. The Law further clarifies that if the permanent and temporary residence of the provider or recipient of the service are not in the same place, the sourcing of the service is determined according to the place of temporary residence.

The Law further amends the tax point rules, clarifying that the tax liability arises on the day on which the invoice is issued for the sale of services directly related to the services of transfer, assignment and use of authorship and related rights, patents, licenses, trademarks and other intellectual property rights, regardless of the person who is providing those services, as well as for technical support services for the use of software, hardware, and other equipment for a specified period of time. The Law further specifies that the obligation of a foreign entity to appoint a tax proxy and register for VAT in Serbia also exists in the case when the foreign entity sales of goods or services which are zero rated.

Moreover, the Law introduces the rule that, apart from the sale of equipment and facilities for performing business activity, the following sales of goods and services are not included in the calculation of a proportional VAT deduction: investing in facilities for performing business activities for which a fee is charged; occasional real estate sales performed by a taxpayer; and occasional sales of services which are related to sales of money and capital that are VAT exempt. The Law specifies that occasional sales of real estates and services are limited to two sales of real estate property and two sales of described services in one year. In addition, a taxpayer is not required to apportion its VAT credits, if the percentage of proportional VAT deduction is at least 98 percent.

Finally, effective October, 15, 2019, the Law introduces a new zero-rating provision for sales of goods and services performed as part of a highway construction for which public interest is established by a separate law. Goods imported for such infrastructure projects are also exempt. Moreover, the Law introduces a VAT exemption for goods imported for repair within a warranty period. To read a report prepared by the KPMG International member firm in Serbia, please click here.

South Africa: Policy Concerning VAT Rulings Amended

South Africa recently enacted the Taxation Laws Amendment Bill B 18-2019, which, among other things, amends the VAT ruling process effective July 21, 2019. Historically, the section granted South African Revenue Service (SARS) discretionary authority to issue rulings contrary to the law so as to overcome the difficulty or incongruity of a vendor, for as long as the effect of the ruling does not substantially increase or decrease the ultimate tax liability. The provision of the law at issue further granted South African Revenue Service (SARS) discretionary authority to issue rulings contrary to the law for as long as the effect of the legislation does not substantially increase or decrease the ultimate tax liability.

With respect to the discretionary powers afforded to SARS, the Amendment Bill B 18-2019 adds a few additional requirements namely that (1) the difficulties need to be similar to difficulties which have arisen or may arise for any other vendor or class of vendors of the same kind or who make similar sales and (2) the ruling may not have the effect of reducing or increasing the VAT levied under the Act. Moreover, the amendments also remove the specific reference to the application of the zero-rate or an exemption and replaces it with a provision that the ruling cannot be contrary to the construct and policy intent of the VAT law as a whole, or with any specific provision in the VAT law. These provide that the ruling provision cannot have the effect of granting preferential treatment to certain vendors over others. The amendments also remove the specific reference to the application of the zero-rate or an exemption and replaces it with a provision that the ruling cannot be contrary to the construct and policy intent of the VAT law as a whole, or with any specific provision in the VAT law. This provision could effectively broaden or narrow the range of discretion, depending on the circumstances. The amendments further specifically include that the Commissioner may publish, by public notice, a list of transactions or matters in respect of which he may decline to make a decision.

As a result of these changes, the law includes transitional provisions for existing rulings. Rulings issued in respect of applications made before July 21, 2019 that cease to be effective on or before December 31, 2021, may be reconfirmed on application by the vendor, no later than two months prior to the expiration of the existing ruling, and such application will be based on the law prior to its amendment, provided that the effective date of the renewed ruling may not extend beyond December 31, 2021. Rulings issued before July 21, 2019 that cease to be effective after December 31, 2021 or that do not specify an effective period, automatically cease to be effective on December 31, 2021. To read a report prepared by the KPMG International member firm in South Africa, please click here.

South Africa: Tax Court Clarifies Apportionment Method Selection

On November 15, 2019, the tax court of South Africa issued a decision addressing the rule under section 17(1) of the VAT Act concerning the retrospective application of an approval by the SARS of an alternative method of apportionment for VAT purposes. Case No: VAT2063. In South Africa, in situations in which a taxpayer does not perform only taxable sales, Section 17(1) of the VAT Act provides that vendors must use an apportionment method approved by the Commissioner. The only pre-approved method is the standard gross receipts-based method; this method determines the extent to which the VAT incurred on dual-purpose expenses can be claimed as input tax, by expressing the total value of taxable sales as a percentage of total receipts or accruals. The standard method in South Africa includes income in respect of which no sales have been made—such as dividend income—as well as passive income which requires no or insignificant use of taxable resources—such as interest earned from a call account. The rule provides that a vendor may only use the standard gross receipts-based method, if the method is fair and reasonable. Failing that, the vendor must apply to SARS to use an "alternative method" that is also fair and reasonable.

Many vendors have argued that since SARS has accepted that the standard method does not yield equitable results, as is evident from the approval of an alternative method, SARS may not assess taxes for years when the vendor was required to use the standard method. The facts in the tax court case mirror this situation. The tax court held that despite that although SARS approved an alternative method because the standard turnover-based method did not yield an equitable result, the provisions of section 17(1)(iii) expressly provide that the Commissioner may approve an alternative method with retrospective effect, albeit limited to the first day of the tax year in which the application for the approval of the alternative method was made. This means that SARS can, at best, approve an alternative apportionment method retrospectively for one tax year. The taxpayer was thus directed to apply the standard turnover-basis of apportionment for years preceding the effective date of the ruling approving an alternative method. To read a report prepared by the KPMG International member firm in South Africa, please click here.

Uzbekistan: Nonresident Vendors of Digital Services Required to Register for VAT

Effective January 1, 2020, Uzbekistan requires a nonresident vendor of digital services made to an individual in Uzbekistan to register for and collect VAT in Uzbekistan. Where the digital services are provided through an intermediary (e.g., digital platform), the VAT liability is shifted to the intermediary regardless of whether it has an agreement with the company selling these services. An individual will be considered established in Uzbekistan if at least one of the following conditions is met: (1) the place of residence of the buyer is Uzbekistan; (2) the bank in which the account used by the buyer to pay the services was opened, or the electronic money operator through which the buyer pays the services, is located in Uzbekistan; (3) the network address of the buyer used for purchase of services is registered in Uzbekistan; and (4) the international country code of the telephone number used for purchase or payment for services assigned to the buyer by Uzbekistan.

