Inside Indirect Tax

August 2023

About this Newsletter

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

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KPMG Publications

Developments Summary of the Taxation of the Digitalized Economy

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

Global E-invoicing & Digital Reporting Tracker

KPMG has released an Electronic Invoicing (e-invoicing) and Digital Reporting Global Tracker, providing a summary of tax administration developments relating to e-invoicing and digital reporting around the world. Tax authorities across the globe are constantly striving for visibility into a taxpayer's end-to-end sales process using technology tools that automate the tax reporting process, such as e-invoicing, digital reporting, and e-accounting. These technologies when used by tax authorities can be disruptive and require radical changes in the way taxpayers interact internally as well as with their customers, related parties, and the tax authorities.

Overview of Indirect Tax Developments from KPMG International Member Firms

- **KPMG in Australia:** published a report discussing recently released Australian Tax Office (ATO) guidance on the goods and services tax (GST) treatment of digital currency transactions. For GST purposes, a digital currency is defined as a digital unit of value that can be exchanged with the same digital currency, used for payment, and is accessible to the public without significant restrictions. Furthermore, it is either not denominated in any country's currency or is denominated in a currency that is not issued by an Australian or foreign government. The value of the digital currency should not be derived from or dependent on anything else, and it should not grant the holder any entitlement to receive something else unless it is a minor aspect of holding or using the digital currency for payment. Other crypto assets such as non-fungible tokens (NFTs), stablecoins, and an initial coin offering, are not considered digital currency, and their GST treatment will depend on its characteristics.
- **KPMG in Australia:** published a report discussing a recent court decision on whether yogurt products qualified for GST-exemption as food products. Under the Australian GST law, food (including yogurt) is not subject to GST, generally. However, the exemption does not apply to certain categories of food including confectionery and biscuit-like products, as well as food that is a combination of one or more foods, at least one of which is subject to GST. In this case, the taxpayer's product is a strawberry-flavored yogurt that includes cookie pieces and white chocolate chips. The court held that the product was subject to GST as it is a combination of one or more foods at least one of which is biscuit goods, confectionery, or otherwise taxable food.
- **KPMG in Australia:** published a report discussing a consultation on a draft legislative instrument issued by the ATO that allows the correction of fuel tax errors made in a tax period to be done in a later tax period in specified circumstances.

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- **KPMG in Australia:** published a report discussing the registration of a determination made by the Australian Minister of Defense that allows indirect tax refunds, including GST, for certain defense-related international obligations. The determination outlines the entities and acquisitions covered, the intended uses of the acquisitions, any conditions and limitations on refunds, and the time frame and method in which refunds will be paid. When a refund is granted, the Australian Defense Department will either pay the tax amount to vendors on behalf of the relevant foreign government or reimburse the foreign government for tax amounts paid to vendors. The Defense Department will then claim refunds from the ATO, which should reduce compliance costs and payment delays for foreign governments and their visiting forces.
- **KPMG in Canada** published a report that notes that Quebec will harmonize its tax rules with several measures included in the 2023 federal budget law and will make changes to the Quebec Sales Tax (QST) rebate mechanism for the Quebec government and its entities. To read KPMG's previous discussion of Canada's federal budget law, please click here.
- **KPMG in Chile** published a report discussing recent tax developments, including tax authority guidance on the issuance of a credit note for the return of advances in a services contract, obtaining tax benefits for the promotion of official sporting events of international relevance, the VAT treatment of subscription fees of foreign digital magazines, the repeal of fines for the delay in the Monthly VAT Declaration in areas affected by the meteorological phenomenon in June, and the withholding and payment of VAT by a professional society for services provided by foreign providers.
- **KPMG in Colombia** published a report discussing the launch of a consultation on a draft regulation regarding the new "significant economic presence" (SEP) rule enacted as part of the 2022 tax reform. The SEP introduces a new nexus criterion for tax liability in Colombia applicable to nonresident companies selling specific digital services to customers in Colombia. A nonresident that falls within the scope of the SEP may elect taxation under one of two mechanisms: (1) a 10 percent withholding on the total amount paid (i.e., gross income), or (2) a 3 percent tax on the gross income declared on a tax return. To read KPMG's previous discussion of Colombia's 2022 tax reform, please click here.
- **KPMG in the Dominican Republic** published a report discussing a law that grants the country's tax authority the power to change the terms of specific tax debts. Additionally, the draft law includes a new amnesty program for state entities and establishes payment facilities for tax debts.
- **KPMG in Germany** published a report discussing recent VAT developments, which include proposed measures to introduce mandatory e-invoicing and simplify the VAT compliance process for small businesses. The report also covers recent court rulings on topics such as interest waivers on arrears when transactions are allocated to incorrect periods, and the deduction of VAT by a managing holding company. Additionally, the report discusses tax authority guidance on the VAT treatment of "market fees" and "initial costs" in the fruit and vegetable sector.
- **KPMG in Hungary** published a report discussing tax law amendments passed by the Hungarian parliament on July 4, 2023. The VAT amendments include: (1) measures regulating the VAT aspects of the Deposit Refund System (DRS) for single-use and reusable drinks packaging; (2) clarification of the implications of withdrawal from a VAT group; (3) a new VAT refund procedure for non-established taxpayers; and (4) clarified rules for quarterly reporting obligations of payment service providers.

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- **KPMG in Luxembourg** published a report discussing the unanimous adoption by the country's parliament, in a first vote, of a bill to transpose into national law, the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. Following this adoption, Luxembourg enacted the bill into law on July 26, 2023.
- **KPMG in Malaysia** published a report discussing recent tax developments in the country, including (1) stamp duty remission for contract notes relating to sales of shares or stock traded on the Malaysian Stock Exchange; (2) expanding the scope of the service tax to cover specified sales of cigarettes and tobacco products; and (3) publishing the updated service tax guidelines for accommodation and food and beverage services.
- **KPMG in Malaysia** published a report discussing the publication of a guideline for implementing e-invoicing requirements in the country. Malaysia plans to implement e-invoicing requirements in phases for specified taxpayers, beginning on June 1, 2024, and continuing until a mandatory adoption by January 1, 2027. To read KPMG's previous discussion of Malaysia's proposed e-invoicing requirements, please click here.
- **KPMG in Mauritius** published a report noting that a bill implementing the tax measures in the Mauritius 2023-24 budget has been released for consultation. These measures include proposals to amend VAT refund procedures and reintroduce VAT refund limits for the construction of residential buildings, houses, or apartments. To read KPMG's previous discussion of the tax measures in the 2023-24 budget, please click here.
- **KPMG in North Macedonia** published a report discussing the resubmission of a draft tax. The updated bill omits an earlier proposal to extend the reduced VAT rate on household electricity, as well as explicit provisions to consider invoices in PDF or other electronic formats containing all the required elements required by law as e-invoices. Moreover, it includes new measures to discontinue the 5 percent reduced VAT rate on pellets, and pellet stoves and kettles and disallow VAT refunds on sales to diplomatic missions if the invoice does not exceed MKD 9,000. To read KPMG's previous discussion of these measures, please click here.
- **KPMG in the Philippines** published a report discussing a recent decision of the Philippines Supreme Court involving a taxpayer that filed the wrong form for their VAT declaration and corrected it more than a year later. This correction does not affect the prescriptive period for that particular quarter because it was not a significant change in taxable sales/receipts or recoverable VAT. The court further held that VAT does not apply to interest income on loans granted to affiliates because it was not clear if the loan transactions were part of the taxpayer's main line of business (i.e., providing management services to clients). For a transaction to be considered incidental to the main line of business, there must be a connection between the transaction and the primary purpose of the taxpayer's business.
- **KPMG in the Philippines** published a report discussing recent tax authority guidance on the requirements, policies, and procedures for processing VAT refund claims.
- **KPMG in Poland** published a report discussing a recent court decision on the constitutionality of the term "structure" for real estate tax purposes in Poland. The court held that the term was unconstitutional because the relevant tax legislation did not provide a stand-alone definition of a structure for tax purposes. Instead, it referred to building law provisions unrelated to taxation. This situation creates challenges for taxpayers when trying to figure out which law will influence the subject of taxation in their specific factual or legal circumstances. The court held it is not acceptable to rely on a non-tax act to regulate crucial aspects of the legal framework of taxation.

