wts global

WTS Value Added Tax Newsletter

Editorial

Dear Reader,

With the first edition of the WTS Global VAT Newsletter in 2020 we want to share with you insights on the latest developments in terms of VAT and GST across the globe.

Since today the economic and social impacts of the **corona virus disease** (COVID-19) all over the world are the most important news, WTS Global created an overview of the measures taken by various countries to respond to the tax aspects of this crisis: https://wts.com/global/insights/covid19

Apart from this, in Europe the EU-Member States generally focused on the implementation of the so-called Quick Fixes but also considered further areas to secure the collection of VAT:

France sharpened its already existing regulations for online marketplaces and introduced a joint liability for platform operators concerning VAT areas of suppliers using the platform as well as a "name and shame" sanction mechanism on the Internet.

The already existing online invoice reporting process in **Hungary** will receive an extension of its scope. By 1 July 2020, the current threshold of invoiced VAT (HUF 100,000) will be abolished.

Romania abandons the idea of tackling VAT fraud by means of split payments, whereas **Poland** has just introduced a split payment process for certain goods and services (see GVN Q3 2019). In addition, Poland launched a new "White List" approach to prevent customer payments from being routed to unregistered bank accounts. Furthermore, there is to be considered the forthcoming important modification of the SAF-T data reporting to the Polish fiscal authorities.

And also outside of Europe, VAT (or GST) is of course in the focus of legislation and tax authorities:

Angola has now completed its first months under Value Added Tax provisions, and is already recasting its regulations to cover specific economic needs in the province Cabinda and with regard to the oil exploration sector.

Azerbaijan streamlined the administrative burdens for business by abolishing the previously required electronic tax invoicing just for VAT purposes, so that the currently available electronic invoicing will be used for both billing (tax invoicing) and VAT purposes. Moreover, the accrual method has been generally replaced with the cash method for the purposes of the calculation and payment of VAT.

Nigeria has seen a general reshaping of the VAT landscape, implementing, amongst others, changes for VAT compliance, thresholds for VAT returns and effects of VAT non-remittance.

With the **Kingdom of Saudi Arabia, Oman, Qatar and Kuwait,** we report on four Member States of the Gulf Cooperation Council dealing with indirect taxes. The Kingdom of Saudi Arabia already implemented VAT in 2018, whereas Oman, Qatar and Kuwait have not yet completed this process, but rather have already achieved more progress in the adoption of excise tax based on the GCC's Common Excise Tax Agreement of 2016.

Singapore aims to tackle the distortion of competition by introducing a reverse charge mechanism for imported B2B services as well as an overseas vendor registration regime for B2C supplies of imported digital services. Special regulations for digital payment tokens have been implemented in order to cope with digitalisation.

Electronic services continuing to increase their relevance and market-share has led to **Turkey** implementing a Digital Service Tax as of 1 March 2020, e.g. on the sale of audio, visual or digital content as well as advertising services that are performed in the digital environment.

Ukraine is considering extending its VAT rules to B2C cross-border sales of digital services, making them subject to 20% Ukrainian VAT by 1 January 2021.

Our experts will be happy to answer any questions you may have.

Yours sincerely,

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Please find the complete list of all contacts at the end of the newsletter.

France

I. EU Member-States

New tax obligations for online marketplaces

Obligations of online marketplaces have been increased recently in France, with the aim of improving VAT collection and the new DST (digital service tax) collection.

New obligations have been introduced in addition to already existing rules, e.g. reporting to tax authorities and to the authorities collecting social security contributions or information obligations vis-à-vis users regarding their social and tax obligations in France.

Annual summary information for the users to be sent by online marketplaces

This declaration had to be submitted for the first time in January 2020 on income generated in 2019.

Each year, platforms must send to their users, before 31 January, a document that summarises the gross amount of transactions of which they have been informed and which they have received through them during the previous year. This document must contain information related to the platform identity, user identity, number and amount of transactions carried out through the platform, etc.

Penalties for non-compliance with the above obligations to provide tax and social information to the users may be up to EUR 50,000. The fine for the first non-compliance is limited to EUR 5,000.

Annual summary document for French tax authorities (FTA)

Online marketplaces must send to the FTA an annual document that summarises all the information provided by their users. This return had to be submitted for the first time in January 2020 on income generated in 2019. The FTA automatically forwards this report to the social security authorities.

This report must contain the same information as the one sent to the users. In principle, it has to be submitted in January N on income generated in N-1.

A sanction mechanism is applied for non-compliance, i.e. a fine of 5% of undeclared amounts for late or incomplete submission.