Digital services are defined as services provided through access to Internet using information technologies, including: (1) the granting rights to use, via the Internet (including remote access to), software, games, databases, their updates and additional functionalities; (2) the provision of rights through the Internet to use electronic books and other electronic publications, informational, educational materials, graphic images, musical works with or without text, audiovisual works, including provision of remote access to them for viewing or listening through the Internet; (3) the provision of advertising services on the Internet; (4) the provision of services for the placement of proposals for the acquisition (or sale) of goods or services on the Internet; (5) the provision of services through the Internet related to technical, organizational, informational and other facilities; (7) the automatic support of the software remotely and online, provision of services for the administration of information systems, sites on the Internet; (8) the storage and processing of information, provided that the person who submitted this information has access to it via the Internet; (9) the provision in real time of computing power for the placement of information in the information system; (10) the provision of domain names and hosting services; (11) the delivery of information generated automatically by the buyer by entering data via the Internet; (12) the provision of search services; (13) providing access to search engines on the Internet; and (14) conducting statistics on sites in the Internet.

However, digital services do not include: (1) the sale of goods (services) if, when ordering via the Internet, the delivery of goods (provision of services) is actually carried out without using the Internet; (2) the transfer of rights to use computer programs, computer games and databases on tangible media; (3) the provision of consulting services by e-mail; and (4) the provision of services for providing access to the Internet. The tax authority of Uzbekistan has yet to publish the implementation rules clarifying how nonresidents can register for VAT purposes.

Asia Pacific (ASPAC)

Australia: Overview of Recent Indirect Tax Developments

On December 18, 2019, the Australian Tax Office issued a practical compliance guidance on the determination of goods and service tax (GST) apportionment for financial services. The Guidance sets out the ATO's framework for how it will assess the risk associated with apportionment methods used to determine the extent of creditable purpose of acquisitions that relate to certain financial supplies, and has been designed with the intention to complement other existing public advice and guidance by reflecting the ATO's expectations for how the Commissioner's views are to be applied in practice in designing an apportionment method.

On October 8, 2019, the ATO issued two guides for residential property purchasers and vendors on the GST withholding requirements which became effective July 1, 2019. These guides provide additional guidance in respect of the obligations of both purchasers and vendors relating to the respective acquisition and sale of new residential premises or potential residential land. The guidance includes: where vendors must provide written notice to purchasers on whether or not they have a GST withholding obligation; the purchaser's withholding obligations; the requirement for a vendor to provide written notice to the purchaser before settlement; the purchaser's requirement to pay the withheld amount; and the penalties for noncompliance from either the purchaser or vendor.

On October 28, 2019, the ATO issued a GST guidance on real property sales. The guidance states that property sellers carrying on an enterprise must register for GST and obtain an Australian business number (ABN), even for one-off transactions. They must also cancel their ABN and GST registration once their enterprise ceases. The sellers may be considered to be carrying on an enterprise and have an obligation to register for GST if they subdivided or acquired new land and built new residential premises; intended to develop the land for a profit when they purchased it; or had GST turnover from property and other transactions of at least AUD 75,000 ($51,500).

Source: Bloomberg Law News Oct. 8, 2019, Australia Tax Agency Seeks Comments on Compliance Guideline for GST Apportionment of Financial Supplies Acquisitions; Bloomberg Law News Oct. 10, 2019, Australia Tax Agency Issues Guidance on GST Withholding for Residential Property Purchasers, Suppliers Bloomberg Law News Nov. 1, 2019, Australia Tax Agency Issues GST Guidance on Property Sales.

China: Draft VAT Law Published

On November 27, 2019, China's Ministry of Finance and State Taxation Administration jointly issued a draft VAT law. Since 1994, there have been regulations and implementing regulations in China to govern the application of VAT to the sale and importation of goods (and limited services). At the time, China had a separate business tax system that was applicable to most services. This system was gradually replaced with the VAT system. The introduction of a VAT law is intended to overcome the different systems for goods and for services and to elevate the treatment or rules to that of a legislative instrument. As such, it is expected to be a more robust system of rule of law.

According to the draft VAT law, taxpayers are entities or individuals that are engaged in taxable transactions that exceed the threshold of CNY 300,000 ($43,700) per quarter. Recipients of imported goods are also considered taxpayers. Entities and individuals engaged in taxable transactions that do not exceed the above tax threshold are not considered taxpayers; however, they may opt to register as taxpayers to pay VAT. In the case of taxable transactions carried out within the territory of China by foreign entities or individuals, the purchaser will act as withholding agent. The draft VAT law would allow two or more taxpayers to apply for VAT consolidation and be regarded as one taxpayer with the approval of the tax administration.

The draft VAT law further defines taxable activities to include the sale and importation of goods, sales of services, sales of immoveable properties, sales of intangible assets, and sales of financial products. "Sales of financial products" would only fall within scope of VAT when the seller is a domestic entity, or the financial products are listed in China, thus clarifying an area that heretofore has been uncertain for foreign investors. The draft VAT law repeals the relevant requirement to have both goods and services in a sale as a prerequisite to application of the mixed-sales rules. Instead, the mixed-sales rules could apply when there are items with different tax rates in a sale. The draft VAT law seeks to define the specific circumstances under which a deemed sale may arise. These include: (1) the use of own manufactured goods for personal welfare or self-consumption; (2) the provision of goods free-of-charge (except for charitable purposes); (3) the provision of intangible assets, immoveable assets and financial products free of charge (except for charitable purposes); and (4) other circumstances to be defined by the tax authorities. It would appear that the provision of services generally would no longer be subject to the deemed sales rule.

The draft VAT law clarifies the sourcing rules for services so that they would be taxable in China when either the vendor is a domestic entity or individual, or the service is consumed in China. This would be a notable change from the current VAT rules. In particular, when a service is provided by a foreign entity to a domestic entity, VAT would only apply (on a withholding basis) when that service is consumed in China. The mere fact that the recipient is a Chinese entity would be insufficient to bring it within scope.