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- **KPMG in Poland** published a report discussing recent indirect tax developments in Poland, including the launch of a new mobile application in the first quarter of 2024 as part of the National e-Invoicing System (KSeF). This free tool will allow for real-time issuing and receiving of e-invoices and managing invoices from anywhere. The report also notes that the Polish Ministry of Finance is working on adjusting the e-Mikrofirma application to link it to KSeF accounts and enable issuing and receiving invoices. In addition, the Ministry also published two schemas for digital platform operators as part of the implementation of the DAC 7 reporting obligations and the schemas were open to comments through July 10, 2023.
- **KPMG in Poland** published a report discussing the enactment of a law that introduces the mandatory e-invoicing system, the *Krajowy System e-Faktur* - KSeF. For most taxpayers, the mandatory use of KSeF begins on July 1, 2024. However, small, and medium-sized VAT-exempt businesses must start using KSeF effective January 1, 2025. The law provides that cash register invoices and simplified invoices can be used until the end of 2024. Consumer invoices will not be included in the system, and certain types of tickets will also be excluded. The exchange rate used for foreign currencies will be maintained for an additional day before being sent to KSeF. And penalties will only be applicable starting from January 1, 2025.
- **KPMG in Poland** published a report discussing recent tax-related legislative developments, including a proposal to apply a 5 percent reduced VAT rate to children's clothing and shoes.
- **KPMG in Singapore** published a report discussing a recent decision of the Valuation Review Board (VRB) on determining the annual value of a convention center for property tax purposes using the "profits method." The annual rental value of a property is its estimated gross annual rent, largely based on estimated market rentals for similar or comparable properties, and not the actual rental income received. For specialized properties that are rarely rented, the rental value is linked to the returns that the owners may generate from those uses. In these cases, the profits method is used, which involves investigating the revenue and expenditure numbers of the business being conducted at the property to determine the amount of rent a hypothetical tenant would pay for using the property for business purposes.
- **KPMG in Slovakia** published a report discussing draft amendments to the Slovak VAT Act, which include (1) modifications in the VAT registration and deregistration of established as well as nonresident taxpayers, deadlines for filing VAT reports and issuing invoices, late VAT registration and related reporting; (2) introduction of a VAT self-assessment mechanism for importing goods; (3) revised sourcing rules for virtual events; and (4) an option to recover VAT on intra-EU purchases of goods based on documents that are not invoices.
- **KPMG in South Africa** published a report discussing a manual on the VAT considerations for the non-life insurance and reinsurance industry. The manual covers, broadly, various standard-rated, zero-rated, and nontaxable policies; and discusses how these would apply to inbound and outbound marine policies, insurance of fixed property located abroad, insurance services provided to nonresidents, insurance of employee-related risks, and documentary requirements for VAT recovery where applicable.
- **KPMG in Spain** published a report noting that Spanish companies have until September 30, 2023, to file a claim for the refund of VAT paid in other EU countries through the Spanish tax authority's website. For VAT paid in non-EU countries, companies must file claims directly with the tax authorities of each Member State according to applicable deadlines. EU companies not established in the Spanish VAT territory have until September 30, 2023, to file a claim for a refund of VAT paid in Spain during 2022 through the mechanism established by the tax authorities of the country in which they are established. This deadline also applies to the refund of the Canary Island General Indirect Tax (IGIC) paid in 2022. The Canary tax authorities provide a special procedure for such claims.

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- **KPMG in Tanzania** published a report discussing tax measures in the 2023 Finance Act, which includes measures to expand the scope of the digital services tax (DST) to align it with the VAT rules applicable to nonresident digital services providers, change the DST compliance deadline, and expand the scope of the VAT rules on nonresident digital services providers to include online intermediation and advertisement services.
- **KPMG in Vietnam** published a report discussing a draft decree submitted by the Vietnamese Ministry of Finance to the government on the reduction of the standard VAT rate from 10 percent to 8 percent, proposed to be effective from July 1, 2023.
- **KPMG in Vietnam** published a report discussing several directives from the Vietnamese General Department of Taxation (GDT) instructing the directors of the provincial tax departments to accelerate the VAT refund process and monitor the implementation of the VAT refund procedure.

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Global Rate Changes

- **Angola:**[i] On July 14, 2023, Angola announced plans to (1) reduce the VAT rate on essential food items from 14 percent to 7 percent; (2) exempt property transfers valued at less AOA 40 million from property tax; (3) grant a 50 percent exemption on property transfers valued between AOA 40 million and AOA 100 million; and (4) eliminate stamp duty on real estate development and registration of share capital for companies. The Angolan parliament approved these measures.
- **Anguilla:**[ii] On July 5, 2023, Anguilla announced a permanent GST exemption for gasoline, diesel, and liquefied petroleum gas (LPG), effective on publication in the national gazette.
- **Brazil:**[iii] On June 30, 2023, Brazil published Ordinance 612/2023 and Normative Instruction 2146/2023, which reduce the import tax rate to zero percent for goods worth up to USD50 that are included in postal or international air parcels sent to individuals. This benefit applies to goods purchased through e-commerce companies that participate in the "*Remessa Conforme*" compliance program, which requires companies to comply with tax and customs rules, have contracts with Brazilian post companies or couriers, show the breakdown of the price paid, and monitor vendors. The program is effective August 1, 2023..
- **Czech Republic:**[iv] On July 14, 2023, the lower house of the Czech parliament approved on first reading a proposal to merge the current VAT rates into two rates of 12 percent and 21 percent. To become effective, the bill must pass the second and third readings in the lower chamber, as well as be approved by the Senate, signed by the President, and published in the Official Gazette. To read KPMG's previous discussion of Czech's proposal to merge its VAT rates, please click here.
- **Fiji:**[v] Effective August 1, 2023, Fiji replaced the three VAT rate regime with a simplified two-rate system, including a standard VAT rate of 15 percent (increased from 9 percent) and a zero rate on twenty-two specified goods and services such as basic food items and prescribed medicine. To read KPMG's previous discussion of Fiji's 2023-24 budget, please click here.

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- **Greece:**[vi] On July 21, 2023, Greece announced that specified goods under the EU special regime of refinement for re-importation will be VAT exempt. The exemption will apply to the following goods if they are placed under the special regime of refinement for re-importation: articles of leather; saddlery and harnesses; travel goods, handbags, and similar containers; articles of animal gut (other than silkworm gut); articles of apparel and clothing accessories, knitted or crocheted; articles of apparel and clothing accessories, not knitted or crocheted, and other made-up textile articles; worn clothing and worn textile articles; rags, footwear, gaiters and the like; and parts of such articles.
- **Kenya:**[vii] On July 28, 2023, Kenya's court of appeal lifted a lower court's suspension of the implementation of the Finance Act 2023, enacted on July 3, 2023. The Act increases the VAT rate on petroleum products from 8 percent to 16 percent, introduces a VAT exemption for exported services, and introduces a new digital asset tax on income derived from the transfer or exchange of digital assets. The Act takes effect as provided in the statute. To read KPMG's previous discussion of Kenya's Finance Bill (now Act), please click here.
- **Moldova:**[viii] On June 21, 2023, Moldova approved a proposal to apply a VAT exemption, without the right of deduction, to construction and installation works for eligible power plants that produce energy from renewable sources.
- **Romania:**[ix] Effective July 14, 2023, Romania enacted a law providing a 5 percent reduced VAT rate for the delivery of sawdust, wood waste, and similar products to final consumers for heating. The law further clarifies the application of the 5 percent reduced VAT rate to high-efficiency low-emission heating systems and photovoltaic and solar thermal panels in line with certain emission requirements. Among other things, the law provides various definitions, requires consumers to submit proof of the intended purpose of the purchase to vendors, and clarifies that heating pumps are covered under the regime.
- **São Tomé and Príncipe:**[x] Effective June 1, 2023, Sao Tome introduced a VAT exemption for the production and marketing of agricultural, horticultural, fish, and livestock products sold on the domestic market.
- **Turkey:**[xi] Effective July 10, 2023, Turkey increased its standard VAT rate from 18 percent to 20 percent and the reduced VAT rate from 8 percent to 10 percent.