There is also a "name and shame" sanction by publishing on the Internet the identity of online marketplaces repeatedly not complying with French obligations, which remains online for 1 year respectively and will be withdrawn as soon as the marketplace has paid the outstanding taxes and fines.

Solidarity for VAT payment as of 1 January 2020

The solidarity for payment will concern:

- VAT due by a taxpayer, regardless of where he/she is established (France, another EU Member State, third countries), who uses the online platform to supply goods or services (with place of taxation in France) for the benefit of non-taxable persons;

- VAT due by a person, regardless of his/her place of establishment (France, other EU Member State, third countries), who carries out imports into France via the platform.

The solidarity will be implemented following a 3-step procedure:

- STEP 1: the FTA may report suspicions of a person evading his/her VAT obligations to the operator of the online platform, who must then take "measures to enable the person to regularise his/her situation" and also inform the FTA of measures taken.
- STEP 2: depending on the outcome of step 1, the FTA may issue a formal notice to the platform to take additional measures or, if not, to exclude the person concerned from the online platform. The online marketplace will have to notify the FTA of the measures taken.
- STEP 3: if the above-mentioned measures or exclusion are not implemented after one month from the notification of the additional measures or, in the absence of such notification, from the formal notice of the platform by the FTA, the tax due by the person will be exclusively due by the online marketplace.

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Please note that from 1 January 2021 the VAT treatment for sales via online platforms will change, thus the above-mentioned measure will no longer be fully applicable.

Hungary

Most important changes to online invoice reporting

Hungary introduced its online invoice reporting system on 1 July 2018 for invoices issued to another Hungarian taxpayer with a VAT amount reaching or exceeding HUF 100,000 (~ EUR 300). The real-time invoice data reporting entailed the NAV (Hungarian tax authority) requiring taxpayers to provide immediate information about invoices issued that met the above requirement. Since this feature must work automatically without any human intervention, it demanded considerable effort and cost from the companies affected (especially in the case of non-resident, VAT-registered companies or multinational companies using invoicing software that has been developed abroad) to create the technical conditions of this obligation, not to mention the constantly changing legal and technical environment.

One of the most important changes for this year in this regard is that from 1 July 2020, data reporting at invoice level must cover each invoice issued on domestic transactions to taxpayers registered in Hungary regardless of the VAT amount of the invoice issued. As a result, the range of the companies affected by this obligation as well as the volume of invoices to be reported will see a significant increase.

Also, from 1 July 2020, the invoicing obligation will be extended to certain tax-exempt transactions. Such categories affected by the obligation to issue invoices are found in education, private healthcare, dental services and property sales, for example.

Besides invoices on which VAT is being charged, certain VAT-exempt domestic sales of goods and supplies of services, domestic reverse charge transactions will also be subject to the online invoice data reporting obligation (e.g. sale of agricultural products, iron and steel products, labour hiring services).

As a technical change to the invoicing rules, from 1 July 2020 the first eight digits of the purchaser's VAT number must be indicated on the invoice issued to another Hungarian VAT entity. Currently and until that date, this is required only for invoices having a VAT amount in excess of HUF 100,000.

Moreover, from 1 July 2020, the general deadline for issuing invoices will be reduced from 15 days to 8 days. This measure might affect companies (e.g. non-resident companies registered in Hungary only for VAT purposes) who delegated the invoice issuing and reporting activity to another company located in Hungary (e.g. to a Hungarian accounting or tax advisory firm). According to this provision, it is advisable to make the input data available to the party issuing the invoice as soon as possible so that the invoice can be issued and reported to the tax authority in time to avoid potential penalties.

The Hungarian tax authority will not stop here; from 1 January 2021 the data reporting obligation will cover invoices issued even to non-taxpayers as well as invoices issued on the intracommunity tax-exempt supply of goods, export transactions (practically, all transactions having place of supply in Hungary) and the cross-border provision of services if the service recipient entity is liable to pay the VAT under the reverse-charge mechanism. The only exemption will be the sale of goods and supply of services to be reported through the MOSS system.

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Poland

Changes regarding taxes as of 2020

We would like to summarise two important changes as of 2020. I.e. the implementation of new SAF-T and regulations regarding the white list of taxpayers.

New SAF-T for VAT and abolition of some VAT declarations

Current VAT returns and SAF-T_VAT files will be replaced with one single SAF-T document. The new JPK_VDEK file will include both the reporting previously carried out in different documents, and new information such as codes for special types of transactions and special groups of goods.