The VAT rates would remain as under the current system: 13 percent for the sale of goods, processing, repairs and repairs services, leasing services of tangible movable property and imported goods; 9 percent for the provision of transportation services, postal services, basic telecommunications, construction, leasing services of real estate, granting land use rights, sales or import of agricultural products and other goods; 6 percent for distribution services, intangible assets and financial goods; and 3 percent for small-scale VAT taxpayers (with no input tax credit granted). Exempt sales would include sales of contraceptive pills or classic books, and sales made by entities such as hospitals, museums or welfare institutions. The State Council may formulate special preferential VAT policies and report them to the Standing Committee of the National People's Congress in accordance with the needs of national economic and social development, or due to emergencies or any other reasons that have a significant impact on taxpayers' business activities.

The draft VAT Law provides that the taxable amount is the consideration for taxable transactions, including all monetary or non-monetary economic benefits. For "mixed-sales transactions," the applicable tax rate for the main transaction should apply. According to the VAT draft law, excess VAT credits could either be carried forward or refunded, with rules on refunds forthcoming. Finally, the draft VAT law would reduce the number of tax periods (compared to existing rules) by eliminating the one-day, three-day, and five-day tax periods. Most taxpayers could expect to account for VAT on a monthly or quarterly basis. These measures would not be applicable to taxpayers that use the general method of accounting for VAT. To read a report prepared by the KPMG International member firm in China, please click here.

Singapore: Overview of Recent Indirect Tax Developments

On October 11, 2019, the Internal Revenue Agency of Singapore (IRAS) updated the e-tax GST guide on "directly in connection with" and "directly benefit" as used in connection with zero-rated services. Updates to the guide provide information on the provision to allow zero-rating of services provided to nonresidents when the services directly benefit GST-registered residents under the reverse charge mechanism, effective January 1, 2020. The guide further includes an update with respect to sales of services when the services directly benefit local GST-registered persons and qualify for zero-rating.

On October 11, 2019, the IRAS updated the GST e-tax guide on imported services and determining the residency of vendors and customers. Updates to the guide include information on the imposition of GST beginning January 1, 2020, to business-to-business imported services through a reverse charge mechanism as well as to business-to-customer imported digital services through an overseas vendor registration regime. The guide further clarifies the provision for zero-rating of sales of international services and the determination of whether a sale of services is within the scope of GST based on a business establishment or fixed place of business being located inside or outside Singapore.

On October 11, 2019, the IRAS updated the GST e-tax guide on the specialized warehouse regime that permits the zero-rating of qualified services performed on qualified goods stored in approved warehouses. The updates to the guide reflect the implementation of the reverse charge mechanism effective January 1, 2020, which allows for the extension of zero-rated GST to services contractually sold to an overseas entity and directly benefiting a GST-registered person in Singapore.

On October 21, 2019, the IRAS updated the GST e-tax guide on the approved refiner and consolidator regime (ARCS). The updates to the guide clarify the application of the GST reverse charge mechanism effective January 1, 2020; the GST credit calculations and application for consolidators and refiners subject to the reverse charge mechanism; and the application of the reverse charge mechanism for consolidators not entitled to GST credits. However, the reverse charge mechanism does not apply to approved refiners for imported services. The guide further clarifies the registration requirement as a pay-only entity for overseas vendors providing digital services or goods for re-export for eligibility in import GST suspension benefits.

On October 22, 2019, the IRAS updated the GST e-tax guides for logistic companies. The updates to the guide include information on the registration requirement for overseas principals as pay-only persons under the Overseas Vendor Registration (OVR) regime. The guide further clarifies the computation of the 50 percent qualifying threshold for the 12 month period before and after January 1, 2020. Finally, the guide addresses the implementation of the reverse charge mechanism, which allows for the extension of zero-rated GST to certain services contractually provided to overseas entities and directly benefiting a GST-registered person in Singapore.

On October 25, 2019, the IRAS updated the GST e-Tax guide for biomedical industries. The updates to the guide explain the addition of a zero-rate criteria that services contractually provided to an overseas person directly benefit a GST-registered person in Singapore, effective January 1, 2020; and how the reverse change mechanism will apply instead of GST credits when residents procure services from overseas vendors effective January, 2020.

On October 25, 2019, the IRAS updated the GST e-tax guide for the marine and shipping industry. The updates to the guide clarify the application of the GST reverse charge mechanism effective January 1, 2020.

On November 19, 2019, the IRAS issued a GST e-tax guide and FAQs on the sale of digital payment tokens and digital currencies. The guide clarifies that the use of digital tokens as payment for goods or services is outside the scope of GST, while exchanging qualifying digital tokens is GST exempt. The guide further explains the GST obligations for digital currencies that do not qualify as digital payment tokens; the characteristics and qualifications for transactions allowing for the nontaxable use of payment tokens; and the rules for apportioning GST credits relating to taxable and exempt token sales.

On December 6, 2019, the IRAS published an online guidance on the GST treatment of purchases of overseas digital services. The guidance clarifies the requirement that taxpayers pay GST on digital service purchases from registered providers effective January 1, 2020 and registration criteria for overseas digital service providers. The guidance further explains the requirement that taxpayers provide correct information to the service providers and the fines and penalties for noncompliance.

On December 30, 2019, Singapore published a law amending the GST Act effective January 1, 2020. According to the amendments, the use of digital tokens for the payment of goods and services is not considered a taxable sale, while the exchange of digital currency tokens for legal currencies and the use of digital currency tokens as a means of payment for goods and services is exempt. The law further introduces a reverse charge mechanism for business-to-business imported services, including transitional provisions for invoices issued between February 18, 2018 and January 1, 2020. Finally, the law implements a GST group registration for overseas businesses under the overseas vendor registration regime and implements penalties for non-reported GST due on overseas sales.

Source: Bloomberg Law News Oct. 17, 2019, Singapore Tax Agency Updates e-Tax GST Guide on Zero-Rated Services; Bloomberg Law News Oct. 17, 2019, Singapore Tax Agency Updates GST e-Tax Guide on Imported Services, Residency Status of Suppliers, Customers; Bloomberg Law News Nov. 21, 2019, Singapore Tax Agency Issues GST e-Tax Guide, FAQs on Supply of Digital Payment Tokens; Bloomberg Law News Oct. 17, 2019, Singapore Tax Agency Updates e-Tax Guide on GST Under the Specialized Warehouse Regime; Bloomberg Law News Oct. 25, 2019, Singapore Tax Agency Updates GST e-Tax Guide on Refiner, Consolidator Regime; Bloomberg Law News Oct. 31, 2019, Singapore Tax Agency Updates GST e-Tax Guide for Biomedical Industry; Bloomberg Law News Oct. 31, 2019, Singapore Tax Agency Updates GST e-Tax Guide for Marine Industry; Bloomberg Law News Oct. 25, 2019, Singapore Tax Agency Updates GST e-Tax Guides for Logistics Companies; Bloomberg Law News Dec. 12, 2019, Singapore Tax Agency Explains GST on Purchase of Overseas Digital Services; Bloomberg Law News Jan. 6, 2020, Singapore Gazettes Amendments to GST Act.

