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WTS Value Added Tax Newsletter

Editorial

Dear reader,

The year 2022 is already up and running, which also holds true for the world of VAT and GST, as you can see from the insights collected from various countries in our first edition of the WTS Global VAT Newsletter 2022.

Austria is facing new regulatory requirements because of a recent ECJ decision which has led to a new treatment of rental turnover of foreign investors. **Belgium** clarified requirements for guarantees to be provided when foreign taxpayers register via a fiscal representative. Changed reporting obligations and an upfront collection of VAT for advance payments is the New Year's message coming from **France.** Amended reporting requirements for Intrastat purposes will have to be observed in **Germany** and also in other **EU Member States.** The scope of application for the reverse-charge procedure has been extended in **Hungary** but new VAT exemptions have been implemented too. **Italy** will continue with its routines for e-invoicing but will postpone the extension on cross-border supplies. VAT grouping is well-known in the **Netherlands** but as of when a VAT group may begin to exist seems to be under dispute. Besides electronic invoices, taxpayers in **Poland** may take advantage of structured invoices, e.g. allowing faster refunds.

Beyond Europe we can see **China** specifying the application of surcharges on specific VAT debts. The **Kingdom of Saudi Arabia** allows e-invoicing and provides refunds in re-export cases. In turn, **Singapore** tries to make its GST system more robust by expanding its scope of application. The recovery of input VAT will have to be applied for within a shorter deadline in **Ukraine**, potentially accompanied by a rising number of VAT audits.

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

Yours sincerely,

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WTS Global VAT Team

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I. EU Member-States

Austria

Change in the VAT treatment of rental revenues of foreign property owners

The ECJ has revised the previously held view of the Austrian tax authorities, that a rented property always represents a domestic fixed establishment of the foreign owner with the consequence that the foreign owner must register for VAT in Austria and invoice with Austrian VAT. According to a ruling dated 3.6. 2021, C-931/19, Titanium Ltd, the court clarified that a property located in Austria without fulfilling the criteria of Art. 11 (EU) No. 282/2011 in terms of a suitable human structure does not constitute a fixed establishment.

Background

Titanium, whose registered office and management are located in Jersey, rented out Austrian property to Austrian taxpayers and appointed an Austrian real estate management company to manage the property's affairs. Nevertheless, Titanium retained the decision-making power. Titanium always considered that it had the status of a non-established entity without a permanent establishment for VAT purposes in Austria because it didn't have staff to act on behalf of the company in Austria. The tax office in Austria was of another opinion, based on a specific Austrian VAT guideline. Since Titanium disagreed with the Austrian tax authorities' position, the case was referred to the ECJ.

The ECJ decided that Titanium did not have a fixed establishment for VAT purposes in Austria. The concept of a fixed establishment is stated in Art. 11 (EU) No. 282/2011 which lays down implementing measures for Directive 2006/112/EC. Therefore, a sufficient degree of permanence and, moreover, a suitable structure in terms of human and technical resources to enable the company to receive and use the services supplied for its own needs is required. These criteria were not fulfilled in the current case, because Titanium did not have its own staff in Austria who could act in the name and on behalf of Titanium.

Conclusion

The judgment in question has far-reaching effects on foreign investors who rent out property in Austria. As a consequence of this decision, non-resident taxpayers who rent out Austrian property to entrepreneurs (e.g. to an operating company with a hotel licence) without having their own staff in Austria have to apply the Reverse Charge Mechanism according to § 19 (1) Austrian VAT Act starting from 1 January 2022. The tax shall be payable by the entrepreneur to whom the services are supplied. In this case, rental invoices will have to be issued net with reference to the Reverse Charge Mechanism.

Input taxes (e.g. on the purchase or expenses related to the property) can only be recovered by using the special VAT refund procedure. However, in this case, the special VAT refund procedure can only be carried out if the foreign investor has a foreign (EU-)VAT number.