New categories of sales information that will have to be submitted as part of JPK_VDEK are identified using various codes:

- for supplies of goods or services:
  - **01-10** for goods such as fuel oil, tobacco products, drugs, medical devices, waste, vehicles and parts for vehicles,
  - **11-13** for intangible services (advisory, accounting, legal, etc.), transport services etc.;
- for transaction types, such as **"TP"** – for transactions between related parties or **"MPP"** for transactions subject to the split payment mechanism;
- for sale documents, e.g. **"RO"** – summary sales report for cash registers.

Unlike in sales, there are no codes for groups of goods and service for purchases. However, it will be necessary to use the following identifiers:

- "**IMP**" for tax charged on the import of goods, including import falling under Article 33a of the VAT Act,
- "**MPP**" for transactions subject to the split payment mechanism,
- for purchase documents, e.g. "**WEW**" – internal document.

The new structure for the JPK_VDEK file will enter into force on 1 April 2020 for large enterprises and on 1 July 2020 for all taxable persons. This will necessitate changes to accounting software used for keeping sale and purchase records and generating JPK files.

UPDATE: due to the coronavirus (Covid-19) outbreak, Poland intends to provide a range of measures to support businesses, and plans to delay the extension of the SAF-T filings for large entities. Instead of the planned launch on 1 April 2020, the new transactional reporting procedure is planned to be introduced on 1 July 2020.

White list of taxpayers

The white list of taxpayers is a single database of taxable persons for VAT purposes. The list features a range of information, including STIR (i.e. specific database)-confirmed bank account numbers which taxable persons disclosed in their registration or update filings.

If a taxable person pays its supplier in excess of PLN 15,000 (~ EUR 3,500) but the payment is not made into his/her white-listed account, the payer would risk adverse consequence both in terms of VAT and income taxes:

- the underlying expense cannot be treated as deductible for PIT/CIT purposes; and
- purchaser and supplier will be jointly and severally liable for supplier's arrears of tax pro rata to the VAT payable on the transaction.

CIT/PIT deduction regulations and the joint and several liability regulations entered into force on 1 January 2020.

Currently, when a purchaser settles invoices for services or deliveries of goods subject to the mandatory split payment mechanism, he/she is obliged to use the split payment method as well as to check if this bank account number is on the white list. Sanctions will be applicable even if the payment is made using the split payment mechanism but to a non-white list bank account.

However, a current draft bill would provide for an amendment, accordingly persons using the split payment mechanism to pay for transactions above PLN 15,000 into non-white-listed accounts would not suffer PIT/CIT sanctions, or be held jointly and severally liable for supplier's arrears of VAT.

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The changes – if implemented – will take effect retroactively with respect to payments/deductions made as of 1 January 2020.

The draft of the bill is currently in the Sejm (part of the Polish parliament).

Romania

Annulment of split VAT regime

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As of 1 February 2020, the VAT split payment mechanism is no longer applicable. Under this procedure, the customer had to pay the invoices received from a supplier observing such a mechanism in two separate bank accounts: the net amount in the current bank account of the supplier and the VAT amount in a special VAT bank account of the supplier.

Obviously, these rules generated more administrative and compliance work for all taxpayers.

II. Further countries

Angola

Cabinda VAT Special Regime/VAT in LNG Project/Reverse charge in Transitory VAT Regime

Angola has now completed its first months under Value Added Tax (VAT) regulations, and the introduction of this new tax has significantly changed not only the regular operations of each company, but also the life of the general population. Value Added Tax has been considered the "word" of 2019 in Angola, and this selection shows how the introduction of VAT had and still has a huge impact on local operations and transactions.

With this in mind, a Special VAT Regime was created for the Cabinda Province, whose geographical location and lack of equipment leads to sales of goods at higher prices than the rest of the country so as to mitigate the impact of VAT on the general population and companies that operate in this province. With this, the VAT tax rate was reduced from 14% to 2%, only applicable to the import and sales of goods, whereas the supply of services is still subject to the normal VAT rate of 14%.

In addition to the above-mentioned Cabinda Special VAT Regime, Angola has also established the VAT Payment and Assessment Regime applicable to the Angola LNG Project. Due to the specificities of the oil sector, and in order to ensure the stability and economic viability, detailed regulations and procedures have been established for project implementing companies and their limitation to deduct input VAT as well as for implementing companies.

Moreover, regarding the input and output VAT on the acquisition of services from non-resident suppliers, the VAT code foresees that a local company, under the standard VAT regime, acquiring services from a non-resident supplier should deduct and assess VAT at the normal rate of 14% under the reverse charge mechanism, assuming that the non-resident supplier has not nominated a legal representative in Angola.

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The implementation of VAT still has several challenges ahead, and a few grey areas that need clarification. In parallel, we have observed a more proactive attitude from the VAT authorities as a result of issuing several rulings.