Taiwan: Nonresident Digital Services Providers Required to Issue Cloud Invoices

Effective January 1, 2020, nonresident digital services providers registered for VAT purposes in Taiwan are required to issue cloud invoices. Nonresident digital services providers with no fixed place of business in Taiwan and annual sales exceeding TWD 480,000 ($16,000) have been required to account for VAT since May 1, 2017, although the requirement to issue uniform invoices was delayed and was made voluntary effective January 1, 2019 to give vendors time to implement the requirement. The Taiwanese cloud invoice system involves the allocation of a unique government uniform invoice number to an invoice when a sale is made, which must then be reported within 48 hours of making the sale. Nonresident vendors may handle this themselves using transmission software provided by the Ministry of Finance (Turnkey) or appoint a value-added center (third-party provider) for the transmission. Failing to issue cloud invoices will be considered a violation of law that will result in penalties of up to five times the amount of VAT that should have been invoiced. The public can query the list of the offshore nonresident vendors already issuing cloud invoices at the eTax Portal of the Ministry of Finance. To facilitate nonresident vendors finding a domestic value added center, the tax authority indicated that it has compiled a list of the value-added centers which have completed uploading cloud invoices and are willing to offer services to nonresidents. The listing includes certain information on the centers, such as "Paid in Capital," "Information Security Certification," "Number of Entities Served," and "Available Foreign Languages," and is available on the eTax Portal.

Source: Orbitax, Taiwan Cloud Invoice Requirements Mandatory for Foreign E-Service Suppliers from 2020 (Nov. 4, 2019); Tax Analysts, Taiwan Clarifies Rules for Offshore E-Commerce Suppliers (Jan. 1, 2020).

Trade & Customs (T&C)

EU – Singapore Free Trade Agreement

On November 8, 2019 the EU Council approved the EU-Singapore Free Trade Agreement (EUSFTA), which is effective November 21, 2019. Under the EUSFTA, Singapore removes all remaining tariffs on EU products and the EU eliminates its tariffs for the majority of goods from Singapore. For some Singapore products, EU duties will be reduced to zero over a three to five year period upon the EUSFTA entering into force. The EUSFTA also contains a number of non-tariff related measures aimed at facilitating trade between the parties, such as special provisions on car exports, pharmaceuticals, electronics, green technology, and sanitary and phytosanitary (SPS) measures.

To benefit from preferential treatment under the EUSFTA, taxpayers must comply with the conditions and procedures for establishing the origin of goods. The rules of origin are product-specific, meaning that the criteria for determining whether a product qualifies for preferential tariff treatment differs from product to product. The EUSFTA also allows ASEAN cumulation for certain products, whereby materials sourced from Member States of the Association of Southeast Asian Nations (ASEAN) and incorporated into certain final products are deemed as originating in Singapore for the purposes of determining the preferential origin. The EUSFTA also contains co-equal rules whereby exporters are given the option of meeting either a regional value content or CTC change in tariff classification rule. The EUSFTA also introduces specific process rules for certain products. All these instruments are intended to provide companies with greater flexibility in establishing origin and thus help them to further optimize their supply chain operations. To read a report prepared by the KPMG International member firm in the Netherlands, please click here.

Netherlands: Re-defined "Exporter" Rule Postponed to April 1, 2020

On July 30, 2018, the European Commission introduced a new definition of "exporter." For businesses, this is a person established in the customs territory of the European Union who has the power to determine and has determined that the goods are to be taken out of that customs territory. If this does not apply, for example because that person is not established in the Union, it is any person established in the customs territory of the EU who is a party to the contract under which goods are to be taken out of that customs territory.

On October 1, 2019, the Dutch customs authorities announced that as of December 1, 2019, it will no longer be possible for a person not established in the Union to be indicated in box 2 of the export declaration, which means that as of December 1, 2019, companies established outside the Union will have to authorize/designate a person established in the Union to act as exporter. This was found to be too short a time frame for many companies. The Dutch customs authorities have thus postponed this change until April 1, 2020. Until then, a person not established in the Union can be indirectly represented on the export declaration. The person not established in the Union will then be indicated in box 2 of the export declaration. To read a report prepared by the KPMG International member firm in the Netherlands, please click here.

Thailand: New Transfer Pricing Disclosure Form May Increase Customs Valuation Risk

In November 2019, the Thai Revenue Department published a notification concerning a new transfer pricing disclosure form. The transfer pricing disclosure form requires the reporting of information concerning the relationships between related parties and the value of related-party transactions. Taxpayers required to submit a transfer pricing disclosure form are those with related-party transactions with a total annual operating revenue of at least THB 200 million ($6.6 million) or more, and an accounting period starting effective January 1, 2019. Related-party transactions have been one of the key areas of focus for post-clearance audit conducted by the Thai Customs Department. The information obtained from the tax authority—such as withholding tax returns (Form P.N.D. 54) and self-assessed VAT returns (Form P.P. 36)—may be a primary source of information for the customs authority to identify whether the importers have significant intercompany payments. In 2020, when taxpayers begin to submit the transfer pricing disclosure form to the Thai Revenue Department, the Thai Customs Department will be able to collect complete data with regard to related-party transactions of the taxpayer.

The disclosure form could become the most transparent source of information for the customs authority to scrutinize importers regarding their related-party transactions and may lead to further inspections on customs valuation issues. For instance, if the customs authority discovers from the transfer pricing disclosure form that the cost of purchasing goods from related parties is significantly different from the total declared customs value on import declarations, it may lead to scrutiny by the customs authority of the related-party transactions to determine whether the declared customs value is the transaction value of imported goods. The customs authority could further discover that there are royalties and/or other intercompany payments paid to overseas related parties, the customs authority may question whether the royalties and/or intercompany payments paid must be included in the customs value of imported goods. In such instances, the customs authority may request supplementary documents (such as intercompany agreements or transfer pricing documentation) for comprehensive reviews. To read a report prepared by the KPMG International member firm in Thailand, please click here.