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Indirect Tax Developments and News from Around the World

The Americas

United States: Maryland State Supreme Court Opinion Dismissing Digital Advertising Tax Suit Released

On July 12, 2023, the Maryland Supreme Court issued an opinion setting forth its reasons for ordering a lower court to dismiss a lawsuit brought by two companies challenging the constitutionality of Maryland's digital advertising tax. The companies did not pay the digital advertising tax and then request a refund; neither were they assessed for failing to pay the

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tax. Rather, the companies filed a declaratory judgment action in circuit court seeking to invalidate the tax on various constitutional grounds and because it violated the Internet Tax Freedom Act. In May, the Maryland Supreme Court ruled that the Circuit Court for Anne Arundel County lacked jurisdiction over the lawsuit because the companies failed to exhaust their administrative remedies. At that time, the court stated that the reasons for this conclusion would be addressed in the just released opinion.

At the outset, the court noted that its resolution of the matter was not premised on any views of the merits of the challenges raised in the lawsuit. After reviewing the Maryland statutes setting forth the remedies for resolving a tax dispute, the court concluded that those remedies (refund claim or assessment) were the primary, if not the exclusive, mechanisms for resolving tax disputes. Two statutes solidified the court's opinion: (1) a statute generally prohibiting judicial remedies that would prevent the assessment or collection of taxes, and (2) a specific statutory prohibition against the use of a declaratory judgment action as an end-run around special statutory administrative remedies. In the court's view, these two provisions made clear the General Assembly's intent that the special statutory administrative remedies for resolution of tax disputes are exclusive. The court next addressed whether the constitutional exception to the administrative exhaustion requirement applied in the instant case. That exception generally "permits a judicial determination without administrative exhaustion when there is a direct attack upon the power or authority . . . of the legislative body to adopt the legislation from which relief is sought." Noting that the exception is "extremely narrow" and subject to many limitations, the court held that it was not applicable where, as here, the applicable special statutory administrative remedies are exclusive with respect to the companies' challenge to the digital advertising gross revenues tax. For more information, please click here.

Brazil: Tax Reform Approved by Lower House of Parliament

On July 6, 2023, the Brazilian Chamber of Deputies (lower house of parliament) approved a constitutional amendment bill with the basic text of a tax reform involving federal, state, and municipal indirect taxes. If the tax reform is enacted, Brazil will introduce a dual VAT regime including (1) a Tax on Goods and Services (*Imposto sobre Bens e Serviços*, "IBS"), that will replace the State Value Added Tax (ICMS) and the Municipal Tax on Services (ISS); and the Contribution on Goods and Services (*Contribuição sobre Bens e Serviços* "CBS"), that will be substituted for the Federal PIS/COFINS contributions as well as the federal excise tax on manufactured products ("IPI").

The proposed IBS and CBS regimes would be fully harmonized, operate at a standard rate – with differentiated rates for specific transactions levied on a destination basis, and be imposed on both goods and services, including transactions involving intangibles, rights, and imports. The regimes would allow taxpayers to obtain a wide range of credits on nearly all acquisitions of goods and services, except for those considered for personal use and consumption, to minimize pyramiding of the tax. While the federal Senate would determine the IBS and CBS tax rates, the regimes would include a reduced rate (60 percent lower than the standard) and a zero percent rate for specified services. Special regimes could be created for fuels, lubricants, cooperatives, health services, financial services, and real estate. The tax reform would further authorize the IBS and CBS to apply to sales of goods and services made by nonresident taxpayers, including those operating in the digital economy.

The tax reform would also create the Federal Selective Tax (*Imposto Seletivo*, "IS"), which would be a federal excise tax to be levied on goods and services that are considered harmful to public health and the environment. The IS would replace the federal value-added Tax (IPI). The IS rate would be defined by the Executive Branch, subject to the conditions and limits to be set forth in a specific law.

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If enacted, the reform will be phased-in over 7 years beginning in 2026 – with the Introduction of CBS at a rate of 0.9 percent, and IBS at a rate of 0.1 percent which will be increased gradually, and PIS/COFINS and IPI (except for products manufactured in the 'Manaus Free Trade Zone') will terminate in 2027. By 2029, the ICMS and ISS will be gradually reduced, the CBS and IBS rates will be gradually increased, and the IS will be introduced. Full implementation of the regime is set to happen in 2033. The CBS will be administered by the federal tax authority, while the IBS will be administered by the IBS Federative Council jointly managed by states and municipalities. To read a report prepared by the KPMG International member firm in Brazil, click here.

Source: Orbitax, Brazilian Chamber of Deputies Approves Major Indirect Tax Reform, July 13, 2023; Brazil - Tax Reform Proposes Creation of Dual VAT System, Special Regimes for Certain Sectors, (July 17, 2023), News IBFD.

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Europe, Middle East, Africa (EMA)

European Union: Roundup of Recent ECJ Decisions

On July 13, 2023, the Court of Justice of the European Union (ECJ) published its decision in *Harry Mensing*, Case C-180/22, in which it held that the VAT amount paid by a taxpayer engaged in reselling art whose subsequent sale is subject to the VAT margin program should be included in the taxable amount of that subsequent sale. To read KPMG's previous discussion regarding the nonbinding Opinion of the Advocate General (AG) in this case, please click here.

On July 13, 2023, the ECJ published its decision in *Gemeinde* A, Case C-344/22, in which it held that the provision of spa facilities by a municipality is not considered a provision of services for consideration within the meaning of the EU VAT directive, if the municipality imposes a spa tax on visitors staying in the municipality, regardless of whether they use the facilities, and the facilities are freely accessible to everyone.

On July 13, 2023, the ECJ published its decision in *Napfény-Toll*, Case C-615/21, in which it held an EU Member State may enact legislation or administrative practice that suspends the limitation period for the right of tax authorities to assess VAT for the entire duration of judicial review, even if the administrative tax procedure has had to be repeated multiple times following those reviews. There is also no limit on the cumulative duration of the suspensions of that period, even if the court finds that the tax authority failed to comply with the guidance contained in a previous court decision. To read KPMG's previous discussion regarding the nonbinding AG Opinion in this case, please click here.

On July 13, 2023, the ECJ published the nonbinding Opinion of its AG in *P*, Case C-288/22, in which the AG opined that a typological comparison should be made when determining if activities performed by a natural person, who is a member of a board of directors, qualifies as an independent economic activity to be subject to VAT, with the decisive factor being whether the person bears an economic risk personally and acts on their own economic initiative. In this respect, a natural person who receives remuneration for that activity as a member of a company's body cannot be regarded as carrying out an independent economic activity. If the ECJ follows the reasoning of its AG, this would constitute a reversal of its case

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law in which the ECJ held that independent board members constitute taxpayers for VAT purposes.

