TAXAND

Indirect Tax Insight Newsletter

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Brought to you by Taxand , Your Global Tax Partner

CONTENTS

- Introduction
- Austria
- Belgium
- Canada
- Croatia
- Czech Republic
- France
- Finland
- Germany
- Hungary
- India
- Mexico
- Portugal
- Serbia
- Slovakia
- Slovenia
- Switzerland
- UAE
- USA

INTRODUCTION

We are excited to launch the inaugural edition of our Indirect Tax Insight Newsletter, your go-to resource for the latest developments in indirect taxation around the globe.

As international tax regulations continue to evolve at a rapid pace, keeping track of changes in VAT, sales tax, customs duties, and other indirect taxes is more important than ever for businesses navigating cross-border operations.

In this first edition, we're proud to feature insights contributed by our international member firms.

These contributions provide a unique, on-the-ground perspective on key tax developments in multiple jurisdictions.

From new tax legislations to updated tax rates, this issue covers the critical trends and updates that will shape your business decisions.

Our goal is to help you stay informed and prepared, so you can manage risks, optimize compliance, and seize new opportunities in an increasingly complex global tax environment.

Thank you for joining us on this journey—we look forward to bringing you valuable insights in future editions.

All of us at Taxand wish you all a very Happy Holiday Season!

Beverly and Thomas

Beverly Gilbert
National Leader Commodity Tax Group
Borden Ladner Gervais LLP

Thomas Frøbert
Partner
Bech Bruun

Amendments to the VAT ACT/FISCAL code

What you need to know

Since 1 August 2024

Introduction of new tax exemption with right to deduct input VAT for food donations and non-alcoholic beverages to beneficiary charitable organisations (Sec 6 para 1 no 5a Austrian VAT Act).

As of 1 January 2025

The place of supply rules for electronically supplied B2C services, according to which the place of supply is where the recipient is resident, will include virtually available services (streaming services) as well (BGBl. I Nr. 113/2024 19. July 2024).

Increase of the national threshold for small businesses from ER 42,000 to 55,000 (BGBl. I Nr. 144/2024 9 October 2024).

Case Law

Denial of tax exemption for iC supplies (Art 6 para 1 in conjunction with Art 7 Austrian VAT Act)

- The tax exemption of iC supplies is to be denied if the supply is in connection with VAT evasion and the supplier knew or should have known about this.
- According to the case law of the ECJ, the supplier is generally obliged to take the measures that can reasonably be required to ensure that he does not participate in tax evasion.
- Since the supplier contributed to the concealment of the actual recipients by indicating a false recipient on the invoice on purpose, he was involved in VAT fraud and the tax exemptions for the iC supplies were therefore to be denied (Supreme Administrative Court, 24. April 2024 Ra 2022/15/0042).

Your Taxand Partner in Austria: Hannes Gurtner, E: hannes.gurtner@leitnerleitner.com; T: +43 732 70 93-2329

BELGIUM (1 OF 2)

ARTEO

Reduced 6% VAT rate still applicable to the sale of rebuilt dwellings by developers until 1 July 2025

In view of significant delays in the construction sector caused by exceptionally bad weather conditions, the legislator adopted a transitional measure which allows continued use of a transitional scheme under which a reduced 6% VAT rate is applicable to the sale of rebuilt dwellings (demolition + reconstruction on the same parcel) by developers. This transitional regime was meant to be rescinded on 31 December 2024, but it has now been extended until 1 July 2025, provided the permit had been applied for before 1 July 2023, and subject to social conditions (notably related to the size of the dwelling).

This gives developers extra time to complete their projects and offer a reduced 6% VAT rate on the sale of the rebuilt dwellings. After that date, the reduced 6% VAT will only be available to demolition and reconstruction work, still subject to social conditions, under a new permanent scheme.

We are at your disposal for explaining how the transitional and the permanent schemes regarding demolition/reconstruction of private dwellings and sales of rebuilt dwellings are being implemented.

Consequences of the Drebers case

The recent CJEU decision in Case C-2343/23 Drebers will have a major impact on adjustment rules for services related to immovable capital goods. Until now, a 5 years adjustment period was applied to renovation works on immovable capital goods, unless the immovable property was to be considered as « new » for VAT purposes as a result of the renovation. In the latter case, the adjustment period is 15 years, as for erection of new buildings used as capital goods. The CJEU indeed considered that a 15 years adjustment period should also apply when the work performed does not give rise to a new building, but involves a significant extension and/or substantial renovation of the building concerned by that work « and the effects of which have a duration of an economic life which corresponds to that of a new building ».

After this judgment, there are thus 3 possible scenarios :

- The work performed on the immovable capital goods is mere renovation (5 years adjustment period) ;
- The work performed on the immovable capital goods is substantial and gives rise to a « new building » for VAT purposes under national rules applicable in case of sale (15 years adjustment period).
- The work performed on the immovable capital goods does not have the effect to turn the building into a new building for VAT purposes under national rules. However, it is substantial and has the effect of providing an economic life that corresponds to that of a new building (15 years adjustment period). This latter concept still needs to be clarified.

BELGIUM (2 OF 2)

ARTEO

We are at your disposal to verify whether your current adjustment procedures are in line with the CJEU case law and to update you on expected administrative follow-up guidance.