In Brief

- **Angola:**[v] On October 16, 2019, the General Tax Administration (GTA) of Angola issued a clarification on claiming a VAT credit. According to the GTA, VAT credit can be claimed under three regimes: (1) under the general VAT regime provided that proper monthly returns are filed; (2) under the transitional regime, no VAT credit can be claimed, with the exception of a 4 percent deduction for purchases made in Angola that can be offset in the expected quarterly returns; and (3) under the non-liability regime, no VAT credit can be claimed, with the exception of a 10 percent deduction upon payment of industrial taxes following the filing of the monthly electronic map of vendors and purchases. Under each regime, the consumption tax must be excluded from the tax base for VAT purposes.
- **Armenia:**[vi] On October 14, 2019, the Ministry of Economic Affairs of Armenia announced that instead of requiring taxpayers to apply for a 3-year VAT deferral, it will automatically grant a deferral to importers of equipment used in the production of goods not produced in Armenia.
- **Bolivia:**[vii] On September 26, 2019, the National Tax Service of Bolivia (*Servicio de Impuestos Nacionales*, SIN) announced extension of the deadline for implementing the new electronic invoicing system (*Sistema de Facturación Electrónica*, SFE). The SIN explained that certain taxpayers requested such extension so as to be able to adapt their current invoicing systems to the SFE. The new deadline for implementing the SFE is June 1, 2020. Until that date, the virtual invoicing system remains in force. The SIN will issue a normative resolution of directory to formalize the new deadline.
- **Canada:** Effective January 1, 2020, Alberta joined the provinces of Ontario, Manitoba, Saskatchewan, New Brunswick, Nunavut, and Yukon in imposing the Federal Fuel Charge (FFC). Alberta oil and gas producers, among others, are thus required to ensure they are properly registered and prepared to meet new monthly reporting requirements. To read a report prepared by the KPMG International member firm in Canada, please click here.
- **Canada:** The KPMG International member firm in Canada has prepared a report on the requirement for certain entities to register for GST and harmonized sales tax (HST) on-or-before an acquisition or a reorganization

- **Canada:** The KPMG International member firm in Canada has prepared a report summarizing the indirect tax and customs changes that took place in 2019.
- **Chile:**[viii] On October 16, 2019, the Chilean Internal Revenue Service (IRS) issued Ruling 2628, in which the IRS clarified that the payments made by the University of Chile, a state-owned university, to a nonresident taxpayer are subject to neither withholding tax nor VAT.
- **China:**[ix] The Chinese in Ministry of Finance recently published Announcement No. 88 of 2019 in which it clarified that between January 1, 2018 and December 1, 2023, VAT will be refunded to taxpayers manufacturing large aircraft engines and medium-size aircraft turboprop engines that have excess VAT credits at the end of a VAT period. The Ministry also announced a 5 percent concessionary VAT rate for the development and sale of new regional aircrafts, which applies from January 1, 2019, to December 31, 2020. Finally, from January 1, 2019 through December 31, 2020, manufacturers of regional aircraft and large passenger aircraft can file for a VAT refund if they are in an excess VAT credit position.
- **Dominica:**[x] Effective October 1, 2019, Dominica applies a zero percent import duty and VAT rate on electric vehicles. Electric vehicles are defined as vehicles that are propelled by one or more electric motors using energy stored in rechargeable batteries, such as electric buses, electric cars and electric motorcycles.
- **Ecuador:**[xi] On September 25, 2019, the Internal Revenue Service of Ecuador (*Servicio de Rentas Internas*, SRI) published Circular No. NAC-DGECCGC19-00000004, which clarifies that the following artistic and cultural services are zero-rated effective September 1, 2019: productions in museums; musical and sculpting productions; the organization, production and performance of artistic and cultural shows; library services; certain photographic services; publishing, editing, translating, printing and commercialization of books (including e-books); and research services, provided that they relate to culture and art.
- **Ecuador:** The SRI recently published a form to allow for multiple tax payments. The new form replaces prior form 106 and integrates the tax debts and obligations of a taxpayer, showing various information such as tax obligation and the related payment codes. This does not require taxpayers to enter additional data or complete multiple forms. The tax authority also issued reminders of the requirement for taxpayers to issue goods and services invoices or vouchers electronically. To read a report (in Spanish) prepared by the KPMG International member firm in Ecuador, please click here.
- **European Union:**[xii] On October 3, 2019, the ECJ published the Opinion of its AG in *Herst*, Case C-401/18, in which the AG opined that in ascribing the single cross-border shipment to a certain sale in a supply chain, the crucial factor is who bears the risk for accidental loss during the cross-border shipment of the goods. That sale is the zero-rated intra-EU sale, the place for which is where the shipment began. Neither the principle of VAT neutrality nor any other principle of EU law precludes the application of the constitutional principle of *in dubio mitius* in national law, which requires public

authorities, where legal rules are ambiguous and objectively offer a number of possible interpretations, to choose the interpretation that benefits the person subject to the legal rule (here the taxpayer).

