

Value-added Tax News Alert

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The following is a summary of some key indirect tax developments across the globe that are particularly relevant for U.S. multinational corporations.

Global Indirect Taxes

EUROPEAN UNION

United Kingdom

Finance (No. 3) Bill 2011: Finance Act 2011 (the "Act") became effective on July 19, 2011. The Act contains various VAT law amendments that unless otherwise noted, are effective from July 19, 2011, as follows:

- The VAT relief given to free business samples is extended to situations where a business provides an individual or another business with a series of identical or similar-in-nature free product samples for marketing purposes. Prior to the amendment, the VAT relief was limited to the first sample;
- The supply of printed matter connected with the supply of services made by a different

supplier is excluded from the scope of the zero rate; and

- The VAT exemption accorded to imported goods of low value has been lowered from £18 to £15, effective from November 1, 2011.

Germany

Update on reverse charge VAT mechanism on sale of cell phones and integrated circuits/chips: The reverse-charge mechanism applicable from July 1, 2011 on the sale of cell phones and integrated circuits is not applicable on sales of similar items such as navigation systems, tablet PCs, mp3 players or game consoles.

In addition, the terms of the purchase order, agreement or contract is relevant



for determining if the reverse charge mechanism applies or not. For example, if a customer orders EUR 30,000 worth of goods to be delivered in 10 installments, each worth EUR 3,000, the reverse charge mechanism will apply. However, repeated orders of less than EUR 5,000 would not be subject to the reverse charge.

Amendments to VAT Implementation Decree:

In light of the new EU Regulation 282/2011, which clarifies the place of supply of services to customers, the German finance ministry amended the VAT Implementation Decree, effective from July 1, 2011, to reflect the new rules on the place of supply of services to customers. Some of the most important clarifications include:

1. Classification of customer as consumer or business is based on facts at the time of the transaction;
2. If, after exhausting all reasonable ways to determine to whom the business services are to be supplied, doubt still exists on whether the business service is for the customer head quarter location, or one or more of its branches, the safe-harbor election to determine the place of supply shall be the head quarter location;
3. An assumption that services are supplied for business purposes where a customer provides his VAT ID number, and the supplier has verified it through the Central Tax Office;
4. Where the supplier cannot obtain a certificate of the business identity of the non-EU customer from the tax authorities, the supplier may exercise discretion as to what type of evidence he may accept to prove the business identity; and

5. Car rentals for 30 days or less are taxable at the location where the car is picked up. If, after the original rental, the car rental is extended for a period over 30 days, the two contracts are to be taken into consideration separately, unless the intention was to obtain a tax advantage.

Italy

VAT registration number cancellation:

After the enactment of Law Decree 98/2011 on July 15, 2011, Italian VAT ID numbers will be cancelled by the tax authorities in cases where a taxable person has not carried out business or professional activities over the last three years, or has not filed VAT returns in cases where he had an obligation to do so. It is expected that the tax authorities will be issuing some clarification on what is meant by not carrying out a business or professional activity. Also, under the newly enacted law, taxpayers who initially fail to notify a VAT deregistration liability to the tax authorities may subsequently make a voluntary disclosure and pay a reduced penalty of EUR 129 if the disclosure is made by October 4, 2011.

Intra-Community transactions:

Italian tax authorities asked businesses that were registered for VAT in Italy to reregister by February 28, 2011 for intra-Community transactions. For businesses that missed the deadline, their Italian VAT ID number became inactive. Therefore, businesses that missed the deadline need to contact the tax authorities to activate their VAT ID number. It is still unclear whether businesses will have to register for a new VAT ID number or if their inactive number will be reactivated. For the period of inactivity, the VAT ID number is deemed to be invalid.

In connection with supplies to or acquisitions from businesses with an Italian VAT ID number, it is highly

recommended that businesses check with the Italian VAT authorities if their Italian VAT ID number is registered and active to make certain that it is valid to perform VAT exempt intra-community transactions (e. g. intra-community supplies as well as B2B services to a customer registered for VAT purposes in Italy).

In case that the VAT ID number of a customer is invalid and a business issues an invoice without VAT, the business may be deemed not to have met the conditions for a VAT exempt/zero-rated supply. In case of a VAT audit, that business may have to pay the VAT on such turnover. If a supplier has an invalid VAT ID number, he is not allowed to make zero-rated intra-Community supplies until he has a valid number.

Since it is difficult to confirm the validity of a VAT ID number after February 28, 2011 and in the absence of any correspondence from the tax authorities, businesses should seek to confirm that their Italian VAT ID numbers remain valid.

EUROPE

Russia

Significant amendments to the current VAT legislation were introduced by Federal Law 245-FZ on July 19, 2011, and will become effective from October 1, 2011. These new amendments include, among others:

1. Changes to the place of supply rules applicable for services rendered in the continental shelf or within the exclusive economic zone of the Russian Federation;
2. A methodology for determining output VAT in case of changes in the value of goods and property rights supplied;
3. Changes to the documentary support to allow for the

application of a 0% VAT rate for the railroad transportation of goods into the Customs Union;

4. Provisions requiring taxpayers to adjust input VAT previously recovered if the related purchases are further used to perform zero-rated supplies.