In these cases, the property is rented out to private customers directly without involving an operating company; nothing has changed with regard to invoicing. These rentals are taxable in Austria and the lessor is obligated to register for VAT in Austria.

Currently, there are some uncertainties with this new regulation. In the case of foreign lessors who have a valid VAT number, it is not clear how the tax office will handle this situation with regard to analysing the individual VAT status of the lessors. However, to avoid unpleasant surprises, foreign investors should use their own initiative to ascertain if the handling of their property rental is being carried out correctly.

The bottom line of this current situation is that a reaction of the tax authorities to this new situation is to be expected. Either there will be a technical solution which will enable foreign investors to receive Austrian VAT credits without using a foreign VAT number or there will be a legal solution which will establish the previous conditions. There is no doubt that the tax authorities in Austria are very unhappy with the current situation, thus there will be a reaction. We can look forward to what happens next.

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Belgium

VAT registration with a fiscal representative, new rules on guarantees

An amendment to Royal Decree no. 31 has altered the guarantee requirements for a Belgian VAT registration of a foreign taxpayer with the appointment of a fiscal representative. These changes have entered into force as of 1 October 2021.

Under the former rules, the Royal Decree granted the possibility to the VAT authorities to request a guarantee when registering via a fiscal representative. If imposed, the amount of this guarantee was calculated at 25% of the estimated VAT due for a 12-month period, without any legal minimum or maximum amount. In practice, the VAT authorities accepted a limited guarantee of EUR 7,500 for EU-established companies that registered in Belgium with a fiscal representative. Also, the VAT authorities accepted that no guarantee had to be provided when a group company was appointed as the VAT fiscal representative, however, in that case the representative bore an unlimited VAT liability.

As from 1 October 2021, the guarantee amount is initially set at 10% of the estimated VAT due for a 12-month period and must always be provided as a legal requirement. The Royal Decree now also specifies the minimum and maximum amounts that must be requested. These amounts are EUR 7,500 and EUR 1 million, respectively. Under these new rules, a guarantee should in any case be placed and further reductions of the guarantee will no longer be possible.

Alongside this, more precise rules regarding the revision of the guarantee have been implemented. The guarantee is initially determined for a period ending on 31 December of the second year following the year in which the guarantee was placed. After that period, the representative can request a revision of the placed guarantee if it would be too high and the VAT authorities would recalculate the guarantee if it would be too low. An interesting clarification is that this will be determined based on the VAT amount that has actually been paid by the foreign taxpayer during the period concerned (cf. box 71 of the VAT return). However, if the difference between the newly calculated and previously placed guarantee is lower than 10%, no revision will be required.

Under the new rules, it appears that the guarantee obligations will therefore become heavier for all foreign taxpayers that want to register for VAT with a fiscal representative in Belgium. This is of course provided that the taxpayer will perform economic activities, for which VAT will effectively be charged in Belgium.

The VAT authorities imposed the new guarantee requirements already on registered VAT taxable persons who have not yet placed a (sufficient) guarantee. Taxable persons who already have a guarantee in place, calculated at 25% of the estimated VAT amount due for a 12-month period, must examine whether they will request a reduction of the guarantee, which will be equal to 10% of the VAT amount paid (cf. box 71 of the VAT return), with a minimum of EUR 7,500 and a maximum of EUR 1 million.

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France

Changes in sight

France has recently announced that it will join other Member States that have gone ahead of EU regulations and imposed electronic invoicing. In France, the obligation to receive electronic invoices for B2B flows will come into force on 1 July 2024. The obligation to issue invoices will be imposed in successive steps.

However, this 'escape route' is exceptional. Thus, French rules on indirect taxes are still very much constrained by EU regulations. Two examples of this can be found in the current tax situation.

The first concerns the reporting obligations of companies carrying out intra-Community transactions involving the movement of goods to or from France. Until now, the companies concerned complied with their reporting obligations by filing a single monthly declaration called an exchange of goods declaration (Déclaration d'Echange de Biens – DEB).