On July 24, 2023, the ECJ published its decision in *Lin*, Case C-107/23, in which it held that the courts of an EU Member State are not required to fail to apply judgments of a national constitutional court annulling legislation governing the limitation period in criminal matters, even if it results in the closure of criminal cases affecting the financial interests of the European Union due to the limitation of criminal liability. However, the courts must not apply a national rule of protection relating to the retroactive application of more favorable criminal law in such cases. In addition, EU law prohibits national legislation or practice that binds the national courts of general jurisdiction to decisions of a national constitutional court or supreme court of an EU Member State, even if they are contrary to provisions of EU law that have a direct effect. The national courts must be able to not apply such case-law on their own motion without fear of disciplinary action.

Source: European Union; Germany - ECJ Decides on Whether VAT Paid on Intra-Community Acquisition Should Be Included in Taxable Amount Under VAT Margin Scheme: *Mensing II* (Case C-180/22) (VAT), (July 13, 2023), News IBFD; European Union; Germany - ECJ Decides on Whether Municipality Providing Spa Facilities in Return For Spa Tax is Carrying On Economic Activity: *Gemeinde A* (Case C-344/22) (VAT), (July 13, 2023), News IBFD; European Union; Hungary - ECJ Decides on Implications for Right to Deduct VAT Due to Unjustified Extension of Tax Procedure: *Napfény-Toll* (Case C-615/21) (VAT), (July 13, 2023), News IBFD; European Union; Luxembourg - ECJ Advocate General Opines on Qualification of Activity Performed by a Member of Board of Directors as Independent Economic Activity: *Administration de l'Enregistrement, des Domaines et de la TVA* (Case C-288/22) (VAT), (July 13, 2023), News IBFD; European Union; Romania - ECJ Decides on Application of More Tolerant Criminal Law to VAT Evasion: *Lin* (Case C-107/23 PPU) (VAT), (July 24, 2023), News IBFD.

European Union: Overview of Recent Indirect Tax Developments

On June 30, 2023, the European Commission published a report indicating that a total amount of EUR 20 billion had been collected in 2022 under the EU VAT e-commerce rules introduced on July 1, 2021. This figure represents a 26 percent increase from 2021. Of the total amount collected, more than EUR 17 billion were obtained via the expanded One-Stop Shop (OSS) portal, which covers online sales within the EU; EUR 2.5 billion were collected on imports of e-commerce goods; and the remaining revenue came from abolishing the VAT exemption previously applied to imports of low-value goods not exceeding EUR 22.

On July 3, 2023, the European Commission published its Annual Report on Taxation 2023, which analyses the design and performance of EU Member State tax systems. The report highlights the stabilization of VAT standard rates, opportunities to reduce compliance costs and fight evasion through digitalization, and the negative effects of differing national digital reporting requirements. The European Commission proposes addressing these issues with initiatives like ViDA (VAT in the Digital Age). The report emphasizes the importance of administrative cooperation in the field of VAT and plans to evaluate the current VAT administrative cooperation in 2023. Additionally, it explores the role of environmental and health taxation in achieving behavioral goals and the need for compensatory measures for lower-income households affected by environmental taxes.

On July 6, 2023, the European Commission initiated a consultation to assess the impact of legislative amendments on administrative

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cooperation and fraud prevention in the VAT in the Digital Age (ViDA) initiative. The consultation aims to analyze the costs and benefits for public authorities and involves both public and targeted stakeholder consultations. Key stakeholders are EU Member States (tax and customs authorities), the EUROFISC tax authorities' network, and EU bodies and institutions, such as the European Union Agency for Law Enforcement Cooperation (Europol), the European Anti-Fraud Office (OLAF), and the European Public Prosecutor's Office (EPPO). The European Commission is considering policy options to reduce VAT revenue losses due to fraud and other factors, such as enhancing cooperation between various agencies, introducing quick-reaction systems, and improving VAT collection and refund processes. These proposals will complement the "VAT in the digital age" proposal, aimed at modernizing VAT reporting obligations. To read KPMG's previous discussion of the ViDA initiative, please click here.

On July 12, 2023, the VAT Committee of the European Commission published the minutes of its 122nd meeting, which was held on March 23, 2023. The minutes include updates on various proposals, including the assessment report on the VAT treatment of vouchers, the transformation of the VAT and/or excise duty exemption certificate into an electronic form, implementation of new measures for small and medium enterprises (SMEs), simplification of VAT rules for the travel and tourism sectors, listing VAT-exempt gold coins, and the impact of the VAT e-commerce package. The minutes also note that explanatory notes and guidelines will be published for the new measures for SMEs and that a legislative initiative for the simplification of VAT rules for the travel and tourism sectors is still on the agenda for next year. Moreover, the minutes note that the latest developments on the ViDA proposals were presented, stating that negotiations in the Council of the European Union were ongoing. The minutes further summarize the conclusions and results of questions concerning the application of EU VAT provisions, including NFTs, transfer of knowledge services, goods exported in the personal luggage of non-EU travelers, and city cards. Finally, regarding customs, the VAT Committee presented a working paper on the state of play of the Centralized Clearance for Import (CCI) electronic system and an update on the application of deferred payment and postponed accounting for the payment of import VAT by EU Member States.

On July 14, 2023, the European Commission sent a reasoned opinion to Belgium, Greece, Spain, Cyprus, Poland, and Portugal, for failing to communicate the national measures implementing the EU DAC7 requirements into national law by the deadline of December 31, 2022. On the same day, the European Commission decided to close the infringement procedure on the same matter against Slovenia. Under DAC7, digital platform operators will be required to report income earned by sellers on sales of goods, accommodation, personal, and transportation services on their platforms. EU Member States will be required to automatically exchange this information. The rules cover digital platforms located both inside and outside the EU and apply from January 1, 2023. If the Member States do not reply to the arguments put forward within 2 months, the European Commission may decide to refer the case to the ECJ.

Source: European Union - European Commission Reports EUR 20 Billion Revenue Due to Implementation of VAT E-Commerce Rules, (July 3, 2023), News IBFD; European Union - European Commission Launches Call for Evidence on VAT Administrative Cooperation and Fight Against Fraud, (July 7, 2023), News IBFD; CCH, Global VAT News & Features, EU Consults On Proposed Joint Action Against VAT Fraud,(Jul. 10, 2023); European Union - European Commission's Annual Report on Taxation 2023 Analyses Developments in VAT, Environmental and Health Taxes, (July 4, 2023), News IBFD; European Union - European Commission VAT Committee Publishes Minutes of

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122nd Meeting, (July 11, 2023), News IBFD; European Union; Belgium; Greece; Spain; Cyprus; Poland; Portugal; Slovenia - European Commission Asks Six Member States to Complete Transposition of DAC7 into National Law, (July 14, 2023), News IBFD.

Nigeria: Overview of Recent Indirect Tax Developments

On July 2, 2023, the Nigerian federal tax authority, the Federal Inland Revenue Service (FIRS), introduced a VAT credit mechanism feature to its VAT compliance platform, the "TaxPro-Max." This mechanism requires vendors to remit VAT using a new sales schedule format which allows customers to claim the allowable VAT incurred on their purchases. FIRS also made modifications to the sales adjustment process, requiring taxpayers to provide item identification numbers for previous month(s) sales adjustments. Additionally, if a taxpayer needs to make a sales adjustment for the previous month, the platform will reverse the VAT credit granted in that month. Taxpayers claiming VAT for purchases should upload a schedule of purchases, a withheld VAT schedule, and a schedule of import purchases. TaxPro-Max is not able to verify, validate, and cross-check certain VAT claims online, so these refund claims will be manually traced using the data entered by the taxpayer when filing.