Your Taxand Partner in Belgium: Marie Lamensch, E: m.lamensch@arteo.law, T: +32 47 61 83 57; Stéphane Wilmet, E:s.wilmet@arteo.law

CANADA (1 OF 3)

Eat, Drink and Be Merry - The federal government announces temporary GST/HST holiday on qualifying goods

On Nov. 21, 2024, the Department of Finance announced temporary goods and services tax/harmonized sales tax (GST/HST) relief on certain qualifying goods as part of the federal government's wider announcement titled More money in your pocket: A tax break for all Canadians.

The government intends to implement this relief through Bill C-78 – *An Act respecting temporary cost of living relief,* which effectively creates temporary amendments to the zero-rating provisions under the *Excise Tax Act* (ETA). As of Dec. 12, 2024, Bill C-78 remained at the final stage of review by Canada's Senate. However, Bill C-78 is expected to become law as initially drafted and if it does not receive Royal Assent prior to Dec. 14, 2024, it is deemed to come into force on such date.

What you need to know

- Between Dec. 14, 2024 to Feb. 15, 2025 (the Relief Period), GST/HST will be fully relieved on certain qualifying goods.
- The tax relief on qualifying goods will apply to the federal GST as well as the provincial portion of the HST applicable in participating provinces.
- Relief will apply to goods that are paid for and delivered to purchasers during the Relief Period. Relief will also extend to tax payable upon importation of qualifying goods under Division III of the ETA.
- Prior to Dec. 14, 2024, businesses should remain proactive in ensuring their GST/HST systems reflect this temporary relief to avoid conflicts with consumers and limit future audit risk.
- Provincial sales tax regimes in British Columbia, Saskatchewan, Manitoba and Québec are administered independently from GST/HST and are not subject to relief under the federal government initiative.

Background

GST/HST applies to goods and services supplied in Canada at a rate of 5-15 per cent, unless they are specifically exempt under Schedule V of the ETA or zero-rated under Schedule VI of the ETA.

Since its inception, the ETA has included zero-rating provisions applicable to select goods and services such as basic groceries to mitigate the regressive nature of GST/HST, whereby lower income households spend a larger portion of their income on necessities subject to tax.

By way of Bill C-78, Schedule VI of the ETA (Zero-Rated Supplies) will be amended by adding a new Part IX for the duration of the Relief Period, which addressed the mechanics and application of the temporary relief from GST/HST. The relief will extend to goods delivered or made available to recipients during the Relief Period, as well as GST/HST payable upon importation of the same goods into Canada during the Relief Period.

CANADA (2 OF 3)

Qualifying items eligible for GST/HST relief include:

- Children's clothing, footwear, diapers, and car seats;
- Select toys designed for children under 14 years of age;
- Puzzles, video game consoles and certain game media for all ages, excluding digital products;
- Print newspapers and books;
- Natural and artificial Christmas trees;
- Select food items otherwise excluded from the existing zero-rated basic groceries including chips, candies, baked goods, prepared meals; and
- Beverages otherwise excluded from existing zero-rated basic groceries including pop, bottled water, beer, wine, and coolers with up to 7 per cent alcohol content.

Insight

Under the ETA, GST/HST registrants ("**Taxpayers**") are appointed as agents of the His Majesty in right of Canada and are required to collect tax on behalf of the government. This means that Taxpayers are burdened with tax compliance costs in order to discharge their obligation to collect and ultimately remit tax to the CRA. When Taxpayers get it wrong, they are liable for not only tax amounts that they may have failed to collect but may also be subject to significant penalties and interest. Worse yet, when Taxpayers are subject to audit, they may find themselves pitted against an administrative regime with sweeping powers in a process that increasingly appears tilted against the Taxpayer.

Under a regime that imposes significant compliance costs and the potential liabilities on businesses in the course of discharging their obligations under the ETA, the federal government should strive for consistency and clarity in its tax policy. While a temporary tax holiday may appear simple in concept, the reality is that Canadian businesses will be required to implement changes to complex tax compliance systems on short notice in order to affect this temporary GST/HST relief.

Tax determination, sourcing exercises and systems implementations represent significant capital expenditures and take months to effectively implement in normal circumstances. The technology, advisory, and internal resource costs associated with the implementation of the temporary GST/HST relief will be incurred by Canadian businesses and may ultimately be borne by the consumers that the GST/HST holiday is intended to benefit.

The fact the Department of Finance communicated the intention to develop a robust rulings initiative to address the complexities of zero-rating basic groceries at the CPA Canada Commodity Tax Symposium on Oct. 29, 2024, whereby Taxpayers are to send physical samples of grocery items to the CRA to ascertain their status under existing the zero-rating provisions, speaks to the complexity of the characterization exercise necessary to operationalizing measures to relieve tax. An announcement that provides mere weeks for Taxpayers to affect this change is not indicative of a reasoned policy-driven decision and places not only costs on Taxpayers, but also a high level of uncertainty as to how the CRA will audit on these issues in the coming years.

CANADA (3 OF 3)

Takeaways

While evolving consumer trends may warrant changes to the existing zero-rating provisions under the ETA, such changes should be undertaken as part of a holistic review and be grounded in policy. The use of temporary GST/HST relief on qualifying goods, particularly related to items intentionally omitted from the current zero-rating provisions under the ETA, undermines the work of Taxpayers and tax administrators alike.

Given the short lead time before the temporary GST/HST relief is to take effect, retailers and suppliers should be proactive in making necessary systems changes in order to cease collection of GST/HST on qualifying goods during the Relief Period to avoid adverse impacts on customer relationships. Additionally, retailers will want to identify and address any potential characterization issues with respect to their product lines to ensure that they continue to collect GST/HST on products that fall outside of the list of qualifying goods subject to GST/HST relief**.**

In addition to implementing necessary system changes, Taxpayers should ensure they retain documentation outlining the system process changes undertaken to affect the temporary GST/HST relief program as a means of maintaining sufficient evidence for any future audits. Should you require further information or assistance with compliance issues, please call us.