Azerbaijan

Amendments to the Tax Code

The Amendment Law became effective as of 1 January 2020, and brought significant changes regarding the VAT provisions of the tax code.

1. Previously required electronic tax invoicing for VAT purposes was abolished, and currently available electronic invoicing will be used for both billing (tax invoicing) and VAT purposes.

2. Application of a single approach to VAT calculation and payment was introduced. It should be noted that two methods (cash and accrual) were used for the timing of VAT operations. With effect from January 2020, only the cash method will be used for the timing of VAT operations. According to the Amendment Law, the time of the taxable transaction is the time of payment made for the goods (works and services). The payment shall be deemed as carried out as follows:

   (a) cash payment – at the time when cash is received;
   (b) non-cash payment – at the time when the money is received in bank account;
   (c) offset transaction – at the time when the obligation is discharged or paid;
   (d) barter transaction – at the time when the asset is acquired/bartered;
   (e) gratuitous alienation – at the moment of such an alienation;
   (f) assignment of claims – at the moment of such an assignment;
   (g) prepayment – at the time of prepayment. It is not permitted to issue an electronic invoice on advance payments.

3. The following new items were included in the list of VAT exemption operations:

   (a) turnover on sales of feed and feed supplements used in animal breeding and poultry farms – for four (4) year period starting from 1 January 2020;
   (b) provision of residential and non-residential areas of buildings allocated to state ownership;
   (c) sale of goods, performance of works and provision of services on the basis of an agreement concluded with a competent body (established by the relevant executive authority) in connection with Formula 1 and Formula 2 competitions held in the Republic of Azerbaijan – for six (6) year period starting from 1 January 2018;
   (d) leasing of aircraft or aircraft engines from non-residents (who have no permanent establishments in Azerbaijan) to resident companies in the field of civil aircraft activity;
   (e) provision of medical insurance services at the expense of mandatory medical insurance fund – for one (1) year period starting from 1 January 2020.

4. A definition of "non-commodity transaction" was included in the tax code. Non-commodity transaction shall mean a transaction disclosed in the course of tax inspection, concluded for the purpose of concealing another transaction and generating profit without the actual provision of goods, works and services. According to the Amendment Law, non-commodity transaction documents cannot serve as a basis for a VAT refund.

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GCC States I (KSA) Value added tax in KSA

Introduction

In February 2017, the Kingdom of Saudi Arabia (KSA) ratified the GCC VAT framework and imposed VAT on 1 January 2018. VAT was introduced at a standard rate of 5% with certain exceptions.

KSA VAT law was issued including 53 chapters in addition to the provisions of its executive regulations which consists of 12 chapters and 79 articles, as well as FAQs and VAT guidelines regarding various sectors as an additional clarification for certain treatments.

Registration

All persons and businesses liable to register for VAT purposes shall register with the General Authority of Zakat and Tax ("GAZT") within 30 days from the date of publishing the law (i.e. 30 days from 28 July 2017).

- The taxable person shall be required to register according to his/her economic activities in the Kingdom in accordance with the provisions of the GCC VAT Framework by which:

the taxable person shall be a resident in KSA, and his/her annual value of supplies shall exceed or is expected to exceed the mandatory registration threshold. The mandatory VAT registration threshold is set at SAR 375,000 (~ EUR 89,000). Companies with an annual turnover of less than SAR 1,000,000 (~ EUR 236,500) were initially exempt from the mandatory registration requirement until January 2019, giving small businesses more time to prepare for VAT.

- **For non-residents,** as stated in the Unified VAT Agreement and the implementing regulations: certain non-residents are required to register if they are obliged to collect and pay VAT on supplies in the KSA:

  "A non-resident of a Member State shall be required to register in that State regardless of his/her business turnover, if he/she is obliged to pay tax in that State under this Agreement. Registration can be carried out directly or through the appointment of a tax representative with the consent of the concerned tax authority. The tax representative shall take the place of the non-resident person in all its rights and obligations provided for in this agreement, subject to the provisions of Article 43(2) of this agreement"

  "A non-resident person who is not registered with the authority but is obliged to pay tax on supplies made or received by that person in the Kingdom must apply to the authority for registration within thirty (30) days of the first supply on which that person was obliged to pay tax."

- The requirement to register will not affect all non-residents supplying goods and services to the KSA, as a non-resident is only obliged to collect and pay tax in respect of supplies made to non-taxable customers.
- A common situation where non-residents will be required to register is where non-residents make electronic supplies of services to KSA consumers. Businesses who provide electronic content and services directly to non-registered customers in the KSA are required to collect the KSA VAT due and comply with KSA VAT obligations.