On July 13, 2023, FIRS announced that it has partnered with the Market Traders Association of Nigeria (MATAN) on a collaboration dubbed "VAT direct initiative (VDI)." The collaboration aims to collect and remit VAT from the informal sector of the Nigerian economy using a unified systems technology. It further aims to simplify VAT payment and remittance for the marketplace and informal sectors, monitor and evaluate VAT administration for transparency and accountability, promote awareness on VAT collection and remittance obligations, and eliminate multiple taxation in the marketplace. The VDI utilizes a digital mechanism in which a digital platform is used to organize members' digital identification cards and track the VAT to be collected and remitted to FIRS.

Source: Nigeria - Nigeria Issues Clarification on Input VAT Filing Using TaxPro Max, (July 6, 2023), News IBFD; Nigeria - Nigeria Updates TaxPro-Max Platform for VAT Filing and Payment (July 6, 2023), News IBFD; Nigeria - Nigeria Deploys VAT Direct Initiative to Administer VAT in Informal Sector, (July 7, 2023), News IBFD.

Saudi Arabia: Overview of Recent Indirect Tax Developments

Saudi Arabia's Zakat, Tax and Customs Authority (ZATCA) issued a circular clarifying the VAT treatment of deemed sales. According to Saudi Arabian VAT law, a taxpayer's deemed sale of goods and services is considered a sale for consideration during their economic activity, unless the VAT regulations state otherwise. The circular details cases in the VAT regulations in which a sale of goods or services is considered a deemed taxable sale for VAT purposes. It also provides information on exemptions for deemed sales, valuation methods for deemed sales, and guidance on legal requirements such as issuing tax invoices for nominal sales and maintaining records for audit purposes.

The ZATCA recently extended the tax amnesty initiative that waives penalties on all delinquent and unpaid taxes, including income tax, withholding tax, VAT, excise tax, and real estate transaction tax, through December 31, 2023. To benefit from the amnesty, taxpayers are required to complete any necessary registrations, file any missing returns, declare all income, and settle any remaining tax amounts. Taxpayers unable to settle their tax debts may instead set up an installment plan. The amnesty does not cover fines for tax evasion, fines that were before the beginning of the initiative (June 1, 2022), and tax debts settled after the close of the amnesty. For more information, click here. To read KPMG's

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previous discussion of Saudi Arabia's tax amnesty initiative, please click here.

On June 2, 2023, the ZATCA published guidelines for submitting tax ruling requests. The guidelines provide information on cases and examples in which a tax ruling request may be made, as well as cases in which tax ruling requests are prohibited. Issuing a ruling is discretionary, and ZATCA will review requests considering factors such as complexity, importance, information provided, benefits, and resource availability. Rulings are not meant for commercial disputes or restricted issues, such as disputed tax amounts or interpretations of foreign or non-tax laws. Moreover, ruling requests are prohibited if (1) they are unrelated to the applicant's activities, (2) the objective differs from the requested opinion, (3) the taxpayer is under audit for the same issues, (4) the matter is subject to legal dispute, or (5) ZATCA has addressed similar issues in previous requests by the same applicant. The guidelines further explain the persons entitled to submit tax ruling requests, the forms, and checklists to be used, and the procedures to be followed by ZATCA when receiving tax ruling requests. Registered applicants must submit ruling requests through the ZATCA's e-portal, and unregistered applicants may submit the request by email.

Source: Saudi Arabia; GCC - Zakat, Tax and Customs Authority Clarifies VAT treatment of Nominal Supplies, (July 12, 2023), News IBFD; Saudi Arabia; GCC - Zakat Tax and Customs Authority Issues Guidelines for Tax Ruling Applications, (July 24, 2023), News IBFD.

United Kingdom: Overview of Recent Indirect Tax Developments

Effective June 30, 2023, the UK government launched the Northern Ireland duty reimbursement program. The program allows traders moving goods into Northern Ireland to reclaim EU duty if they can demonstrate that the goods were sold or used in Northern Ireland or somewhere else outside the EU. The new program was agreed by the UK with the EU as part of amendments to the Brexit deal included in the Windsor Framework. Traders will be able to use the program for EU duty paid on "at risk" goods moved into Northern Ireland beginning from January 2021 by submitting a digital form along with accompanying documents and evidence through the government website. It will also be available for goods moved in the Red Lane (goods at risk of entering the EU market) from October 2024. To read KPMG's previous discussion of the Windsor Framework, please click here.

The UK government launched a consultation, "The Future of Customs Declarations," on potential simplifications to customs declarations. The consultation seeks input from stakeholders on measures to streamline the customs filing process and the use of technology to facilitate the completion of customs declarations and other processes. The consultation is open through September 8, 2023.

On July 5, 2023, the UK's First-Tier Tribunal (FTT) decided in *Sonder Europe Ltd.*, [2023] UKFTT 610 (TC) that a taxpayer providing accommodation services qualified for the Tour Operator Margin Scheme (TOMS) under UK VAT law. TOMS allows businesses that buy and resell travel, accommodation, and certain other services as part of a tour package as travel agents and tour operators to account for VAT on the margin they make on the tour package, rather than on the full value of each individual sale within the package. A UK taxpayer will qualify for TOMS only if it provides, for the benefit of travelers, services of any kind commonly provided by tour operators or travel agents acting as a principal and not an agent, the goods or services were acquired for the taxpayer's business and are acquired for the benefit of a traveler without material alteration or further processing. In the case, the taxpayer leased apartments from third-party landlords and sublet them to travelers. HMRC argued that the transactions did not fall within TOMS because they were sales made from the taxpayer's own

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resources or in the alternative that the onward supply was altered. The court disagreed, finding that the bought-in sales did not need to be identical to the sales provided by the tour operator to the traveler. The court also held that minor changes or processes that do not affect the fundamental character of the goods or services are not considered material alterations or further processing.

On July 19, 2023, the UK's parliament accepted for consideration a bill that enables the government to implement new reporting obligations for digital platforms based on the OECD Model Reporting Rules for Digital Platforms. Under the proposed regime, UK platform operators must collect, verify, and report details of sellers to HMRC, with a copy of this information provided to the sellers themselves. In addition, following the enactment of the Finance (No. 2) Act 2023, HMRC published updated guidance to provide that this reporting requirement has also been expanded to include sellers of goods through online platforms.

On July 24, 2023, the UK's Upper Tribunal ruled in *Hotel La Tour Ltd.,* [2023] UKUT 178 (TCC), that professional services used to facilitate the sale of shares for financing a construction project qualified for VAT recovery. In the case, the taxpayer, Hotel La Tour Ltd. (HLT), is an active holding company that owns various pieces of intellectual property, including the hotel trademark name of its subsidiary, Hotel La Tour Birmingham Ltd. (HLTB). HLT sold shares in its subsidiary HLTB to finance the construction of a new hotel. For this purpose, HLT purchased professional services to assist with the promotion and sale of the shares. When HLT filed its VAT return, requesting a refund of VAT paid for professional services, HMRC denied the request, arguing that the share sale was an exempt transaction which used the VAT on the fees and therefor there was no "direct and immediate" link between the VAT claimed and HLT's taxable activities. The Upper Tribunal, confirming a previous ruling of the FFT, found that there was a direct and immediate link between the commissioned professional services and HLT's downstream economic activity, allowing for a VAT refund. The Upper Tribunal also rejected HMRC's claim that a VAT refund is not allowed when the sales price does not reflect the cost of the professional services, stating that it would be unusual for such costs to be reflected in the price paid for shares in a standard share sale agreement. The use of services for a fundraising transaction that was either outside the scope of VAT or exempt from VAT did not prevent VAT recovery when the purpose of the fundraising was the pursuit of an economic activity, such as hotel construction in this case.