- **European Union:**[xiii] On October 10, 2019, the ECJ published the Opinion of its AG in *Serviços de Saúde SA*, Case C-211/18, in which the AG opined that hospitalization and health care services provided by a company that is not governed by public law, in social conditions comparable to those companies governed by public law, fall under the VAT exemption provision for healthcare services, regardless of the proportion of those services relative to all services provided by said company.
- **European Union:**[xiv] On October 16, 2019, the ECJ published its judgment in *Michael Winterhoff*, Case C-4/18, in which it held that German companies servicing formal documents for German Courts and administrative bodies are considered as universal postal service providers and those services should be VAT exempt.
- **European Union:**[xv] On October 16, 2019, the ECJ published its judgment in *Glencore Agriculture Hungary*, Case C-189/18, in which it held that tax authorities, during the investigation of the legality of a VAT deduction, may rely on evidence obtained from related tax audits performed regarding the vendors of the taxpayer if: (1) the tax authorities inform the taxpayer about the evidence on which their decision is intended to be based and the taxpayer is able to effectively challenge these facts and legal qualifications; (2) the taxpayer is able to access all documents obtained in those related tax audits intended to be used by the tax authorities in their decision unless the limitation of access is justified by public interest; and (3) the courts have the right to review the evidence obtained in the related tax audits and used in the case subject to the judicial review.
- **European Union:**[xvi] On November 7, 2019, the ECJ published the Opinion of its AG in *Golfclub Schloss Igling,* Case C-488/18,in which the AG opined that VAT exemption in the EU Directive regarding the provision of certain services closely linked to the practice of sport or physical education, provided by non-profit organizations to persons practicing sport or physical education is to be interpreted as not being of direct effect, so that the provision may not be relied upon directly before the national courts by individuals, unless the Member State concerned has exceeded the scope of the discretion conferred on it by that provision of the directive.
- **European Union:** On December 20, 2019, the European Commission released the final explanatory notes on the VAT Quick fixes, which are effective January 1, 2020. (For KPMG's previous discussion on the Quick Fixes draft explanatory notes, click here.)
- **Finland:**[xvii] On October 22, 2019, the Finnish Tax Administration published a preliminary ruling explaining the VAT treatment applicable to financial services. A nonresident bank provided financing to the taxpayer's business and charged an annual management fee. The credit risk of the recoverable debt transferred to the bank, but the taxpayer was responsible for recovery and interest payments. The ruling explained that the bank-provided credit is considered a VAT exempt financial service. As a consequence, the taxpayer is not liable to self-assess VAT under the reverse charge mechanism.

- **Germany:** Effective January 1, 2020, Germany extended the requirement for the purchaser to self-assess VAT under the reverse charge mechanism to purchases of gas and electricity certificates. To read a report prepared by the KPMG International member firm in Germany, please click here.
- **Greece:**[xviii] On December 12, 2019, the Greek parliament approved a bill amending the VAT law. The bill would allow taxpayers to apply for a temporary suspension of VAT imposed on the sale of new houses by constructors until December 31, 2022. The bill would further reduce the VAT rates applicable to baby products, motor cyclist helmets, and child seats to the reduced VAT rate of 13 percent. Finally, the maximum number of instalments for the payment of ascertained debts owed to the Greek state (tax debts, customs and other liabilities) would be increased to 48.
- **India:** On December 13, 2019, India's Central Board of Indirect Taxes and Customs issued notices that require registered persons with annual gross receipts above INR 1 billion ($14 million) to issue electronic invoices with regard to business-to-business sales effective April 1, 2020. Businesses can issue e-invoices voluntarily effective January 1, 2020. To read a report prepared by the KPMG International member firm in India, please click here.
- **Kazakhstan:** Kazakhstan recently introduced a new system of "control VAT accounts" as an incentive for certain taxpayers. Taxpayers operating through control VAT accounts may obtain VAT refunds without undergoing a tax audit of their VAT records. Taxpayers are not required to account separately for VAT amounts flowing through a control VAT account. In addition, taxpayers operating through control VAT accounts are exempt from the requirement to collect their foreign currency proceeds to confirm the amount of VAT claimed for a refund upon an exportation of goods. A branch of a taxpayer is entitled to open and operate a separate control VAT account for the branch's settlements of the branch's electronic VAT invoices. Taxpayers subject to the state monitoring are entitled to simultaneously apply a simplified VAT refund procedure, as well as a control VAT account, or a generally established procedure for a refund of the remaining VAT amounts. To read a report prepared by the KPMG International member firm in Kazakhstan, please click here.
- **Korea:** The Ministry of Economy and Finance of Korea recently held that when a rental car company subscribes for a car insurance policy chosen by its customer for car rental and includes the equivalent amount of the insurance premium in the rent received from the customer, the amount pertaining to insurance premium should still be subject to VAT as a payment for car rental services, and should not be considered as fee for financial and insurance services. Division of VAT-493, 2019.08.13 To read a report prepared by the KPMG International member firm in Korea, please click here.
- **Lithuania:** Effective August 1, 2019, Lithuania requires the purchaser to self-assess VAT under the reverse charge mechanism for purchases of mobile phones, tablets, and portable laptop computers (until June 30, 2022) and hard drives (until February 28, 2022). The reverse-charge mechanism only applies if these goods are acquired by a Lithuanian VAT taxpayer. Effective January 1, 2020, Lithuania introduced a calendar quarter VAT reporting period. Taxpayers with income from an economic activity in the previous calendar year that did

not exceed EUR 300,000 ($330,000) are eligible to apply for the quarterly reporting period. Regardless of whether the quarterly VAT reporting period is applied, companies are still required to submit the i.SAF invoice registers on a monthly basis. To read a report prepared by the KPMG International member firm in Lithuania, please click here.

- **Malawi:**[xix] Malawi recently exempted solar power technology, energy efficient bulbs, liquefied petroleum gas, gas cylinders, and wood cook stoves from VAT. However, oil, except edible oils, is now subject to VAT.
- **Malta:**[xx] On October 14, 2019, the Minister for Finance presented the Budget for 2020, which clarifies that education and educational related research, vocational training, distance learning and institutes recognized for such purposes are exempt from the payment of VAT. Moreover, the Budget extends the total VAT refund on e-bikes and motorcycles.
- **Mauritius:**[xxi] On September 7, 2019, the Mauritian Revenue Authority issued a ruling in which it clarified that the provision of platform-based, loan-related services to nonresidents is zero rated. The resident service provider was not required to register for VAT, but could opt for VAT registration, because its gross receipts was almost entirely from zero-rated sales. The resident service provider could file a claim for repayment VAT if it opted to register.
- **Morocco:**[xxii] On September 26, 2019, the Order of Chartered Accountants of Morocco (OCA) released a directive framing the new modalities of the VAT credit refund following the issuance by the Ministry of Finance of a decree simplifying the procedure for VAT refunds where the accounts are certified by a chartered accountant. The directive issued by the OCA details the role and tasks to be conducted by chartered accountants. According to the OCA, a chartered accountant will perform any checks of the VAT credit entered in the accounts of the company at the end of the period covered by the application. The chartered accountant will further ensure that the information contained in the deduction statements and/or other statements accompanying the application comply with the information contained in the periodic VAT returns filed by the company, and that such information corresponds to the accounting records of the company. Moreover, the chartered accountant will conduct audits of invoices and other documents supporting the justification of the information contained in the deduction statements and other statements prepared by the company. Chartered accountants must document their verifications and collect all the relevant documents supporting their conclusions (invoices, bank statements, VAT returns, statements of deductions for VAT, general ledger, tax book, general balance, etc.). As this is not an audit assignment, chartered accountants should state on their certification that the assessment was conducted in accordance with the provisions of the decree. The certificate must be attached to the documents prescribed by the decree
- **Norway:**[xxiii] On October 9, 2019, the Norwegian tax authority published a tax appeals board decision, Ruling No. Large department 01 NS 107/2019, in which it agreed with the tax authority's prior ruling regarding the application of the VAT exemption for international cruise ships with scheduled stops

in Norway. The exemption applies only if the ships do not board new passengers in Norway; spend less than 24 hours in the Norwegian VAT area, disembarking passengers for only scheduled trips; and conduct business that begins and ends outside of Norway's territorial VAT limit.