VAT return

→ **Reporting period to submit**
Taxpayers should determine when they need to file their VAT returns and the frequency of their filing obligation according to the volume of their annual taxable supplies.
› Up to SAR 40,000,000 (~ EUR 9,414,500): VAT returns on a quarterly basis
› More than SAR 40,000,000: VAT returns on a monthly basis

→ **When to submit**
Taxpayers will have a month to submit their VAT returns (i.e. the last day of the month is the due date). If the month's last day (due date) falls on a non-working day, taxpayers are still liable to submit their VAT and pay any liabilities by that day (unlike other tax types).

→ **How to submit**
Taxpayers can submit their VAT return online. VAT return forms will be available on the "GAZT" portal (which is linked with the SADAD payment system) in the taxpayer's account on the first day of every filing period.

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GCC States II (Oman, Qatar and Kuwait)

The VAT Marathon – The Clock Is Ticking for Oman, Qatar and Kuwait

The Gulf Cooperation Council ('GCC'), comprising the six Member States of the United Arab Emirates ('UAE'), the Kingdom of Bahrain ('Bahrain'), the Kingdom of Saudi Arabia ('KSA'), the Sultanate of Oman ('Oman'), the State of Qatar ('Qatar') and the State of Kuwait ('Kuwait'), adopted the Unified VAT Agreement in 2016 and in principle agreed to implement VAT on 1 January 2018.

With a reduction in oil prices, GCC countries were looking for other sources of revenue to finance their development programmes. Introduction of VAT is a measure which can generate large revenues for the government. It is an accepted fact that indirect taxes such as VAT are a prominent tool of financial policy measures to boost government revenue while avoiding risks associated with income taxes or other tax measures. The GCC region has historically been an attractive destination for employees because there is no tax on salary income. In such a scenario, VAT is a relatively simple and standardised form of indirect taxation, which has been in existence across many countries in the world and thus had relevance for the Member States of GCC.

The GCC Member States developed the VAT framework to ease the transition from no indirect tax to a fully-fledged VAT regime. The framework stipulates the principles of VAT laws that all the Member States are expected to follow while framing their own VAT laws. The framework also allows Member States to retain some flexibility around the VAT treatment of food items, healthcare, education and real estate, among other things.

The UAE and KSA introduced VAT on 1 January 2018 followed by Bahrain on 1 January 2019. This left Oman, Kuwait and Qatar, which have had their own challenges and limitations in introducing and implementing VAT on 1 January 2018. With over two years of implementation in UAE and KSA and a year in Bahrain, VAT has been evolving and businesses are still in

the process of validating their tax positions. The experience of implementation in these countries should help develop an effective roadmap for the introduction of VAT in the three remaining countries. While Kuwait is expected to implement VAT in 2021; Qatar is likely to roll it out in 2020. Furthermore, in a recent interview, Ali bin Masoud Al Sunaidy, Minister of Commerce and Industry of Oman, mentioned that Oman is likely to implement VAT in 2021. It is understood that the Oman government is currently working on completing the legislative procedures to issue VAT laws and the Secretariat General of Taxation is completing the necessary administrative, technical and technological equipment in preparation for implementation once the law is approved.

Even though there is no certainty about the exact date of VAT implementation in Oman, Qatar and Kuwait, it appears that Qatar is likely to be next to implement VAT under the common GCC VAT framework followed by Oman and Kuwait. The reasons behind the delays for these countries are not entirely clear. However, the three countries have achieved more progress in the adoption of excise tax, in accordance with the GCC's Common Excise Tax Agreement of 2016. Apart from UAE, Bahrain and KSA, Qatar and Oman have implemented excise tax in 2019, and Kuwait plans to introduce excise tax in 2020.

Concluding Thoughts

While economic and international factors have mainly directed the introduction of the VAT in the GCC, domestic factors play a key role in deciding the timeframe for implementation. One can say that although the GCC's VAT Framework Agreement is intended to bring in a unified tax reform; staggered implementation has shifted the focus on the VAT from a regional to a country level.

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On a positive note, it is believed that staggered implementation gives an opportunity for the remaining countries to learn from the experiences of the UAE, KSA and Bahrain.

Nigeria

Recent VAT updates

Introduction

On 13 January 2020, the President of the Federal Republic of Nigeria signed the finance bill as legislation. The finance act introduced several changes to seven tax laws in Nigeria. It specifically changes the outlook of Nigeria's tax administration. Interestingly, recurring amendments on VAT administration and practice over the years indicates Nigeria's interest in VAT and the government's intention to use VAT as a means to increase its revenue.