The implementation of the 2019 European Business Statistics regulation will now replace this with two separate monthly declarations, one for statistical purposes and the other for tax purposes (EC sales list).

With some limited exceptions, the items to be reported in these two returns remain unchanged compared to previous returns. However, all the practical modalities for filing the new declarations, which will affect the returns to be filed in February 2022 with respect to January transactions, have not yet been published.

Since the VAT exemption for intra-Community supplies of goods is subject to the condition that companies comply with their declarative obligations, a period of tolerance is desired by companies and their attorneys, but unfortunately this has not yet been confirmed.

The second concerns the VAT treatment of advance payments received with respect of a sale of goods from January 2023.

For the moment, in the case of supplies of goods, VAT is only payable on the date of transfer of ownership of the goods, i.e. on the date the final invoice is issued. VAT is there-

fore not payable by taxable persons receiving an advance payment with respect to the sale of goods.

A decision of the Administrative Court of Appeal of Nantes in May 2021 decided that the French regulation is not in line with EU VAT law. Therefore, the French legislator provides that, as from 1 January 2023, VAT will be payable upon receipt of an advance payment with respect to the supply of goods.

In practice, this new rule will affect many French companies from 1 January 2023. Therefore, businesses that receive advance payments in the context of sales of goods will have to collect VAT upon receipt of the advance payment, up to the amount received. Businesses that purchase goods and receive advance payment invoices for this purpose, will be able to deduct the VAT immediately, without waiting for the final invoice.

The significant impact on all French businesses explains why the legislator has given them a one-year period to adjust their operating methods and IT tools.

Businesses should therefore take advantage of 2022 to ensure that their procedures and IT tools allow them to collect VAT on the date of receipt of the advance payment to avoid the application of the 40% penalty for the deliberate failure to collect VAT on time.

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Germany/EU

Changes to Intrastat reporting

The International Trade in Goods Statistics (ITGS) is based on two data compilation systems: one for extra-EU trade statistics (data relating to trade of goods with non-member countries) and one for intra-EU trade (with data predominantly being collected via the Intrastat reporting). The intra-EU trade statistics cover both the dispatches (Intrastat export declaration) and arrivals of goods (Intrastat import declaration) being exchanged between the Member States of the European Union. In principle, all traders holding trade contracts with foreign partners are obliged to submit an Intrastat declaration.

The new European Regulations on ITGS (regulation (EU) 2019/2152 and the implementing regulation (EU) 2020/1197), finally changing foreign trade statistics reporting, also led to major changes regarding the Intrastat reporting. During the implementation of the new regulations, there were three key changes for the Intrastat declarations with relevance as of the reporting period January 2022.

I. Changed requirements

Modified 'Nature of Transaction' (NoT) codes

For all Intrastat declarations a new code list for the NoT shall be applied. The NoT reflects the sum of the characteristics of a transaction to be reported, e.g. sale/purchase, financial lease, etc. and is reported by using a two-digit code.

However, it is required to use the previous lists of NoT codes for declarations pertaining to the year 2021, even if the corresponding declarations are filed during the year 2022, e.g.

Intrastat declarations for December 2021 filed in 2022 will still have to be created based on 2021 NoT codes.

'Country of origin' information for Intrastat export declarations

The country of origin is the country where the goods have been obtained or produced in full or the country where the goods underwent their last substantial economically-justified processing.

The country of origin has been a compulsory data element for Intrastat import declarations since the inception of the Single Market. Starting from January 2022, reporting units are obliged to report the country of origin also on their Intrastat export declarations, i.e. for shipments to other EU Member States.

VAT Identification number of the trading partner for Intrastat export declarations

Analogously to the country of origin, the VAT ID number of the trading partner in the EU Member State of import has also become a compulsory element for Intrastat export declarations. For declarations as of January 2022, the VAT ID number of the trading partner in the importing Member State must be reported.