On July 25, 2023, the Upper Tribunal published its decision in *Caerdav Ltd.,* [2023] UKUT 179 (TCC), regarding whether a taxpayer importing an aircraft would qualify for the inward processing relief (IPR) customs procedure. IPR allows the temporary importation of non-EU goods into the EU for processing, repair, or modification without paying import duties and taxes, provided that the processed goods are re-exported outside the EU. Businesses must obtain authorization from their country's customs authorities to benefit from IPR. In the case, the taxpayer imported an aircraft from Bulgaria to the UK for service, repairs, and maintenance. The aircraft then left the UK for Ireland before going to its final destination in the US. The taxpayer had previously imported aircraft under an end-use authorization (EUA), another special procedure allowing the importation of goods at a reduced or zero rate of customs duty for specific, approved end uses (e.g., construction of ships, aircraft, or drilling platforms). However, the EUA had expired and was not renewed within the one-year lookback period. HMRC assessed outstanding customs and import VAT liabilities due to the importation, arguing that the taxpayer did not qualify for IPR because the aircraft was discharged from IPR when it flew over Serbian airspace on its way to Ireland. On

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arrival, it was no longer subject to EU customs control, and its arrival constituted a new import on which duty and VAT were due (but would not have been had a valid EUA been in existence). The taxpayer appealed to the First-tier Tribunal (FTT), claiming that the IPR applied to this transaction as an alternative to its expired EUA. The FTT ruled in favor of HMRC, stating that there was a direct export from Bulgaria to the US, and thus no entitlement to IPR. On further appeal, the Upper Tribunal agreed with the FTT and dismissed the taxpayer's appeal, concluding that the export was direct and not an indirect export via another EU Member State (Ireland).

Source: CCH, Global VAT News & Features, UK Launches Northern Ireland Duty Reimbursement Scheme,(Jul. 5, 2023); CCH, Global VAT News & Features, UK Seeking To Streamline Customs Declaration Process,(Jul. 6, 2023); Taxnotes, Sonder Eligible for Tour Operator VAT Scheme, U.K. Tribunal Says, July 18, 2023; CCH, Global VAT News & Features, UK Set To Expand Digital Platform Tax Requirements,(Jul. 21, 2023); United Kingdom Lower House Considers Statutory Instrument on Reporting Regulations for Digital Platforms, Bloomberg Law News, July 24, 2023; Taxnotes, U.K. Tribunal Attaches Import VAT and Customs Duty to Airplane, July 26, 2023; Taxnotes, U.K. Tribunal Allows Input VAT Refund for Professional Fees, July 25, 2023.

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Asia Pacific (ASPAC)

India: Proposed and Adopted GST Amendments

On July 11, 2023, the Indian GST Council in its 50th meeting, made certain recommendations relating to changes in GST tax rates and measures for facilitation of trade and streamlining compliance. The recommendations include requiring nonresident providers of digital services to provide the details of sales made to registered persons in their monthly GST returns, removing the requirement to include the full name and address of a recipient of services on the tax invoice for sales made to consumers, clarifying application of the Tax Collection at Source (TCS) regime when multiple electronic commerce operators (ECOs) are involved in a single transaction of sale goods and services or both, and amending the GST law to impose GST on online gaming and horse racing. These recommendations have subsequently been implemented by the government and are effective October 1, 2023. The Council further recommended introducing a 5 percent reduced VAT rate for specified products such as uncooked/unfried snack pellets, yarn, and fish soluble paste, exempting specific medicines imported for personal use or for rare diseases, extending the GST exemption on satellite launch services provided by the Indian Space Research Organization (ISRO), Antrix Corporation Limited and New Space India Limited (NSIL) to include services provided by organizations in the private sector to encourage start-ups. In addition, the Council recommended that online gaming and horse racing should be included in Schedule III as taxable actionable claims and will be taxed at the uniform rate of 28 percent. GST should be imposed on the face value of chips purchased in casinos, on the full value of bets placed with bookmakers/totalizators in the case of horse racing, and on the full value of bets placed via online gaming.

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Moreover, the Council recommended removing the requirement that goods transportation agencies that pay GST under forward charge submit an annual declaration. The Council further proposed including sales values of goods from duty-free shops at arrival terminals in international airports as part of the exempt sales value for GST credit reversal purposes. Other recommendations include requiring e-way bill generation for intra-state movement of gold and precious stones, easing administrative requirements for e-commerce operators, and exempting small taxpayers from the GST annual return filing requirement. Furthermore, the Council advised amending the GST registration procedures to allow for the possibility that physical verification of business premises in the applicant's presence may not be necessary, except in high-risk cases, and suspending GST registration and restricting the filing of GST returns if valid bank account details are not provided.

On July 31, 2023, India released a notification that implements changes to the GST rules for online information database access and retrieval (OIDAR) in the Finance Act 2023, which will be effective from October 1, 2023. Currently, non-resident providers of OIDAR services to non-taxable online recipients in India are required to register for, collect, and remit GST. OIDAR services are defined as services that are delivered through information technology over the internet or an electronic network, and their sale is essentially automated and involves minimal human intervention, which is impossible to ensure without information technology. The Finance Act 2023 removes the terms "minimal human intervention" and "essentially automated" from the definition of OIDAR services. It also amends the definition of "non-taxable online recipient" to include a person who receives OIDAR services and is registered for GST solely to claim the "tax deduction at source" (TDS) deduction. Additionally, it introduces penalties on marketplaces that facilitate the sale of goods/services of vendors in India that are not GST-registered if they are required to do so. To read KPMG's previous discussion of these measures in the Finance Act 2023, please click here. For more information, click here.

Source: India - GST Council Recommendations Include Setting 28% GST on Online Gaming, Exemption for Start-ups in Space Sector, (July 17, 2023), News IBFD.

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Trade & Customs (T&C)

Canada: Updated List of Imported Goods Targeted for Potential Audits

In July 2023, the Canada Border Services Agency (CBSA) released an updated list of 15 imported goods that will be targeted for potential audits. The updated list of audit priorities includes freezers and other freezing equipment, as well as washers and dryers. The CBSA updates its list of verification priorities every six months, dividing it into three categories based on specific error types: tariff classification, valuation, and origin. These categories address goods with potentially incorrect tariff classifications, improper valuations, and incorrectly determined origins, often related to tariff treatment under trade agreements. Although the CBSA has removed certain imported goods from its priority list, (gloves, bags, batteries, air heaters, and hot air distributors among other items), these imports continue to be subject to regular verification processes. For more information, click here.

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Korea: Amendments to "Method 4" for Determining Customs Value

The Korea Customs Service recently updated the "Notice of Customs Valuation Operation" to enhance the process for calculating the "comparable ratio" when determining the customs value using "Method 4" under the Korean Customs Act, as well as outlining specific cases in which "Method 4" cannot be applied. When applying "Method 4," the Korea Customs Service establishes the customs value of imported goods by calculating the "comparable ratio" corresponding to the profit or general expenses of a comparable company and then deducting it from the price at which the goods are resold in Korea after importation.

In several instances in which the Korea Customs Service applied "Method 4," importers filed appeals, arguing that the comparable chosen for determining the "comparable ratio" were significantly dissimilar to the imported goods. The courts have generally sided with the importers, citing errors in the process of calculating the comparable ratio. To address these issues, the amendments clarify that if the importer is unable to calculate the ratio of the importer's profit and general expenses ("importer's ratio"), "Method 4" may not be applied by using a "comparable ratio" calculated by the Korea Customs Service. Moreover, the amendments introduce improvements to the calculation procedure, including establishing criteria for determining product groups, removing limits on the number of comparable companies, ensuring that comparable companies have similar import amounts, providing a formula for calculating the "importer's ratio," and streamlining the process for selecting comparable companies based on the fiscal year of importation. For more information, click here.