AMERICAS

Canada

British Columbia to reinstate PST/GST tax regime: On August 26, 2011, the Province of British Columbia ("BC") announced that it will reinstate the combined 12% PST/GST tax system after a referendum in which the citizens of BC decided to eliminate the HST.

The Finance Minister announced that the PST will be reinstated at 7%, with all permanent PST exemptions existing at the time of its repeal. The Government of BC expects the transition period to take approximately 18 months. During the transition, the provincial portion of the HST will remain at 7%. BC will also provide quarterly progress updates.

It is important to note that the re-implementation has not yet been enacted into law. The Government of BC will be developing legislation to that effect in the coming months. In light of the coming re-implementation of the PST/GST regime, businesses will need to change their electronic and manual systems and processes to accurately account for and remit the PST.

ASIA/PACIFIC

India

Notifications: In Notification No. 13/2011-CE, CENVAT credit rules were amended to extend the CENVAT credit to service providers, in addition to manufacturers, on the basis of a supplementary invoice, a bill or a challan (written instrument mentioning

all details of ordered goods of which one copy is kept by seller, one with purchaser and one with transporter) issued by a provider of a service in which the elements of fraud, suppression, and the like are absent. Previously, this provision applied only to the manufacturers of the goods.

Australia

Carbon price mechanism: On July 28, 2011, the Australian Government released draft legislation and associated GST measures in relation to its recently announced carbon price plan (the "Plan") to take effect from July 1, 2012.

First, a facility must produce 25,000 tons or more of certain CO₂-e emissions per year to be subject to the Plan. This means that for every ton of certain CO₂-e emissions produced, taxpayers will be liable to buy and surrender an eligible emissions unit, which will cost AUD 23, increased by 2.5% annually for the first three years. From July 1, 2015, the price will be flexible and determined by the market, at which time the use of derivatives to manage risks is expected to increase. To achieve its goals, the Government will provide transitional financial assistance to certain businesses and industries.

In general, the draft legislation provides for the following GST treatment:

1. The issue, transfer, assignment or other transmission of an eligible emissions unit is GST-free (zero-rated) whereby entities trading in units can claim full GST input tax credits on related costs;
2. On the grants of transitional financial assistance, normal GST rules apply where the grant imposes binding and enforceable obligations on the recipient. If no such obligations exist, the

grant is considered out-of-scope for GST purposes; and

3. Most financial derivatives will be input taxed (exempt without credit) meaning that GST will not generally be payable on the trade of derivatives. To the extent that the related costs do not exceed AUD 550,000 in a 12-month period, the related input tax would be creditable. Once that threshold is reached, a 75% reduced input tax credit may be available in relation to particular services acquired in connection with the trading of derivatives such as trade execution, clearing and settlement.

This potential reduction of GST input tax credits may require businesses to implement both a GST apportionment methodology, and a system that can accurately calculate the GST input tax credit recovery. The disallowed portion of GST input tax credit may ultimately represent an additional cost to the business.

Exposure draft on GST financial supply provisions: On August 18, 2011, the Australian Government issued draft legislation to amend the GST law with regards to financial supply provisions, which is expected to take effect from July 1, 2012. The Government has invited interested parties to submit their comments no later than September 16, 2011. The key amendments include:

1. Increasing the financial acquisitions threshold input tax credit test from AUD 50,000 to AUD 150,000;
2. Allowing small businesses that account on a cash basis to access full input tax credits upfront when they enter into hire purchase arrangements; and

3. Excluding bank deposit accounts from the current special rules for borrowings.

China

China's State Administration of Taxation issued Bulletin 2011-40 (the "Bulletin") to clarify provisions of the tax point for VAT rules that took effect

from August 1, 2011. The Bulletin clarifies that for general sales transactions, and not for advance payments, the tax point for VAT is the earlier of (1) the payment received from the buyer, (2) the invoice date, or (3) the voucher date issued by buyer entitling the seller to the payment.

PwC has a global network of 1,900 indirect tax professionals in 130 countries worldwide, including a dedicated VAT team located in the U.S. who is available to provide real-time VAT advice. This News Alert does not provide a comprehensive or complete statement of the taxation law of the countries concerned. It is intended only to highlight general issues, which may be of interest to our clients. For issues relating to this News Alert, please contact your local Indirect Tax Practice advisor or the specialists listed at the end of this article.

For more information, please do not hesitate to contact your U.S. VAT Team:

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Global VAT Online Service

Many of the developments above are described in more detail on Global VAT Online (referred by many as "GVO") -- PwC's online subscription service which provides up-to-date business critical information on VAT/GST rates, rules and requirements around the world. This information will help you maintain control, mitigate risk, and improve the overall effectiveness of your VAT/GST function. For further information, please speak to your usual PwC advisor or a member of the U.S. VAT Team above. [GVO Website](#)

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SOLICITATION

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