The trading party needs to be identified by a staged test and could generally be, e.g. the acquirer (reporting the intra-Community acquisition of the items) or the importer. However, additional complexity may arise with identifying this trading party in the case of chain supplies or so-called triangular transactions.

II. Consequences and considerations

For the reporting periods as of January 2022, the Intrastat declarations must be submitted following new requirements. Thus, it is no longer possible to consolidate different shipments of goods to another EU Member State, e.g. although supplied to the same trading partner, if the goods are coming from different countries of origin or if such supplies are transacted to different trading partners (different VAT ID numbers).

As a result of these changes, an additional workload may arise for the reporting units, e.g. resulting from evaluation/modification processes and IT systems, inquiries of third parties about missing data, as well as validity checks of the VAT ID numbers. When specifying the VAT ID number of the trading partner, it also appears recommendable to perform cross-checks with the transactions and related data in the preliminary VAT return and in the recapitulative statement (EC sales list).

In the event of missing information or the late submission of Intrastat declarations, the Federal Statistical Office may request an explanation for this omission. Moreover, a failure to provide information is considered a violation of the duty to provide information, which can be punished as an administrative offense based on the German Federal Statistics Act.

Finally, it should be noted that the above indications refer to the modifications and their consequences for the German legal perimeter. However, as the changes are based on EU regulations, similar considerations will have to be applied for Intrastat reporting obligations in other EU Member States.

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Hungary

VAT changes from 2022

On 15 December 2021, the Hungarian Parliament adopted the tax changes for 2022 submitted on 23 November 2021. The amendments include mostly tax cuts: social contribution tax has been reduced even earlier and more drastically than planned in the spring, the vocational training contribution has been abolished earlier, small business tax has been reduced, and the maximum 1% local business tax for SMEs will stay with us too. The tax package for 2022 also includes several changes affecting VAT.

Firstly, the adopted law repeals the provisions relating to the tax authority offering draft VAT returns, which means companies will have to bid farewell for now to the introduction of the e-VAT system which has already been postponed several times.

The reverse charge on the supply of certain cereal and steel products and on the transfer of the marketable right (allowance) on greenhouse gas emissions has been extended in line with changes in EU law. This means that reverse charging will not be abolished in these sectors after 1 July 2022 either.

The adopted changes provide a tax exemption with regard to product imports, purchases of goods and services by the European Commission or an agency or body established under EU law which are necessary for the performance of the tasks assigned to these institutions, so as to respond to the coronavirus pandemic. For goods and services initially imported and purchased free of tax under the new rules, the tax will subsequently become due if the goods are not used for the intended purpose. The exemption applies retrospectively to transactions carried out after 31 December 2020.

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Italy

E-invoicing via SDI extension

After the expiration of the former authorisation on 31 December 2021, Italy has been authorised until 31 December 2024 to **accept e-invoices via SDI** only if they are issued by taxable persons established in Italy (Council implementing Decision (EU) 2021/2251 of 13 December 2021).

As already known, since 2019 Italy has implemented a peculiar procedure according to which taxpayers resident or established in Italy are required to issue electronic invoices in a specific XML format to be transmitted via SDI (i.e. the exchange data system managed by the Italian Tax Authorities).

Following the recent extension, this special measure, on the one hand, covers a broader time frame (until the end of 2024) and, on the other hand, includes a wider scope since (as a matter of fact) it allows the possible implementation of the mandatory e-invoicing procedure via SDI also with regard to taxable persons who benefit from the exemption for small enterprises (under Article 282 of the VAT Directive). However, in connection with the latter aspect, possible rules still have to be adopted.

Based on the recent EU Decision, taxpayers who are not resident or not established in Italy, but have a mere VAT registration in Italy (having obtained a direct VAT registration or having appointed a fiscal representative in Italy) will not be obliged to implement the e-invoicing procedure via SDI.