Your Taxand Partners in Canada: Owen Clarke E: OClarke@blg.com T: +403.232.9664, Tanner Shapka E: TShapka@blg.com T: +403.232.9218
Beverly Gilbert E: BGilbert@blg.com T: +403.232.9409, Olivia Ruvo E: ORuvo@blg.com T:+514.395.2748

Amendments to the VAT ACT/FISCAL code

What you need to know

As of 1 January 2025

The threshold for registration in the VAT register will be increased from 40.000,00 EUR to 60.000,00 EUR. A taxpayer with a registered office, permanent address or usual place of residence in the country, whose annual turnover in the country did not exceed 60.000,00 EUR is exempt from paying VAT on supplies of goods and services made in the country.

The reciprocity requirement for VAT refunds for taxpayers not established in the European Union will be abolished.

The deduction of input tax based on a decision of the Tax Administration will be enabled. If the amount of VAT that the taxpayer has calculated or should have calculated on the supplies made increases based on a decision of the Tax Administration, then the taxpayer may issue a corrected invoice with correctly calculated VAT, and the recipient of the supply may, for the resulting difference, exercise the right to deduct input tax in the taxation period in which he received that invoice.

Your Taxand Partner in Croatia: Pavo Djedovic, E: Pavo.Djedovic@leitnerleitner.com, T: +385 1 606 44 10

CZ VAT Act Amendment as from January 2025

What you need to know

Effective 1 January 2025, an amendment to the Czech VAT Act will introduce key changes. The input VAT deduction period will be reduced from 3 years to 2 years, starting from the end of the calendar year when the right to claim input VAT arose.

The correction period for the VAT base will be extended from 3 to 7 years. Triangulation rules will become stricter, requiring invoices to state, "VAT will be paid by customer" (reverse charge).

VAT corrections will be allowed for bad debts under CZK 10,000 (approx. EUR 400) overdue by more than 6 months, with two payment requests made.

A new rule will require VAT correction if the incoming supply is unpaid by the end of the sixth month.

Additional changes will address registration thresholds, immovable property, and a special VAT regime for SMEs.

Your Taxand Partner in Czech Republic: Martin Valášek, E: martin.valasek@leitnerleitner.com, T: +420 607 073 910

FRANCE (1 OF 3)

A new communication of the French government concerning the implementation of the E-invoicing (press release)

E-invoicing 2026 - Unexpected bounce in France !

The French Ministry of Budget and Public Finance has just published a new press release, n°010, dated 15 October 2024, setting out the practical details of the reform of e-invoicing (link to French version).

While the timetable for rolling out the reform has been confirmed, the scope of the Public Invoicing Portal (PIP) will be reduced. The use of a PDP would become unavoidable and should force all taxpayers to start thinking now:

- On choosing the right PDP for them,
- On the possibility of becoming a PDP

We are at your disposal for explaining how the reform is being implemented and sharing the current best practice / action plan.

Application of VAT to the no-shows (2 French supreme courts decisions)

Taxation of no-shows kept by hotels… another twist!

By application of articles 256 and 266 of the French Tax Code, the abundant and well-established case law of the ECJ, the French Supreme Court (links here) considered that :

- The wording of the GTC should be review when determining the nature of the sums paid.
- The lump-sum payment levied by the hotelier in respect of a no-show represented the consideration for an individualizable service that the customer had undertaken to pay for firmly when the contract was signed, whether or not he made use of it, up to the amount of the commitment made (one night or the entire stay),
- The “no show” must be subject to VAT.

We are at your disposal for a further analysis on the contractual provisions in the event of a no-show and the VAT consequences.

FRANCE (2 OF 3)

Change in French tax guidelines involving a condition of ownership to deduct import VAT

Following CJEU cases (CJEU25 June 2015 and C-187/14 and CJEU, 8 October 2020, aff. C-621/19), French tax authorities have published new guidelines in January 2023, amended in July 2023. They now provide for a condition of ownership of the imported goods to deduct VAT on imports

This is creating difficulties in France regarding companies importing goods in France to carry out repair services, or toll manufacturing. As these service providers do not own the goods, they run the risk of incurring non-deductible import VAT.

At present, the tax authorities' guidelines make exceptions for manufacturers who import goods into France to provide manufacturing services in France and then re-export them. However, this scheme does not cover all return flows, particularly where the repair/manufacturing is carried out in another EU country, by a sub-contractor, or where the goods are not returned outside the EU.

In these situations, it is necessary to secure the flows through the implementation of specific schemes (customs or tax regimes), depending on the needs of the company.

We are at your disposal for a further analysis on the contractual provisions in the event of a no-show and the VAT consequences.

French administrative Supreme Court, (CE, 25 October 2024, n° 473809) : 40% penalty for intentional noncompliance

In this case, the tax authorities challenged the amount of VAT deducted by a company on invoices that had not been paid.

The French administrative Supreme Court confirmed the application of the 40% penalty due in the event of intentional noncompliance.

To assess that the breaches were deliberate, judges noted that the director of the company was also the director of another company that had been subject to a similar VAT reminder. He therefore could not have been unaware of his non-compliance.

In practice, in the case of groups of companies, care must be taken to apply the consequences of a tax audit to all the companies in the group, even if they were not directly impacted by the tax audit.