Value added tax under the Finance Act, 2020

Fundamentally, the VAT changes introduced by the finance act have the following key objectives: VAT compliance, thresholds for VAT returns and effects of VAT non-remittance.

1. VAT Compliance

The finance act introduces significant changes with respect to VAT compliance, beginning with the timeline required for registration for VAT by taxable persons. The previous timeline of six (6) months after commencement of business has now been amended – a business must now register for VAT with the Federal Inland Revenue Service ("FIRS") when it commences. Any taxable person who fails to register for VAT upon commencement shall be

fined a sum of 50,000 Nigerian Naira (NGN) (~ EUR 120) for the first month and NGN 25,000 (~ EUR 60) for each subsequent month of default. A taxable person that ceases to carry on business must communicate their intention to be de-registered for the purpose of VAT within 90 days of such cessation.

Also for failures to notify the change of address or permanent cessation of a trade business, a penalty of NGN 50,000 for the first month of default and subsequently a fine of between NGN 5,000 and NGN 25,000 for every month that the failure subsists, has been implemented.

Similar penalties are imposed on failure to submit returns.

2. Threshold for VAT returns

A minimum threshold to file returns has been established: taxable persons who meet NGN 25 mil (~ EUR 60,000) worth of taxable supplies are liable to file tax returns on or before the 21st day of the subsequent month. For the determination of the threshold the following shall be excluded:

- taxable supplies on capital assets.
- taxable supplies from the sale of the whole or part of the business.

3. Effect of non-remittance

VAT payments have to be completed on or before the 21st day of the month following the month which the taxable supplies are made. A penalty of 10% (in the past: 5%) plus interest at the commercial rate on the total amount of remittable tax will be imposed.

Conclusion

These amendments introduce a tax-friendly legislation, for the compliance threshold that invariably protects the most vulnerable from the incidence of VAT. Only time will reveal whether the practical administration of these amendments will be as easy as the law appears. Hopefully, sometime in the future, amendments will be made to properly address the concerns on the collection of VAT which these amendments do not address, however, we are of the opinion that the changes introduced by the finance act are worthy of applause.

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Singapore I

Exempting digital payment tokens from GST

In recognition of global developments and growth in the use of cryptocurrencies, Singapore has provided for Goods and Services Tax **(GST)** exemptions for digital payment tokens that satisfy certain criteria.

From 1 January 2020, the supply of digital payment tokens are exempt from GST. Specifically:

- the use of digital payment tokens as payment of goods or services no longer give rise to a supply of token;
- the exchange of digital payment tokens for fiat currency or other digital payment tokens are exempt from GST; and
- the provision of loans, advances or credits of digital payment tokens are no longer subject to GST.

Previously, a person who sold virtual currencies (such as selling them on cryptocurrency exchanges) in the course of business would be liable for GST registration if the annual turnover from such transactions exceeds SGD 1 million (~ EUR 636,000). The supplies of virtual currencies would also be subject to GST.

Digital payment token

A digital token refers to a cryptographically-secured digital representation of value that can be transferred, stored or traded electronically. To qualify as a digital payment token, the digital token must have all of the following characteristics:

a. it is expressed as a unit;
b. it is designed to be fungible (i.e. it must be designed to be used interchangeably as consideration);
c. it is not denominated in any currency, and is not pegged by its issuer to any currency (but note that tokens that are currently pegged to fiat currency, a basket of currencies, commodities or other assets are treated as derivatives and are currently exempt);
d. it can be transferred, stored or traded electronically;
e. it is, or is intended to be, a medium of exchange accepted by the public, or a section of the public, without any substantial restrictions on its use as consideration;

but does not include:

f. money;
g. anything which, if supplied, would be an exempt supply of financial services;
h. anything which gives an entitlement to receive or to direct the supply of goods or services from a specific person or persons and ceases to function as a medium of exchange after the entitlement has been used.

The transfer of non-fungible tokens such as those that represent ownership rights to specific property (e.g. IP, digital artwork) will remain a taxable supply of services as such tokens are not fully interchangeable for use as consideration.

Other issues considered

The GST rules also deal with issues such as value and time of supply, the GST treatment of mining, Initial Coin Offerings (ICOs), digital payment token intermediaries, claiming input GST credits and reverse charges. The new rules ensure that digital payment tokens are treated for GST purposes in a manner which is in line with the evolution of technology and the increased use and prevalence of digital payment tokens.

Observations

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Before this exemption was introduced, Singapore taxed digital payment tokens at two tax points – once on the purchase of the cryptocurrency and again when it was used as payment for goods and services. The new changes are welcomed and should be consulted when buying and selling digital payment tokens; using digital payment tokens for payment: making loans of digital payment tokens; charging a fee or commission to facilitate the transfer, purchase or sale of digital payment tokens; or issuing digital payment tokens such as through ICOs.