In addition, it must be noted that the implementation of the e-invoicing via SDI with regard to **cross-border transactions,** so-called **'new Esterometro'** – which, as a matter of fact, implies an extension of the e-invoicing operative procedure to cross-border incoming and outgoing transactions, has been postponed from 1 January 2022 to 1 July 2022.

Starting from that new deadline, the communication of the data of cross-border transactions shall be conducted via SDI and using the XML e-invoicing format (of course, using the proper document type, etc.).

Therefore, for the first half of 2022, the communication of the data for cross-border transactions will continue to be carried out according to the current operating methods and terms (i.e. on a quarterly, cumulative basis).

Nevertheless, it remains possible (already provided by previous provisions) to issue an electronic invoice and to transmit it via SDI also with regard to cross-border transactions, within the respective and different terms.

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The Netherlands

Developments for investment funds and VAT fiscal unities

Broader scope for the VAT exemption of collective investment funds

In principle, the activities of collective investment funds are exempt from VAT when, among other conditions, the condition that the fund in question is under 'special government supervision' is met. The State Secretary's Decree of 22 March 2019 (No. 2019-42405) describes the circumstances under which it may be assumed that the collective investment fund in question is under 'special government supervision'. However, this decree has not been in line with the national case law of the Supreme Court since 4 December 2020. In two decisions from that day, the Supreme Court defined a broader concept of 'special governmental supervision' than how the concept was described in the aforementioned decree of the State Secretary.

The updated decree was published in the *Staatscourant* on 2 November 2021 and took effect retroactively up to and including 4 December 2020. In the updated decree, two situations have been added in which it may be assumed that special state supervision exists, namely:

- 'Other funds designated as collective investment funds for VAT purposes to which investment services are provided by investment firms under their licensing obligation pursuant to Art. 2:96 Wft (section 3.2)'. This licence is also known as the MiFiD-licence in the Netherlands
- 'Collective investment funds managed by banks subject to their licensing obligation under Art. 2:11 and 2:13 Wft in conjunction with Art. 2:97 Wft (section 3.6).'

Impact

In particular companies who provide their services to collective investment funds using the MiFiD licence should closely review their VAT position, both with respect to output VAT and the recovery of input VAT.

Possible change in legislation on conditions to form a VAT fiscal unity

On 28 October 2021, the Court of Appeal in The Hague ruled that a VAT fiscal unity is present from the moment that interrelatedness requirements have been met, even though parties have not acted as a VAT fiscal unity and the Dutch Tax Authorities have not issued an official approval to formalise it.

With reference to the ruling of the Court of Appeal in The Hague of 28 October 2021, the State Secretary of Finance has issued a clarification regarding why the ruling of the court was not appealed at the Supreme Court. In this clarification, the State Secretary has suggested that new legislation would in principle be required due to the current uneven playing field between the Dutch Tax Authorities and the taxable persons, because taxable persons are generally able to take an advantageous position retrospectively.

Ruling of Court of Appeal in The Hague

In the case at hand there were two questions that had to be answered based on the facts and circumstances:

1. Can a VAT fiscal unity exist without the official decision/approval of the Dutch Tax Authorities?
2. If so, can a VAT fiscal unity exist while the taxable persons involved have not acted as one?

The Court of Appeal ruled that a VAT fiscal unity is present from the moment the interrelatedness requirements have been met. Therefore, it formally does not matter whether an official decision of the Dutch Tax Authorities is present and/or whether parties have not acted as a VAT fiscal unity (i.e. have charged VAT on intercompany invoices).

The Court of Appeal has acknowledged the fact that taxable persons could use the court cases to take the most advantageous position retrospectively. However, according to the Court of Appeal, this is not a sufficiently weighty ground to judge otherwise, because it is the task of the Dutch Tax Authorities to supervise proper VAT registration and filing behaviour.