FRANCE (3 OF 3)

Mixed holding companies: securing VAT deduction and wage tax ratios

VAT incurred by a mixed holding company (which is involved on the management of its subsidiary) is deductible, including on costs that are not directly and exclusively linked to the management fees invoiced. The latter necessarily form part of its overheads. It is important to note that this applies even if these costs are not directly/exactly reflected in the price of the services provided to the subsidiaries for consideration. This is a hot topic in France despite the fact that the ECJ has already condemned France, and ruled on the matter again recently (CJEU, 6 Oct. 2005, Aff. C-243/03 Commission v France, and CJEU, 7 March 2024, Aff. C-341/22, Feudi di San Gregorio Aziende Agricole SpA).

Mixed holding companies are also subject to wage tax if they have employees and France were not liable for VAT (i) in the current civil year (CY) or (ii) on at least 90% of their turnover of the prior CY. This is a specific French tax, which other European Member States does not have.

With the tax authorities stepping up audits specifically targeting holding companies, it is recommended to review their VAT and wage tax ratios.

Your Taxand Partner in France: Nathalie Habibou, Nathalie.habibou@arsene-taxand.com, +33 1 70 38 47 75

Changes to Finnish Reduced VAT Rates Effective January 2025

Starting 1 January 2025, Finland will increase the reduced VAT rate from 10% to 14% for most goods and services, including transport, accommodation, cultural events, and books. Newspapers and magazines will retain the 10% rate until 2026. Menstrual products, incontinence pads, and children's diapers will shift from 25.5% to 14%. These adjustments are part of a broader VAT realignment, following a standard rate increase to 25.5% in September 2024. A proposed VAT hike on chocolate and sweets to 25.5% is anticipated by June 2025.

Your Taxand Partner in Finland: Henna Jovio, henna.jovio@borenius.com, +358 20 713 3465

Countdown to 1 January 2025: German Finance Ministry clarifies e-invoicing rules

In less than 40 working days, e-invoicing will become mandatory for B2B transactions. Even so, a number of questions remain. Germany's Ministry of Finance has issued a clarifications in its circular of 15 October 2024 on not only the technical requirements but also the practical challenges enterprises will need to manage.

What is required

The Ministry of Finance has now set out in more detail the technical and legal requirements connected to e-invoicing.

Structuring e-invoices

An e-invoice must be issued, sent, and received in a structured electronic format, allowing for electronic processing. This means the invoice must be machine-readable and the data must be directly importable into processing systems. Permissible formats include:

- XRechnung: A structured format based on the XML data model.
- ZUGFeRD (from version 2.0.1 on): A hybrid format that contains both structured data (XML) and is human-readable (PDF).
- Factur-X and Peppol-BIS billing: European formats that also comply with the EN 16931 standard.

Sending and receiving e-invoices

E-invoices can be sent in various ways. The channels used for sending and receiving them should be agreed upon between the parties involved as a matter of civil law. The possibilities are:

- Email: Sending the e-invoice as an attachment.
- Electronic interfaces: Transmitting data between the business partners' systems directly.
- Central storage location: Allowing shared access within a group of enterprises.
- Internet portals: Enabling the e-invoice to be downloaded.

Ensuring authenticity and integrity

Users must still ensure the authenticity of the origin of an e-invoice and its integrity (Sec. 14(3) of the German VAT Act [UStG]). Various methods can be used:

- Qualified e-signature: verifies the identity of the invoice issuer.
- Electronic data interchange (EDI): a standard procedure when business documents are exchanged.
- Internal control procedure: ensures the invoice is correct and complete.

Enterprises face practical challenges:

IT infrastructure must conform

Enterprises must make sure their IT systems can deal with the new requirements. This includes:

- E-invoicing software: This supports the preparation, transmission and processing of e-invoices.
- Integration into existing enterprise resource planning (ERP) systems: These must conform with the new requirements for processing e-invoice data.
- Security measures: These ensure the integrity of e-invoice data.

New software may have to be purchased and staff may need to be retrained. For some enterprises, this will be essential to ensure that their internal systems can process incoming and outgoing e-invoices. Enterprises must be able to take receipt of e-invoices from 1 January 2025.

Data must have integrity and security

Enterprises are strongly advised to adopt robust security measures to safeguard data from unauthorized access and manipulation.

Contracts and invoices

Contracts can be regarded as invoices if they contain the information required under Secs. 14 and 14a UStG. If the issuance of an e-invoice is mandatory, the underlying contract can be attached to the e-invoice in the form of supplementary information. However, there is still an obligation to issue e-invoices. For recurring obligations such as a tenancy agreement, it is permitted to issue an e-invoice only once for the first part of the performance period. This invoice should either include the underlying contract as an attachment or its content should clearly indicate that it represents a recurring invoice.

Finally, only an e-invoice qualifies as a valid invoice under Secs. 14 and 14a German VAT Act that entitles the recipient to claim input tax deductions pursuant to Sec. 15(1) sentence 1 no. 1 German VAT Act. Other kinds of invoices do not meet these requirements.

Conclusion

The introduction of mandatory e-invoicing means enterprises must ensure their IT systems conform with the new requirements. Additionally, trust service providers for electronic identification and trust services that comply with Regulation (EU) 910/2014 may be important to ensure data authenticity and integrity. Technology suited to e-invoices is necessary with regard to input tax deduction.