— **Portugal:** The KPMG International member firm in Portugal prepared a report summarizing some key VAT changes that were previously reported in Inside Indirect Tax.

— **Puerto Rico:**[xxiv] On October 23, 2019, the Puerto Rican Department of Treasury (PRTD) issued Administrative Determination No. 19-06 which clarified application of the reduced seven percent sales and use tax (IVU) rate to prepared foods sold by restaurants. The PRTD clarified the application of the reduced rate for combined transactions of prepared food and alcoholic beverages, for transactions involving a restaurant's sale of prepared foods for take away ("to-go"), and for transactions from a commercial business that also sells prepared food. The Administrative Determination is applicable to transactions effective November 1, 2019.

— **Romania:**[xxv] On October 8, 2019, Romania published a law amending the VAT registration procedures by providing risk assessments for ordinary and high-risk taxpayers that request VAT registration or cancellation and establishing requirements for residents that only conduct domestic business.

— **Romania:** The Romanian tax authority has recently started to deregister ex-officio nearly all companies, with certain exceptions, which currently submit nil VAT returns for a consecutive six month or two quarter periods. To reactivate or continue a company's VAT number, the Romanian tax authority requires proof of activity, particularly showing future intension of performing taxable activities on Romanian territory. This can be any invoices, contracts, purchase orders etc. The reactivation process might take up to six weeks; therefore, the company would not be able to perform any taxable activity within this period using its Romanian VAT number.

— **Saudi Arabia:**[xxvi] On September 26, 2019, the General Authority of Zakat and Tax of Saudi Arabia (GAZT) published a guidance on the tax stamp system for selective goods subject to excise tax. A tax stamp is a digital data marking method for selective goods subject to excise tax to assist in the control and monitoring of tax payments and for the identification of the illicit trade of such goods. Goods falling under the tax stamp system are cigarettes, shisha or hookah tobacco, and soft drinks, energy drinks and other tobacco products.

— **Sweden:**[xxvii] On October 11, 2019, the Swedish Tax Agency updated its guidance on the VAT liability for online sporting services to reflect a recent Supreme Administrative Court decision. The updated guidance explains the circumstances in which the reduced 6 percent VAT rate applies to online sporting services and the requirements for sports facilities and services to be eligible for the reduced rate.

— **Sweden:**[xxviii] On November 4, 2019, the Swedish Tax Agency updated its guidance on the VAT deduction for solar plant investments by a residential building association following three Supreme Administrative Court decisions. The cases involved an association taking a VAT deduction for the sale of two-thirds of the electricity produced by a solar plant mounted on the roof of their residential building. The court allowed the deduction because it is related to the acquisition of the solar plant, which is attributable to the taxable sales of electricity and the use of a part of the electricity by the residential building itself does not mean that the plant is considered a part of the residential building, which would not be eligible for the deduction.

— **Switzerland:**[xxix] On October 22, 2019, the Swiss Federal Finance Department issued a series of publications concerning the value-added tax rules for those participating in and organizing sporting events. The publications are intended to provide guidance on the VAT obligations of sportspeople and teams not resident or domiciled in Switzerland. The changes reflect a partial revision to the Federal VAT Act that became effective January 1, 2018. The guidance points out that non-Swiss participants in sporting events may become subject to VAT by participating in a sporting event in Switzerland. This is particularly the case if a sportsperson resident or domiciled abroad wins prize money or receives an entry fee when participating in a sporting event in Switzerland and at the same time has worldwide gross receipts of at least CHF100,000 ($103,000).

— **Taiwan:**[xxx] On August, 26, 2019, the Taiwanese Ministry of Finance clarified that the transfer of a renewable energy certificate is subject to VAT when used by taxpayers in the power generation industry.

— **Turkey:** [xxxi] On October 15, 2019, Turkey published General Communiqué No. 27 which expands the scope of certain VAT exemptions to include: buses and minibuses sold to municipalities, provincial special administrations and their affiliates and to companies providing intercity transportation; scanning, recognition, tracking and radar systems sold to national security agencies by Investment Incentive Certificate holders; facilities used for R&D and for the testing of scanning, recognition, tracking and radar systems; and facilities provided to the Turkish Religious Foundation.

— **United Kingdom:** On January 23, 2020, the European Union (Withdrawal Agreement) Act 2020 received royal assent. This was followed by the official signing of the Withdrawal Agreement by representatives of the EU and the British Prime Minister on January 24, 2020. As a consequence the UK will formally leave the EU on January 31, 2020. This will trigger a transition period until December 31, 2020 for the UK and EU to negotiate their future trading relationship. In its latest draft, the UK government has changed the law meaning it is currently prohibited from extending this transition period beyond December 31, 2020. During the transition period, current EU rules will remain applicable for transactions carries out between the UK and the rest of the EU.

— **United Kingdom:**[xxxii] On December 19, 2019, the European Union published Council Implementing Decision (EU) 2019/2230, which allows the United Kingdom to limit to 50 percent the right to deduct VAT charged on hired or leased cars in cases in which the cars are not used exclusively for business purposes. The United Kingdom is also authorized not to treat as a sale of services for consideration the private use of a car that has been hired or leased for business purposes, so that hirers and lessees do not have to account for VAT on the actual private mileage of each car. The derogation expires on December 31, 2022.