Impact

As the State Secretary of Finance is unhappy with the outcome and the possible opportunities of taxable persons, it has suggested that the legislation may need to be changed to prevent this going forward. This change in legislation may result in stricter conditions to be able to form a VAT fiscal unity in the Netherlands.

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Poland

Voluntary e-invoice as of 1 January 2022

A new type of transaction evidence has been introduced to the Polish VAT regulations, i.e. structured invoices (colloquially called e-invoices). The law underlying this new type of document was signed by the President on 15 November 2021. Structured invoices came into force on 1 January 2022. Accordingly, as of that day, taxable persons will be able to use structured invoices in addition to paper invoices and electronic invoices to document their transactions.

A structured invoice is an invoice issued by a taxable person via the National e-Invoicing System (KSeF) with a unique ID number assigned. KSeF is an ICT system which, among other things, is to be used to issue and receive structured invoices and which will store them for 10 years.

Structured invoices will be issued electronically by taxable persons using their financial accounting software in accordance with an official schema and sent to KSeF via an API to be provided by the Finance Ministry. They will apply in all kinds of transactions in both domestic and cross-border settings. An invoice issued in KSeF (i.e. having its unique KSeF number assigned) may not be withdrawn, edited or removed and any such revisions must be conducted via a correcting invoice.

The use of structured invoices will require the purchaser's consent. However, if the purchaser does not agree to receive structured invoices, the taxable person can still issue structured invoices using KSeF but they are obliged to provide the purchaser with these invoices in a way that was previously established with the purchaser.

It is worth mentioning that access to KSeF may be authorised using a trusted profile, a qualified signature, a qualified signature without NIP/PESEL attribute but with a different authentication method (e.g. fingerprint), a qualified seal, or a token. For the time being, it will not be possible to have access to KSeF using foreign e-signatures, however there are plans to change that.

Incentives are provided for taxpayers to propagate the use of structured invoicing such as:

- the right to a 40-day tax refund period, subject to further conditions, with one of them being that only structured invoices will be issued,
- deduction of output VAT resulting from the correction invoice in the month of invoice issuance as an exception from the general rule applying for the seller,
- if the purchaser accepts to receive structured invoices via KSeF, the purchaser is entitled to adjust input VAT in the month of receipt of the correcting invoice.

The Finance Ministry's website features a template for a logical schema for e-invoices (FA_VAT) to help businesses to adjust their financial accounting systems to comply with the new requirements. In addition to properly implementing the FA_VAT schema in their accounting and finance software, businesses must ensure that they are prepared for interfacing with the KSeF system and, most importantly, that all data and information sent or received remain safe.

While initially the new scheme will be voluntary, the Finance Ministry is planning to make it obligatory for all taxable persons as of 2023. However, there is no official project for the amendment of the Polish VAT Act implementing obligatory e-invoices from 2023.

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II. Further countries

China

Changes to indirect tax surcharges

The Urban Maintenance and Construction Tax Law of the People's Republic of China (hereinafter the 'UMCT law') and the 'Announcement on Determination of Tax Base for UMCT' (hereinafter the 'Announcement No. 28') which came into effect on 1 September 2021 have introduced some changes and clarifications that could have a significant bearing on a taxpayer's indirect tax burden.

1. Changes in the tax base and calculation for surcharges

In previous regulations, the indirect tax surcharges including urban maintenance and construction tax, education surcharge and local education surcharge were levied at a rate of up to 12% of the sum of the actual tax payment of VAT and consumption tax. While maintaining the same principles, rates and measures of the temporary regulations, the new UMCT law and the Announcement No. 28 introduced the following changes and clarifications for the calculation of the tax base:

- To avoid increasing the burden for tax-refundable enterprises, the new law clarifies that the tax base of the indirect tax surcharge shall exclude the VAT refunds.
- It had been unclear whether the 'VAT-exempt credit amount' should be subject to surcharges and has been practiced inconsistently in various places. The UMCT law and Announcement No. 28 stipulate that the 'VAT-exempt credit amount' shall be levied on urban construction tax.
- According to Caishuizi [1985] No. 69, imported products have been exempted from surcharges. However, for imported services and intangible assets, in the prevailing practice, surcharges used to be withheld by Chinese importers when making payments abroad. The UMCT law and Announcement No. 28 have introduced a significant change in this regard and stipulate that imported services are no longer subject to surcharges. This shift has aligned the surcharges practice for imported services with that for imported goods, both being exempted from the reversed charges system.

2. Tax administration and changes in the declaration procedure

All entities and individuals that pay VAT and consumption tax are taxpayers of the above-mentioned surcharges. The time when a tax liability arises for surcharges shall be the same as that for VAT and consumption tax, and these liabilities shall be paid simultaneously.

To further optimise the business environment and effectively reduce the burden of taxpayers, tax declaration procedures are also simplified. The State Administration of Taxation is actively promoting a combined declaration of surcharges, VAT and consumption tax, and aims to achieve a synchronised and simultaneous levy in all situations in a timely way.

Announcement [2021] No. 20 of the State Taxation Administration has clearly stipulated that as from 1 August 2021, the declaration forms for VAT and consumption tax shall be integrated with that for indirect tax surcharges, and the combined declaration forms shall be put into use.

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Kingdom of Saudi Arabia

Changes to VAT, invoicing and customs charges

Transformation to e-invoicing

Zakat, Tax and Customs Authority (ZATCA) applied e-invoicing from 4 December 2021, and agreed to implementing regulations for e-invoicing on 4 December 2020.

Taxpayers were given 12 months to apply e-invoicing.

Also, all registered entities and taxpayers are required to comply with e-invoicing requirements.

The regulations of e-invoicing are applicable to taxable persons residing in the Kingdom of Saudi Arabia (KSA) as well as to any third party who issues a tax invoice on behalf of the taxable person residing in KSA. Non-resident taxable persons are not obligated to issue e-invoices.

VAT due date & approved amendments

ZATCA approved and made amendments to the implementing regulations of VAT, on articles:

- 53 'Tax Invoices'
- 54 'Credit and debit notes'
- 66 'Records'

These amendments took effect on **4 December 2021.**

The main goal of the amendments is to make the VAT executive regulations consistent with the provisions and requirements of the e-invoicing regulations.

Amending the articles of the executive regulations of the unified customs system

According to the provisions of the GCC Unified Customs Law, customs taxes 'duties' shall be refunded in whole or in part on foreign goods re-exported outside the Gulf Cooperation Council (GCC) in accordance with the following requirements:

- That the exporter (re-exporter) is the importer in whose name the foreign goods are received, or any person who proves to the Customs Administration that they own them.
- The re-exported foreign goods whose customs duties are required to be refunded should be from one consignment, with the aim of identifying them and matching them with the import documents. The consignment may be re-exported in several parts of the same consignment if the part of the consignment fulfils all the conditions set forth in this article.
- The value of the foreign goods to be re-exported and the refund of customs taxes 'duties' collected on them shall not be less than SAR 20,000 (approximately EUR 4,800) or its equivalent in other GCC currencies.
- The claim for refunding the customs taxes 'duties' on foreign goods that were not used locally after their import from outside the GCC states, and in the same condition they were upon import.

- The foreign goods shall be re-exported within a calendar year from the date of payment of the customs taxes 'duties' on them when imported for the first time from outside the GCC countries.
- The request to refund the customs taxes 'duties' collected on foreign goods must be made within six calendar months from the date of re-export.
- The refund of customs taxes 'duties' shall be limited to those actually paid on foreign goods when imported.
- The customs taxes 'duties' shall be refunded after re-exporting the foreign goods that have been collected on them and verifying all the documents required for re-export.