Nigeria: Customs and Excise Law Reform

Effective April 30, 2021, Nigeria implemented a new customs law, the Customs Service Act, to empower the Nigeria Customs Service (NCS) in revenue generation and collection, smuggling prevention, collaboration with other agencies, and facilitation of international trade. Among other provisions, the Act establishes a governing board and management committee for the NCS. The governing board is responsible for policy formulation, strategic planning, and collaboration with other agencies. Meanwhile, the management committee supervises NCS operations, offers technical and professional opinions to the governing board, reviews customs and excise policies related to revenue generation, and enforces disciplinary regulations for officer misconduct.

The Act requires the NCS to publish the tariff regime, duty, and excise computations, and it includes provisions that will allow importers to apply for advance rulings on customs-related matters. Additionally, the Act sets forth rules of origin for preferential and non-preferential rules, considering goods wholly obtained in a single country as having their origin there, and goods produced in multiple countries as having their origin in the country of their last substantial transformation. A substantial transformation occurs when a good becomes a new and different product due to manufacturing operations. Lastly, the Act clarifies the documentation requirements for the admission of goods into Special Economic Zones (SEZs) and outlines procedures for admitting goods from the SEZs into customs territory. For more information, please click here.

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In Brief

- **Angola:**[xii] On June 29, 2023, Angola removed the expiration date for the VAT self-invoicing regime, which was initially introduced on August 16, 2020, and set to expire on December 31, 2022. This regime applies to entities in specified sectors that are not under the simplified tax regime in cases of transfers of goods or the provision of services carried out by natural persons without the capacity to issue invoices or equivalent documents and to the transfer of movable property subject to registration by natural persons for personal use for more than 6 months. Transactions occurring between the expiration and the permanent extension will be treated as being covered by the self-invoicing regime.
- **Argentina:**[xiii] Effective July 21, 2023, Argentina announced that certain small businesses may apply for a withholding VAT exemption certificate. The certificate exempts eligible small businesses from the requirement to withhold VAT on certain sales and from having VAT withheld on purchases from other taxpayers under the '*percepción'* regime introduced in April 2023. To qualify, businesses must: (1) have the number "272" in the Argentinean Registry System, (2) have no tax or social security debts, and (3) be assigned a category "A" tax risk rating in the Argentinean Risk Profile System (SIPER) system. Simplified requirements apply for small businesses requesting the certificate. To read KPMG's previous discussion of Argentina's *percepción* regime, please click here.
- **Australia:**[xiv] Effective July 1, 2023, Australia increased its penalty unit amount from AUD 275 to AUD 313. The penalty unit is the basis for computing various tax penalties including failure to file.
- **Austria:**[xv] On July 21, 2023, Austria transposed into Austrian Law, the EU Directive requiring payment service providers to report on cross-border payments and their recipients, effective January 1, 2024.
- **Austria:**[xvi] On July 25, 2023, the Austrian Ministry of Finance published Federal Finance Court Decision No. GZ. RV/7104948/2019, clarifying that in a chain transaction, the triangular simplification applies only if the recipient's VAT number is on the invoice. If the recipient's VAT number is invalid, the transaction fails to meet a material requirement. The EU triangular simplification is an VAT mechanism applicable to drop shipments within the EU involving three taxpayers in three different EU Member States. It simplifies the VAT obligations for the middle party (intermediary) in the supply chain as, if the conditions for the simplification are met, the intermediary does not need to register for VAT in the destination country, and the VAT liability is shifted to the final customer (the recipient) using the VAT self-assessment mechanism.
- **Bahamas:**[xvii] On July 17, 2023, the Bahamian tax authority issued a guidance clarifying the VAT treatment of real property sales. Among other things, the guidance defines key terms, such as "transfer of real property," and "change in beneficial ownership." It further clarifies when VAT is owed, VAT recovery procedures, real property value determination, and VAT treatment of transfers of interests in real property holding entities, transfers of time-share interests, dividends-in-specie, and transfers between related companies. The guidance applies retroactively from July 1, 2022.
- **Bahamas:**[xviii] The Bahamas published a bill proposing changes to the Business License Tax regime, as presented in the country's 2023/24 budget. Among other things, the changes include a new rate schedule and an expanded scope of taxable gross receipts, notably covering the gross receipts of International Business Companies (IBCs) earned outside the Bahamas. If enacted, the bill will be effective for the Business License Tax assessment year beginning January 1, 2024.

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- **Bahamas:**[xix] Effective July 1, 2023, the Bahamas enacted its VAT Amendment Act, 2023, which includes measures requiring homeowners providing vacation home rentals and associated services, to pay and account for VAT. It also provides that the transfer of real property to a Bahamian company is subject to VAT at a rate of 2.5 percent on the value that does not exceed BSD100,000 ($100,000), with the excess taxed at 10 percent. To read KPMG's previous discussion of this bill, now law, please click here.
- **Bosnia and Herzegovina:**[xx] On July 24, 2023, the Bosnia and Herzegovina parliament adopted amendments increasing the VAT registration threshold from BAM 50,000 ($25,565) to BAM 100,000 ($55,196) and shifting the return filing deadline from the tenth day of the month to the last day of the month following the tax period.
- **Bulgaria:**[xxi] On June 27, 2023, the Bulgarian Ministry of Finance launched a consultation on proposed changes to the VAT law. The proposed changes would allow restaurant customers to pay their bill if a restaurant or catering service provider fails to issue a fiscal receipt when required. The proposal would further require VAT returns to include the total amount of available cash as of the last day of the reporting period (calendar month), and the total amount of outstanding receivables from owners and personnel exceeding BGN 10,000.
- **Bulgaria:**[xxi] On July 20, 2023, Bulgaria began consultation on draft guidance on the preparation of reports by platform operators under the DAC7 requirements. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information.
- **Burkina Faso:** [xxiii] On June 30, 2023, Burkina Faso introduced a "special contribution" tax on the consumption of specific goods and services. The tax applies to items such as cigars, locally produced and imported alcohol, imported vehicles, and mobile prepaid services. The tax is calculated based on the value determined by the nature of the taxable goods and services (e.g., customs value, selling price, quantity, or weight) and is payable by producers, importers, phone, and television companies, as well as land transferors.
- **Chile:**[xxiv] On July 5, 2023, the Chilean tax authority clarified that the export of electrical energy under a contract is equivalent to a sale of movable tangible assets, and not to the provision of services. As such, it may not be subject to VAT in Chile. However, the import of electrical energy into Chile under the same contract would be subject to VAT in Chile.
- **Denmark:**[xxv] On June 4, 2023, the Danish Tax Council published Case No. 22-0996027, clarifying the criteria necessary to exempt the management of special investment funds from VAT. Generally, the management of investment funds is exempt from VAT when the purchasing entity is a 'special investment fund' for VAT purposes and is purchasing management services. To qualify for the exemption, (1) the fund must make collective investments, (2) the fund must invest based on the principle of risk-spreading, (3) the investment risk must be borne by the investors and the return must depend on the performance of the investments, (4) the fund must be subject to special state supervision, and (5) the fund must be subject to the same conditions of competition and appeal to the same circle of investors as the Undertakings for the Collective Investment in Transferable Securities (UCITS) fund. In the case, the taxpayer is a company that invests in train tracks through a series of subsidiary investments in which it combines its investments with external investors on the subsidiary level. It is owned by another company that is classified as special investment fund. Both companies are owned predominantly by pension funds. The company petitioned the Danish tax agency to be granted special investment fund

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status, and thus that any management services would be entitled to VAT exemption. The company claimed that it should qualify as an investment institution because it meets the five requirements. However, the Tax Council observed that as a deviation from the general VAT principles, the VAT exemption for management of investment funds must be narrowly interpreted. Here, the company's management services failed to meet the principle of risk due to its single-asset investment in train services due to the nature of the assets (i.e., investing in the portfolio of trains did not entail risk-spreading).