Your Taxand Partners in Germany: Julian zum Bruch E: julian.zum-bruch@fgs.de - T:+49 30 210020-210, Max Dietrich - E: max.dietrich@fgs.de - T: +49 30 210020-189

Changes in German VAT law in the Annual Tax Act 2024

The German Annual Tax Act 2024 has been adopted, which introduces several amendments in the German VAT act. It includes i.a.:

- The place of taxation for events in the B2C sector is now shifted to the consumer's place of residence, domicile or habitual abode if he/she attends online.
- The small-business regulation is extended to companies established in other EU member states , combining it with a reporting system.
- The implementation of changes to input tax deductions for services purchased by taxpayers who, calculate their taxes based on remuneration received instead of the invoices received (Istversteuerer) has been pushed back to 1 January 2028. Input tax deduction will then only be possible upon payment rather than upon receipt of the invoice

For a more detailed overview please see here.

Your Taxand Partners in Germany : Rainald Vobbe E: rainald.vobbe@fgs.de T: +49 228 9594-386; Daniel Drescher E: daniel.drescher@fgs.de T: +49 30 210020-125

2025 VAT Law Changes

VAT on real estate

The reduced VAT rate of 5% for the sale of new residential properties is extended with additional 2 years until December 31, 2026. Moreover, the transitional rules also grant such advantage until December 31, 2030 for construction projects, if the building permit will become final no later than December 31, 2026, on constructions that has been notified by September 30, 2024 on the basis of a simple notification, or it has been acknowledged under the Architecture Act by December 31, 2026.

VAT deduction on imports via indirect representative

Rules for VAT deduction through customs representatives will be strengthened. If the importer is not qualified as being risky taxpayer by the Hungarian Tax Authority and is subject to a monthly declaration, the right to deduct input VAT may be exercised by its indirect customs representative on the imported goods (if the importer is not a reliable taxpayer, only after partner verification). If the importer holds a licence for delayed import VAT assessment and the customs agent is a reliable taxpayer, this procedure may be applied irrespective of the former conditions. The indirect customs representative shall declare the details of the goods per import.

Increase in penalties

Default penalties for missed VAT returns became stricter and increased from HUF 500,000 to HUF 1,000,000 (approx. EUR 2,500); moreover, for non-compliance with the EU recapitulative statement reporting, such penalty may be multiplied per invoices affected by the mistake. Also for missed invoicing, default penalties increased from HUF 1,000,000 to HUF 2,000,000 (approx. EUR 29,300) per invoice affected. In addition, a new procedure will be introduced from next year to clarify reporting differences in data available to the tax authority – the procedure will be automatic with a penalty for non-cooperation amounting to HUF 300,000 (approx.. EUR 750).

Supply of gas by a taxable dealer

From 2025, the supply of gas by a taxable trader through the natural gas system connected in the territory of the EU will also be subject to reverse charge, i.e. including domestic sellers.

Introduction of eReceipt system

Rebates granted after completion (e.g. discount, rebate, etc.) may be applied even if only a receipt has been issued for the transaction. Tax base reduction requires an amendment to the receipt. The taxable person shall also have the right to reduce the taxable amount where the refund is not made directly to the final consumer of the goods but to an intermediary. The introduction of the eReceipt system has been postponed by half year to 1 July 2025.

Tax exemption for small businesses

The personal tax exemption became available for international transactions and distance sales. For the activation of the scheme, a separate declaration must be submitted to the Hungarian Tax Authority.

2025 VAT Law Changes continued...

It is also conditioned among other things, that the taxpayer's sales must not exceed the EU threshold (EUR 100,000) and the domestic threshold valid for the given country (varying per country of the recipient, HUF 12 million (approx. EUR 29,300) in Hungary).

Change of itemized reporting rules

Although from 2025 the amount rounded to one thousand forints will still have to be indicated on the main lines of the so-called M report (itemized domestic reporting), the exact amount in HUF for each item need to be reported on the itemized parts.

VAT deduction right

From 2025, domestic taxpayers will also be able to use the right to deduct VAT on goods and services supplied abroad if the transaction would give rise to a right of deduction in the case of domestic supply.

Case Law

VAT refund to non-established taxable persons in the Member State of refund

The Court of Justice of the European Union (CJEU) held that the Hungarian rule for VAT refund claims of taxable persons not established in Hungary (i.e. cross-border VAT refund claims) requiring such persons to submit additional information and documents within one month is contrary to EU law (ECJ C-746/22 Slovenské Energetické Strojárne). Thus, it is expected that the procedural rules will become a bit more flexible in practice.

Your Taxand Partner in Hungary: Judit Jancsa-Pék, E: Judit.Jancsa-Pek@leitnerleitner.com, T: ++(36)1 2792930

Apex Court decides admissibility of Input Tax Credit ('ITC') on goods and services (other than works contract services) used for construction of building

GST law restricts ITC on goods and services received for construction of an immovable property (except plant or machinery) on own account even when the same is used in the course or furtherance of business. The Apex Court in Chief Commissioner of CGST vs Safari Retreats Pvt Ltd. held that whether a mall, warehouse or any building other than a hotel or a cinema theatre can be classified as a plant within the meaning of the expression "plant or machinery" is a factual question which has to be determined keeping in mind the business of the registered person and the role that building plays in the said business i.e., functionality test will have to be applied to decide whether a building is a plant.

That said the decision has wide ramifications in as much as the Companies need to evaluate whether construction of any building or structure could constitute a "plant" basis the functionality test and thereby determine the possibility of availing ITC.

While the Apex Court has remanded the matter back to examine what constitutes plant considering the facts of each case, it gives a big opportunity for real estate players to examine their facts and claim certain credits, which otherwise may not be eligible, and thereby directly impact their profits.