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Singapore

Expanding the scope of application of GST

To ensure that Singapore's Goods and Services Tax ('**GST**') system remains fair and resilient as the digital economy grows, Singapore's tax authority ('**IRAS**') will extend the application of GST to: (i) low value goods worth S$ 400 or less (approximately US$ 295 or EUR 250) imported into Singapore by air or post, and (ii) imported B2C non-digital services from 1 January 2023.

Extended OVR regime for B2C imported low-value goods and B2C non-digital services

Under the extended overseas vendor registration ('**OVR**') regime for low-value goods and non-digital services, the following suppliers will be required to register for GST in Singapore if they meet the specified thresholds:

1. overseas suppliers,
2. electronic marketplace operators,
3. re-deliverers of low-value goods; and
4. remote service providers (e.g. providers of remote telemedical services, consulting services provided over the phone, etc.).

The threshold requirements are as follows:

1. an annual global turnover exceeding S$ 1 million (approximately US$ 730,000 or EUR 650,000); and
2. supplying low-value goods/remote services on a B2C basis exceeding S$ 100,000 (approximately US$ 73,000 or EUR 65,000).

Registrations will be under the simplified GST registration regime. Once registered for GST, the overseas suppliers will need to charge and account for GST on B2C supplies of low-value goods made to Singapore.

Crucially, this change imposes the GST registration liability on electronic marketplace operators, re-deliverers as well as remote service providers who fulfil certain criteria. The import of low-value goods into Singapore by a GST-registered customer would also be subject to GST under the reverse charge regime.

Overall, overseas businesses who have customers in Singapore should take note of this potential GST registration requirement, and carefully evaluate whether they would need to register for GST in Singapore.

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Ukraine

New VAT regulations taking effect in 2022

November 2021 saw Ukrainian Parliament approve a bill introducing another set of amendments to the Tax Code of Ukraine, taking effect from 1 January 2022. New regulations envisage the following changes for VAT payers:

- VAT payers may declare input tax in their VAT returns within 365 days after the seller issues a VAT voucher for a supply. Prior to 1 January 2022, this time frame was 1,095 days. For VAT vouchers that had been issued before the new changes came into force, VAT payers have to declare input tax within 365 days starting from 1 January 2022, but in any case, not later than 1,095 days after issuing a VAT voucher. The above deadline shall be suspended if the registration of a VAT voucher is blocked by tax authorities in the manner prescribed by the legislation.

- Adjustment calculations to VAT vouchers may be registered in the unified register of VAT vouchers within 1,095 days from the date of issue of such a VAT voucher. This new rule must be taken into account if there are any changes to the price of goods/services after their supply, especially for long-term contracts.

- Tax authorities have the right to initiate documentary tax audits of taxpayers who claim VAT refunds. Before the new changes, tax authorities could launch a tax audit of a VAT payer claiming VAT refund only in a few specific cases when VAT was paid before 1 January 2017. This change is expected to greatly increase the time gap of receiving VAT refunds for taxpayers due to the generally 'fiscal' approach of local tax authorities, according to which such tax audits were initiated almost automatically in the case of claiming VAT refunds in the past.

- The VAT base for transactions regarding the supply and import of tobacco and tobacco products, including industrial substitutes for tobacco and liquids used in electronic cigarettes ('tobacco products'), for which a maximum retail price is established, shall be determined based on such a maximum retail price. At the same time, supplies of tobacco products are exempt from VAT, excluding the first supplies of tobacco products in the territory of Ukraine by producers or importers of such products.

- Transactions related to the supplies of investment gold as it is defined by the Tax Code of Ukraine are exempt from VAT. Such transactions include the supply of investment gold, including via futures or forward agreements, services of agents involved in such supplies, and services related to the production of investment gold or the transforming of gold into investment gold.

- Temporary exemption from VAT for supplies of black and coloured scrap metal is prolonged until 1 January 2027.

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