- **Uruguay:**[xxxiii] On October 4, 2019, the Uruguayan Ministry of Economy and Finance issued a guidance on VAT discounts and reductions. The guidance clarifies the types of payment methods eligible for the VAT discount; the determination of the VAT reduction on electronic payment methods; the conditions and application procedures for repayments and refunds; the conditions qualifying for reductions and repayments for specific services with credit or debit card payments; and the application of the VAT reduction on invoice payments.
- **Vietnam:**[xxxiv] Effective November 1, 2020, Vietnam will implement a mandatory e-invoicing mechanism as set out in Decree 119/2018. The decree includes requirements for those engaged in smaller scale trading operations to use e-invoices with a verification code issued by the tax authority. Some businesses considered to be higher risk may be required to issue e-invoices before November 1, 2020. Those who are unable to immediately comply with the tax agency's request will be required to file additional documents with the VAT return. According to the tax authority, businesses will be considered high risk if they have an equity of less than VND15bn ($647,000) and they also meet at least one additional criteria, such as trading in a particularly high risk industry. Businesses will further be considered high risk if they (1) fail to meet their filing obligations for 90 days; (2) fail to comply with their tax obligations after business formation; (3) fail to notify the tax authority of a change of address; (4) are penalized once for other serious tax non-compliance issues in the previous year, or (5) are repeatedly penalized for failing to comply with the tax regime.

About *Inside Indirect Tax*

Inside Indirect Tax is a monthly publication from KPMG's 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.

Footnotes

i. Austria – Tax Reform Bill and Bill on Countering of Tax Fraud – details on VAT measures (Oct. 30, 2019), News IBFD.
ii. Czech Republic – Amendments of VAT rates in respect of certain services and goods – published (Oct. 14, 2019), News IBFD.
iii. Greece – Extension of reduced VAT rates applicable to five islands – gazetted (Jan. 6, 2020), News IBFD.
iv. Ireland – Finance Bill 2019 – details (Oct 23,. 2019), News IBFD
v. Angola – Refund of VAT paid on purchases of goods and services by economic agents – clarification issued (Oct. 22, 2019), News IBFD.
vi. Armenia – Automatic VAT deferral for imports announced (Oct. 24, 2019), News IBFD.
vii. Bolivia – New electronic invoicing system – deadline extended (Oct. 7, 2019), News IBFD
viii. Chile – Withholding tax and VAT exemptions for payments made by Chilean universities to non-residents – clarified (Oct. 24, 2019), News IBFD.
ix. CCH, Global VAT News & Features, China Announces VAT Breaks For Aircraft Manufacturers (Nov. 5, 2019).
x. Dominica – Vehicles to benefit from zero rating for import duty and VAT purposes (Nov. 11, 2019), News IBFD.
xi. Ecuador – Rules on VAT on artistic and cultural services – published (Oct. 21, 2019), News IBFD.
xii. European Union; Czech Republic - ECJ Advocate General's opinion (VAT): Herst, s.r.o. v. Odvolací financní reditelství (Case C-401/18) – zero rate; excise goods; principle of in dubio mitius – details (Oct. 14, 2019), News IBFD.
xiii. European Union; Portugal - ECJ Advocate General's opinion (VAT): Idealmed III (Case C-211/18) – VAT exemption for medical supplies; national deviation compatible with EU law? – details (Oct. 23, 2019), News IBFD.
xiv. DE: ECJ, Oct. 16, 2019, Case C-4/18, Michael Winterhoff, acting as liquidator in the insolvency of DIREKTexpress Holding AG v. Finanzamt Ulm, Case Law IBFD.
xv. HU: ECJ, Oct. 16, 2019, Case C-189/18, Glencore Agriculture Hungary v. Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága, Case Law IBFD.
xvi. European Union; Germany - ECJ Advocate General's opinion (VAT): Finanzamt Kaufbeuren mit Außenstelle Füssen v. Golfclub Schloss Igling e.V. (Case C-488/18) – VAT exemption for sports; direct effect; concept of non-profit-making organization (Nov. 7, 2019), News IBFD.
xvii. Bloomberg Law News Oct. 25, 2019, Finland Tax Administration Explains VAT on Financial Services Under Reverse Charge Mechanism.
xviii. Greece - Draft Budget 2020 submitted to parliament and public consultation launched – VAT (Nov. 14, 2019), News IBFD
xix. Malta – Budget for 2020 presented – details (Oct. 16, 2019), News IBFD
xx. Bloomberg Law News Oct. 21, 2019, Mauritius Tax Agency Issues VAT Ruling Clarifying Registration Obligations, Refund Procedures Related to Zero-Rated Supplies.
xxi. Morocco – Directive on simplified VAT credit refund process – published (Oct. 29, 2019), News IBFD.
xxii. Bloomberg Law News Oct. 15, 2019, Norway Tax Agency Explains VAT Exemptions for International Cruise Ships.
xxiii. Bloomberg Law News Oct. 29, 2019, Puerto Rico Treasury Issues Administrative Determination on the Application of Reduced Sales, Use Tax Rates.
xxiv. Bloomberg Law News Oct. 11, 2019, Romania Gazettes Law Amending VAT Registration Procedures.
xxv. Saudi Arabia; GCC – GAZT publishes guidelines on excise tax stamp system (Oct. 3, 2019), News IBFD.
xxvi. Bloomberg Law News Oct. 21, 2019, Sweden Tax Agency Updates Guidance on VAT for Online Sporting Services.
xxvii. Bloomberg Law News Nov. 7, 2019, Sweden Tax Agency Explains Input VAT Deductions by Residential Buildings Associations for Solar Plant Investments.
xxviii. CCH, Global VAT News & Features, Switzerland Publishes VAT Guides For Sportspeople (Oct. 24, 2019).
xxix. Bloomberg Law News Oct. 25, 2019, Taiwan MOF Clarifies VAT for Renewable Energy Certificate Transfers.
xxx. Turkey – Scope of certain VAT exemptions – expanded (Oct. 18, 2019), News IBFD.
xxxi. European Union; United Kingdom - European Commission proposes to authorize United Kingdom to continue restricting right to deduct input VAT in relation to hired and leased cars (Nov. 11, 2019), News IBFD.
xxxii. Bloomberg Law News Oct. 18, 2019, Uruguay MOF Issues FAQs on VAT Discounts, Reductions.
xxxiii. CCH, Global VAT News & Features, Vietnam Clarifies New E-Invoicing Regime For 'High Risk' Firms (Oct. 31, 2019).

kpmg.com/socialmedia