Singapore II

Levying GST on imported services

Overview

Before 1 January 2020, services supplied by a domestic supplier in Singapore would be subject to Goods and Services Tax **(GST)**, while the same services supplied by a supplier who is outside Singapore is not. This made domestic services less competitive vis-a-vis like foreign services. From 1 January 2020, new regimes have been implemented in this connection:

(i) a reverse charge regime for Business-to-Business **(B2B)** supplies of imported services; and
(ii) an overseas vendor registration regime for Business-to-Consumer **(B2C)** supplies of imported digital services.

Reverse-charge regime (B2B)

A supplier located outside of Singapore makes a B2B supply of services to a GST-registered person who belongs to Singapore. This recipient would be required to account for GST on the value of the imported services as if he/she were the supplier. This applies mandatorily to all imported services except for exempt, zero-rated and non-taxable government supplies.

The GST-registered recipient would be allowed to claim the corresponding GST as his/her input tax, subject to the normal input tax recovery rules.

Overseas Vendor Registration regime for digital services providers (B2C)

Under the Overseas Vendor Registration regime, providers of digital services outside of Singapore will be required to register for GST in Singapore if they:
(i) have an annual global turnover exceeding SGD 1 million (~ EUR 636,000); and
(ii) make B2C supplies of digital services to customers in Singapore exceeding SGD 100,000 (~ EUR 63,000).

Digital services are services supplied over the Internet or an electronic network, such as:
- downloadable digital content (e.g. mobile applications, e-books and movies);
- subscription-based media (e.g. news, magazines, online streaming, and online gaming);
- software programs (e.g. downloading of software, drivers, website filters and firewalls);
- electronic data management (e.g. website hosting, online data storage and cloud storage services);
- support services performed via electronic means; and
- operating an electronic marketplace, which is a medium that allows suppliers to make supplies available to customers via electronic means.

The providers of digital services would be treated as overseas suppliers if they do not have a business establishment, fixed establishment or have Singapore as their usual place of residence.

GST registration for such overseas suppliers will be carried out under a simplified regime, with reduced registration and reporting requirements to ease the extra-territorial compliance burden. The same simplified regime will also apply to electronic marketplace operators.

Once registered, registered overseas suppliers are required to charge and account for GST on B2C supplies of digital services made to customers in Singapore.

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Observations

These are important changes to the GST regime in Singapore as they implement the "destination principle" for digital goods and services. Businesses that import services from overseas will need to consider whether the reverse charge mechanism applies to the services that they receive from overseas. Likewise, e-commerce providers of digital services to Singapore customers will need to ensure that they comply with the Overseas Vendor Registration procedures and properly account for GST on supplies to customers in Singapore.

Turkey

Digital Services Tax

Digital Services Tax (hereinafter "DST") was introduced by law number 7194, and will become effective as of 1 March 2020.

Scope

DST will apply on the revenues generated from services such as:

a) all kinds of advertising services provided in the digital environment (including advertisement controlling and performance measurement services; services with respect to the data transmission and data management of the users together with technical services provided regarding the presentation of advertisement,

b) the sale of any audio, visual or digital content (including software, applications, music, video, etc.) on a digital environment or any services provided in the digital environment that allows users to listen, watch, or play such contents in the digital environment or use such contents on electronic devices,

c) providing services via a digital environment which allow user interaction (including the service provisions that allows or facilitates the sales of these kinds of goods or services among the users).

Intermediary services carried out in the digital environment regarding the aforementioned services are also subject to DST.

DST will be applicable for services which were provided in Turkey, meaning: services that were provided in Turkey, services that were benefitted in Turkey, services that were provided for the people in Turkey and services that were valued in Turkey.

Exemptions

Those who generated revenue from digital services in the previous accounting period of the related accounting period less than:

(i) TRY 20,000,000 generated in Turkey or
(ii) EUR 750,000,000 or the Turkish lira equivalent generated from across the world

will be exempt from DST.

For consolidated groups (accounting view) the total revenues of the group being generated from those services will be taken into account.

With revenues increasing and exceeding the thresholds, the exemption will not be applicable and DST liability begins in the 4th taxation period following that related financial year.

For revenues diminishing below the thresholds, the exemption will be applicable as of the beginning of the following financial year after those two consecutive financial years.