- **Denmark:**[xxvi] On July 7, 2023, the Danish Customs and Tax Administration clarified that the issuance of financing contracts for real estate development projects is outside the scope of VAT, however, returns from that activity are within scope of VAT. In addition, although the returns are within the scope of VAT, a VAT exemption applies to interest income resulting from granting credit to entrepreneurs.
- **Denmark:**[xxvii] On July 7, 2023, the Danish Customs and Tax Administration clarified that the sale and rental of crypto-art images as NFTs on digital platforms in exchange for digital currency is exempt from VAT as an artistic activity.
- **France:** On July 28, 2023, the French Ministry of Finance announced it was delaying the implementation of electronic invoicing and reporting mandates (originally set to begin in July 2024). The previously issued phase-in timeline has been canceled. To read KPMG's previous discussion of France's e-invoicing requirements, please click here.
- **Germany:**[xxviii] On July 25, 2023, the Council of the European Union authorized Germany to implement mandatory e-invoicing for all transactions between taxpayers established in Germany, starting from January 1, 2025. The measure will be in effect until either (i) December 31, 2027, or (ii) the date when Member States implement the VAT in the Digital Age (ViDA) EU proposal, whichever occurs first. (To read KPMG's previous discussion of the ViDA initiative, please click here.)
- **Greece:**[xxix] On July 25, 2023, Greece announced the pilot operation for the Central Electronic System of Payments Information (CESOP) under the EU Directive requiring payment service providers to report on cross-border payments and their recipients effective January 1, 2024. The system facilitates the creation and submission of data for cross-border payments.
- **Greece:**[xxx] On July 25, 2023, the Greek Ministry of Finance presented to the Greek Council of Ministers a legislative proposal that transposes the EU DAC7 reporting requirements. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information.
- **India:**[xxxi] On July 7, 2023, India included its GST regime under the scope of its anti-money laundering law. This allows enforcement agencies to share data with one another as a measure to curb tax fraud.
- **Ireland:**[xxxii] On July 5, 2023, the Irish Revenue published a guidance on the implementation of the EU DAC7 requirements. Among other things, it notes that covered digital platforms must file for registration and declaration of information electronically, via the tax authority portal. The DAC7 registration portal will open on October 1, 2023. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information.

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- **Isle of Man:**[xxxiii] Effective July 11, 2023, the Isle of Man increased its interest rates for late payment and repayment of VAT and other indirect taxes from 6.75 percent to 7.5 percent, and from 3.50 percent to 4 percent, respectively.
- **Italy:**[xxxiv] On July 7, 2023, the Italian tax authority (ITA) clarified that medical and dental care services that are subject to the supervision of the Italian Ministry of Health and provided on the basis of medical prescriptions are exempt from VAT. However, other medical services provided to persons hospitalized in qualifying health institutions, as well as accommodation services provided to hospitalized persons and their companions, are subject to a 10 percent reduced VAT rate.
- **Italy:**[xxxv] On July 25, 2023, the Council of the European Union authorized Italy to continue applying a special measure under which the VAT due on sales of goods and services to public bodies must be paid by the recipient into a separate and blocked bank account of the Italian tax authority. It also limited the scope of the special measure to sales to public authorities and sales to certain companies controlled by public authorities. The authorization continues through June 30, 2026.
- **Latvia:**[xxxvi] On July 12, 2023, the Latvian tax authority published a guidance on the implementation of the EU DAC7 requirements. The guidance states that the first report for 2023 is due by January 31, 2024 and outlines the reporting procedure. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information.
- **Mexico:**[xxxvii] On July 14, 2023, Mexico published an updated list of non-resident digital services providers that are compliant with their registration requirements. As of June 30, 2023, 186 entities are registered.
- **Norway:**[xxxviii] On June 29, 2023, the Norwegian Tax Administration published Tax Appeals Board Decision No. SKNS1-2023-30, in which the Board observed that it strongly doubts whether participating in a pool for mining digital currency qualifies as a taxable activity, but in an in any case it would be a VAT exempt financial services activity.
- **Oman:**[xxxix] The Oman tax authority recently published a VAT guidance on "the Profit Margin Mechanism." The Profit Margin Mechanism is a method for calculating the tax applied to the sale of used goods by traders, such as car or antique dealers. This method allows the seller to pay VAT on their profit margin instead of the full amount received to eliminate the double taxation of the used goods. Under Oman's VAT legislation, this mechanism is available to all taxpayers who meet specific conditions outlined in the VAT Executive Regulations, including obtaining approval from the tax authority, based on the seller's activity, the type of goods sold, the person selling the goods, and strict invoicing and record-keeping requirements.
- **Portugal:**[xl] On July 26, 2023, Portugal enacted a law transposing the EU DAC7 requirements into national law. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information. The first DAC7 reports must be submitted by January 31, 2024.
- **Romania:**[xli] On July 25, 2023, the Council of the European Union authorized Romania to extend the requirement to issue e-invoices for transactions between taxpayers established in Romania from January 1, 2024, until December 31, 2026, or the date when Member States implement the VAT in the Digital Age (ViDA) EU proposal, whichever comes first. (To read KPMG's previous discussion of the ViDA initiative, please click here.)

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- **Romania:**[xlii] On July 25, 2023, Romania launched a 10-day public consultation on a draft guidance for implementation of the EU DAC7 requirements. Under DAC7, digital platform operators located both inside and outside the EU are required to report income earned by sellers on sales of goods, accommodation, personal services, and transportation services on their platforms. EU Member States are required to automatically exchange this information. The first DAC7 reports must be submitted by January 31, 2024.
- **Sierra Leone:**[xliii] On March 28, 2023, Sierra Leone published its Finance Act 2023, which, among other things, introduces a 2 percent tourism levy on the provision of accommodation services and related services provided by "tourism establishments." The Finance Act 2023 further clarifies the meaning of the term "digital marketplace supply of digital services through a marketplace" for the purposes of applying GST on digital services provided by nonresidents.
- **Spain:**[xliv] Spain's National Commission for Markets and Competition intends to challenge Barcelona's new delivery tax on e-commerce companies in court, arguing it distorts competition by applying only to online purchases. The tax, introduced by Barcelona's city council, imposes a 1.25 percent tax on income from goods delivered within the city by postal companies on behalf of e-commerce companies with over EUR 1 million in annual revenue. The regulator previously requested the city council to remove certain components of the tax that could distort the market. To read KPMG's previous discussion of Barcelona's e-commerce tax, please click here.
- **Trinidad and Tobago:**[xlv] Trinidad and Tobago recently extended an ongoing tax amnesty program for missing returns and tax arrears until August 31, 2023. The program, launched in November 2022, covers taxes and returns due during the calendar year 2021 and earlier years, and it provides for a waiver of penalties and interest providing any tax due is paid and any returns outstanding are filed during the term of the amnesty. To read KPMG's previous discussion of Trinidad and Tobago's tax amnesty program, please click here.
- **Uganda:**[xlvi] On July 12, 2023, Uganda's parliament approved amendments to its VAT law, including measures amending the definition of digital services to include advertising platforms; streaming platforms and subscription-based services; cab-hailing services; cloud storage; data warehousing; and any other service as the Minister may by statutory instrument determine. The parliament also approved a new 5 percent Digital Services Tax (DST) on nonresident providers of digital services.

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