From a VAT perspective, a shell company is prevented from: (i) getting a cash refund of the VAT credit resulting from the VAT return; (ii) offsetting the VAT credit resulting from the VAT return with other taxes due; or (iii) selling the VAT credit resulting from the VAT return. In addition, if for three consecutive years the company does not carry out VAT transactions above a certain threshold, the VAT credit resulting from the VAT return will not be able to offset the output VAT of the following years, while the shell company can continue to deduct input VAT.

In March 2024, the EU Court of Justice had been requested to assess whether the limitations to the right to deduct input VAT under the Italian shell companies legislation were in line with the EU law.

With Case C-341/22, the EU Court of Justice ruled that (i) the status of taxable person for VAT purposes cannot be denied if a person, during a given tax period, carries out transactions that are subject to VAT and the economic value of which does not reach the threshold prescribed by national legislation, which corresponds to the return that can reasonably be expected from the assets held by that person; (ii) the domestic legislation cannot deny to a taxable person the right to deduct input VAT if the transactions subject to output VAT carried out by that taxable person do not reach a certain threshold. The right to deduct input VAT may be denied only in case of fraud or abuse.

Your Taxand Partner in India: Harsh Shah - E: HarshShah@elp-in.com - T: +91 9820462123

New VAT Withholding Rules for Digital Platforms in 2024

Starting October 2024, digital platforms serving as intermediaries between sellers and consumers must adhere to new VAT withholding obligations for payments deposited in foreign bank accounts.

These platforms are required to withhold 100% of VAT on transactions involving the transfer of goods. Additionally, they are required to issue a digital invoice (CFDI) within five days of the month following the withholding, including the "Servicios Plataformas Tecnológicas" supplement from the Tax Administration Service (SAT).

Digital platforms must also report all withholding and intermediation operations to the SAT. This change impacts both domestic and foreign digital platforms and builds on the June 1, 2020, requirements, which mandated foreign digital service providers to register with the Federal Taxpayers Registry (RFC), among other obligations.

Your Taxand Partner in Mexico: Luis Monroy E: lmonroy@macf.com.mx T: +52 (55) 5201 7466

Use of PDF invoices extended to 2025

The State Budget Proposal for 2025 extends, until December 31, 2025, the possibility of using PDF invoices (without digital signatures or certification seals) as electronic invoices for all purposes provided for in tax legislation.

Will Portugal have VAT groups?

In last July, the Portuguese Government announced the intention to introduce the VAT groups regime in 2025, within the scope of the Program to Accelerate the Economy, but we are still expecting when and how this measure will be introduced since it was not included in the State Budget Proposal for 2025.

According to this Program, the Portuguese VAT groups scheme will allow group of companies to offset the VAT to be paid to the State under periodic VAT returns to the VAT credits generated by the other companies of the same group, delivering for this purpose just one single VAT return as if they were one taxable person, reducing therefore their financial VAT burden

Transfer of a business as going concern between exempt VAT taxpayers

The Portuguese tax authorities considered recently that a transfer of a business as going concern should not be subject to VAT when the transferor was not able to deduct any input VAT because exclusively performing exempt activities (in case insurance distribution activities).

This ruling contradicts the past understanding of the Portuguese tax authorities issued in 1989 according to which the out-of-scope rule should not be applicable when the business was transferred to an exempt VAT taxpayer, and then VAT had to be assessed.

Your Taxand Partner in Portugal: Isabel Vieira dos Reis - E: isabel.vieira.reis@garrigues.com T: +351 213 821 200

The proposed amendments of the VAT Law were adopted on 27.11.2024, with the effect as of January 1, 2025 with couple of exceptions stated below. The amendments are numerous and relate to the following:

New rules for increase/decrease of the VAT base when the reverse-charge mechanism is applied;

- The introduction of the possibility to calculate VAT in the case of the transfer of whole property or part of the property and in situations where the conditions for tax exemption are met;
- New rules for determining the tax base for VAT calculation on services whose compensation is included in the customs value of imported goods in accordance with customs regulations;
- The method for adjusting the tax base and calculated VAT in the event of a change in the base;
- New conditions for deducting input tax when the supplier of goods or services is a tax debtor and when the recipient of goods or services is a tax debtor;
- Correction of the previous tax deduction in the event of a reduction of an advance payment and cancellation of invoices and other documents, as well as the possibility of submitting a notification about the correction of the previous tax deduction in the case of subsequent reduction of the base;
- The procedure for VAT taxpayers in the event of changes in the value of received agricultural products and agricultural services – it is now mandatory to issue confirmation on increase/decrease of value;
- The explicit obligation to prepare an internal invoice;
- The deadline for submitting the VAT registration application is now set to 5 days after passing threshold for VAT registration of RSD 8.000.000 (EUR 68.300);
- The deletion of a VAT taxpayer that ceases to exist due to a status change must submit request for VAT deregistration at least 15 days before status change;
- The deadline within which a taxpayer can submit a request for a change of the tax period from December 20, 2024;
- Rules for cancelling invoices and conditions for reducing the calculated VAT;
- The abolition of Form POPDV (existing VAT calculation) - as of 1.1.2026;
- The introduction of a new concept of a preliminary tax return as of 1.1.2026.

Your Taxand Partner in Serbia: Jelena Knežević, E: Jelena.Knezevic@leitnerleitner.com T: +381 11 6555-111

SLOVAKIA (1 OF 2)

Extensive changes to VAT rates from 1 January 2025

As part of the latest consolidation of public finances in Slovakia, numerous changes to tax law were adopted in October 2024, including changes to the VAT rates.