Further exemptions apply to specific digital services:

- services that are subject to the treasury share payment under The Telegraph and Telephone Law No. 406;
- services that are subject to the Special Communication Tax under the Law No. 6802 on Expenditure Taxes;
- services which were delivered as part of banking activities under the Law No. 5411 on Banking;
- the sale of products created as a result of R&D activities which were conducted in R&D centres under the Law No. 5746 on Supporting Research, Development, and Designing Operations and service provisions which solely stems from these corresponding products;
- services regarding the payment services under the Law No. 6493.

DST Rate and Taxpayer

Effective DST rate to be applied is 7.5% on the revenues generated from the above-mentioned services.

DST will be applied to digital service providers regardless of their tax residency status, i.e. full taxpayers or non-residents performing activities in Turkey through a permanent establishment or permanent representative.

For taxpayers without a residence, workplace or a registered place of business in Turkey or if otherwise necessary, the below-mentioned parties may be held responsible for the payment of DST:

- the parties of the transactions which trigger DST liability,
- the parties who are the transaction intermediaries, or
- the parties who are payment responsible.

Declaration and Payments

The DST taxation periods are determined as a one-month period. Taxpayers and those who are held responsible shall submit DST declarations and make DST payments before the end of the month following the related taxation period.

The tax office which levies VAT will also be responsible for levying DST for digital service providers which do have a VAT obligation. If the digital service providers do not have a VAT obligation, the Ministry of Treasury will determine a tax office for tax levying purposes.

Other Important Issues

DST payments can be considered as tax deductible from the taxpayer's taxable income regarding the personal income and corporate income taxes.

The tax office in charge for levying DST may issue a notice to the digital service providers or to their legal representatives who did not fulfill their obligations to submit a declaration and pay the respective taxes in due time. This will also be announced on the website of the Revenue Administration.

In the case of not fulfilling these declaration and payment obligations within 30 days after the notice, the Ministry of Treasury and Finance will notify the Information and Communication Technologies Authority to take necessary actions to block access to the services provided by these service providers until these obligations are fulfilled.

Interpretation of the DST Legislation

A 15% withholding tax was also introduced on cross-border online advertising services in accordance with the Presidential Decree No. 476, which became effective as of 1 January 2019, and the new DST will be applied to the online advertising services too.

The withholding tax on cross-border online advertising services can be considered within the scope of double tax treaties and can benefit from double tax treaty provisions in this respect. On the other hand, DST is an expenditure tax and, unlike cross-border online advertising services, it cannot be considered within the scope of double tax treaties and cannot benefit from double tax treaty provisions.

This situation creates a considerable tax burden for the companies which do provide cross-border online advertising services.

Furthermore, on 5 February 2020, the Ministry of Treasury and Finance announced a draft communique regarding Digital Services Tax which shall provide detailed explanations regarding the implementation of DST legislation and is envisaged to come into force simultaneously with Digital Services Tax as of 1 March 2020.

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Ukraine

Plans to tax supplies of digital services from non-residents

Ukraine follows the global trend of taxing the cross-border sales of digital services from foreign suppliers.

Recently a draft law no. 2634 amending the tax code of Ukraine has been introduced by the Head of Finance, Tax and Customs Committee of the Ukrainian parliament, proposing to extend Ukrainian VAT rules to B2C cross-border sales of digital services.

The explanatory note to the draft law says that the draft law is aimed at (1) increasing revenues of the state budget, and (2) establishing equal competitive environment for foreign and domestic suppliers of digital services.

The draft law introduces a 20% VAT on digital services supplied to individuals located in Ukraine by non-resident suppliers. Proposed amendments do not affect the B2B sales for which VAT is remitted by Ukraine-based businesses under the reverse-charge mechanism.

Digital services are defined as services delivered over the Internet, in an automated manner, using information technology, with minimal human intervention. Such services shall include, inter alia, the supply of images, photos, texts, including electronic books and magazines, audio-visual works, games, gambling, providing access to information, commercial, educational and entertainment electronic resources, storage of data using cloud-based technologies, supply of software and updates to it, as well as provision of remote software maintenance services, provision of advertising space on websites, mobile applications, and other electronic resources, etc. The list of digital services is not exhaustive and may be supplemented by other services depending on their nature.

The affected suppliers will have to register with the Ukrainian tax authorities. The registration is obligatory for suppliers who reached the total volume of digital services supplied to Ukraine-based individuals of UAH 1,000,000 (~ EUR 37,000) within the preceding calendar year. After registration, non-resident digital services suppliers will have to submit a simplified VAT return to Ukrainian tax authorities on a quarterly basis, as well as collect and remit VAT on sales made to Ukraine-based individuals.

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If the draft law is adopted by the Ukrainian parliament, its provisions will be applicable to the tax periods starting from 1 January 2021.

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