- The standard VAT rate is being increased from 20% to 23%.
- A new reduced rate of 19% will be applicable to the supply of electricity (now 20%), foodstuffs (exceptions applicable), beverages in restaurants and catering establishments (now 10%) except for alcoholic beverages with an alcohol content of more than 0.5%.
- A new reduced rate of 5% is being introduced on a selected range of food and medical supplies, medicines, books (now 10%) and state-supported housing.
- The reduced rate of 10% on passenger transport by cable cars and ski lifts, sports facilities, accommodation services, fitness centres, recreational parks, etc. is being abolished.

Landmark decision on compensation for withholding excess VAT deduction during tax audits

The case relates to the situation where a tax audit was opened within the period for refunding an excess VAT deduction, after which the excess deduction was refunded.

The chamber of the Supreme Administrative Court came to a legal opinion differing from the previous decision-making practice. The court dealt with two crucial issues:

a) Adequate compensation for the unjustified withholding of the excess deduction, where it expressed the view that the compensation should be at the rate of inflation or at the rate of interest on the loan.

b) The period for which interest is to be awarded, where the court is of the view that interest should not be awarded for the period considered reasonable duration of the tax audit (6 months).

SLOVAKIA (2 OF 2)

New act on financial transactions tax

The most controversial measure of the consolidation package is the introduction of a new tax on financial transactions. The tax should apply from 1 January 2025, with the first tax period being April 2025.

The tax will apply to the following transactions made by legal entities and individuals – sole traders:

- debit bank transfers, rate 0.4%, maximum €40 per transfer,
- cash withdrawals from a bank or ATM, rate 0.8%, no cap,
- cross-border settlements, rate 0.4%, no cap, no cap/cap €40 depending on whether the entity can prove the transaction.
- payments via payment cards, charge of €2/year.

The quality of the new law is poor and there are serious concerns that it is not in line with EU law. We will keep you informed about the future development.

Your Taxand Partners in Slovakia: Eva Kusá, eva.kusa@bmb.sk, +421 2 2129 9000; Kristína Reguliová, kristina.reguliova@bmb.sk, +421 2 2129 9000,

Obligatory e-invoicing in Slovenia

A proposal of a new Act on the exchange of electronic invoices and other electronic documents was published in Slovenia.

Based on the proposal, as from 1 June 2026, business entities will be required to issue only e-invoices to other business entities. Business entities are all entities entered in the Business Register of Slovenia (AJPES).

Businesses will be able to exchange e-invoices in any standard (i.e. e-SLOG standard, syntaxes compliant with the European e-Invoicing Standard, other internationally accepted standards).

In addition, all e-invoices will have to be transmitted to the tax authority within 8 days of the issue or receipt of the e-invoice.

Higher VAT rate for certain beverages

As of January 1, 2025, a standard VAT rate 22% will be introduced for beverages with added sugar, sweeteners or flavourings, which are currently subject to a reduced VAT rate. This supports public health policy efforts to promote a healthier lifestyle.

Your Taxand Partner in Slovenia: Anja Novak Pungračič - E: Anja.Novak-Pungracic@leitnerleitner.com - T: +386 1 563 67 50,

SWITZERLAND

Switzerland introduces platform taxation for the sale of goods as of 01.01.2025

The upcoming Swiss platform taxation, effective from 1 January 2025, introduces VAT obligations for electronic platforms. Operators facilitating online sales of goods will be treated as VAT suppliers, even for sales between private individuals (C2C-relationship). This approach deviates from civil law by creating a fictitious supply chain. Affected platforms must manage VAT invoicing and reporting and potentially use margin taxation or notional input VAT deduction to mitigate overall tax burdens.

For sellers and platform-operators, key actions include assessing platform status, VAT registration, system updates and compliance with reporting standards. Unlike the EU system, Swiss regulations are broader, applying across all kinds of sales of goods and do not distinguish, for example, depending on the route of goods or the establishment of sellers and platform-operators.

Your Taxand Partner in Switzerland: Urs Kipfer E: urs.kipfer@taxpartner.ch, T: +41 44 215 77 17

UAE announces the introduction of the e-Invoicing system

The UAE has recently amended the tax procedures law and the valued added tax (VAT) law to introduce the e-Invoicing system in the UAE, which will be applicable to all entities in the UAE with respect to their business transactions regardless of their VAT registration status.

The Decentralized Continuous Transaction Control and Exchange (DCTCE) model will be adopted, requiring the electronic exchange of e-Invoices between suppliers, buyers and the UAE tax authority through a PEPPOL network.

Businesses subject to the e-Invoicing system will be required to appoint an accredited service provider to fulfil their e-Invoicing obligations. Detailed e-Invoicing legislation is expected to be published in the second quarter of 2025. Phase 1 of e-Invoicing reporting is expected to go live in the UAE around July 2026

Amendments to UAE VAT Regulations effective from 15 November 2024

The UAE has recently amended its VAT regulations with effect from 15 November 2024. The key changes relate to the following:

- Definition of exempt financial services: The provision of management of investment funds and the supply / conversion of virtual assets are now included within VAT exempt financial services category;
- Conditions for zero-rating on exports of goods and services: The scope of applying zero-rate in the case of exported services has now been narrowed. On the other hand, the amendments have eased the documentation requirements for applying the zero-rate on exported goods.
- Other key changes:
  - More ease on input VAT recovery for health insurance provided to employees and their dependents;
  - More clarity provided on the criteria of residential real estate.

Your Taxand Partners in UAE: Janet Gooi - E: j.gooi@tamimi.com T: +97143189971; Anuj Bhasin - E: a.bhasin@tamimi.com T: +97165971872

New discussions on standardized digital goods definitions

In many instances, treaty provisions do not apply for US state and local tax ("SALT") purposes. Furthermore, unlike VAT, sales and use taxes in the US are imposed on the ultimate consumer/user. Understanding US sales and use tax implications is key if doing business within the country.

The taxation of online services and digital products is relevant now more than ever. Keep in mind that states (and sometimes localities) vary greatly in their taxability treatment of these offerings.

Many states are members of the Multistate Tax Commission ("MTC"),an intergovernmental state tax agency that promotes uniform and consistent tax policy and administration among states. The MTC has recently started discussing developing standardized definitions for digital products for member states, which would support a broader approach on taxability.

Your Taxand Partner in USA: Toni Lewis E: toni.lewis@leoberwick.com T: +1 (408) 858 5874

ABOUT TAXAND

Taxand is a global organisation comprising top tier local independent tax advisory firms who together provide high quality, integrated tax advice to clients worldwide.

Overall, there are more than 700 tax partners and over 3,000 tax advisors across 52 countries, focussed on understanding you and your business needs; collaborating to deliver tailored, practical local and international tax advice, in consideration of your strategic goals.

As independent tax advisors free from burdensome audit regulations, we partner with you, not only to proactively support you in mitigating risks and managing uncertainty, but by pragmatically applying tax expertise to add value in support of your commercial drivers and growth.

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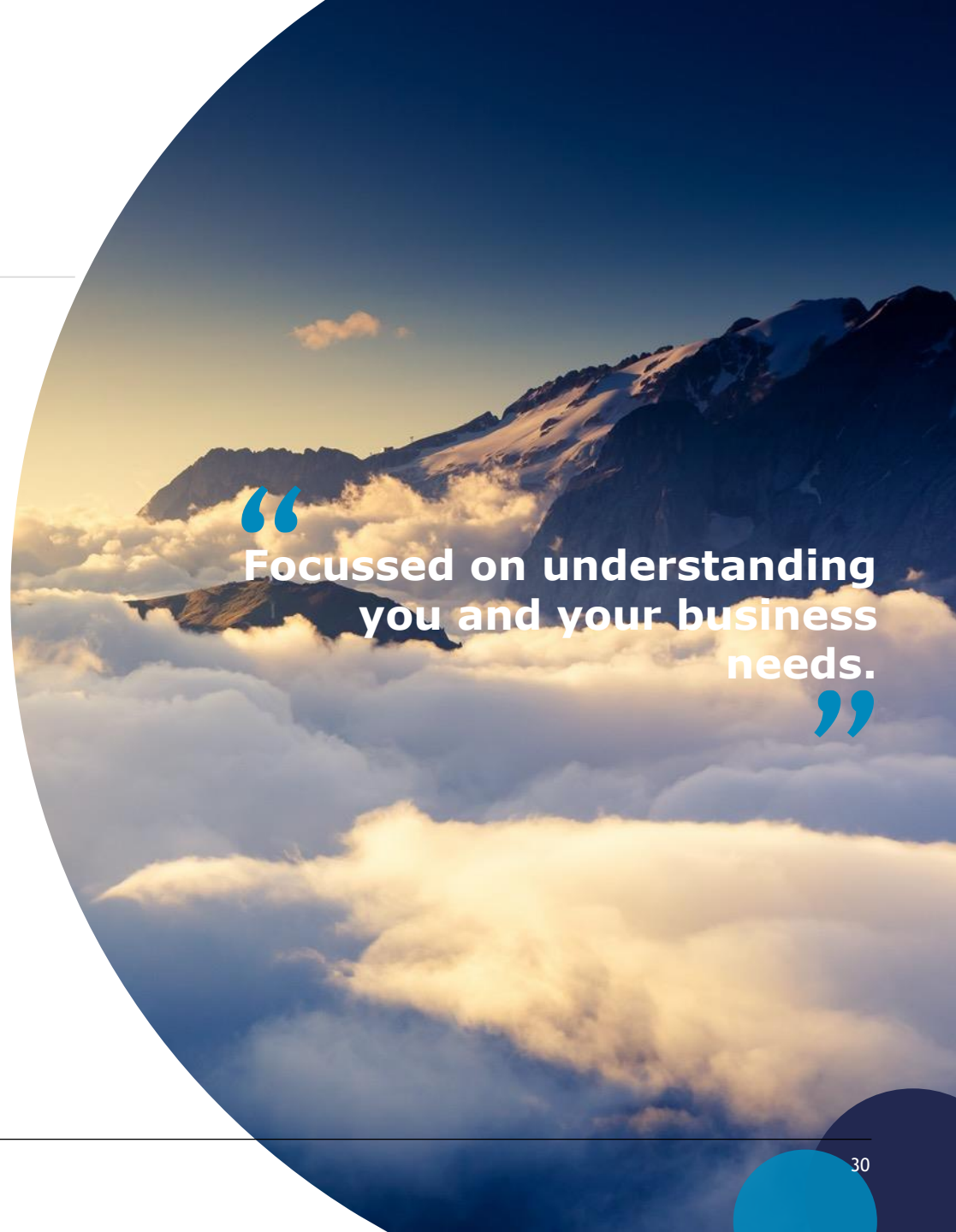

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