

InTouch

with indirect tax news

Asia Pacific VAT/GST Alert



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Welcome to the second 2008 issue of InTouch* as we bring you news of major VAT/GST developments in Asia Pacific that are of interest to you.

Australia

GST ruling on creditable purpose

The Australian Taxation Office (ATO) has issued GST Ruling 2008/1 on the Commissioner's view on creditable purposes and entitlements to input tax credits for acquisitions or importations. This final ruling differs in many respects from the draft, and is highly relevant to apportionment methodologies and recovery rates.

The ruling sets out a number of factors to be taken into account in determining whether a sufficient connection has been established between the acquisition or importation and the creditable purpose.

Practice Statement on input tax credits for acquisitions related to making supplies under disclosed hire-purchase arrangements

The ATO-released Practice Statement PS LA 2008/1 (GA) outlines the Commissioner's approach to calculating the input tax credit entitlement for acquisitions that relate to the making of supplies under disclosed hire-purchase agreements.

For tax periods ending on or after 1 April 2008, the Commissioner will accept an apportionment method that achieves an extent of creditable purpose for partly creditable acquisitions of less than or equal to 15%. The Practice Statement only applies to those acquisitions that relate both to the supply of the goods and to the supply of credit.

Letter issued by the ATO concerning the transport industry

Under ATO's GST Ruling 2005/6, the supply of transport services including logistics and freight services by a resident transport company to a non-resident transport company is subject to GST if the goods are delivered or made available by the resident transport company to an addressee in Australia. This view is inconsistent with the VAT/GST treatment of international transport services in other jurisdictions.

The ATO has met with industry leaders and agreed that both the ATO and the transport industry will continue to lobby the Australian Treasury for a law change.

KAP Motors Decision

In this case, the Federal Court of Australia has confirmed that where there is no supply in connection with the making of holdback payments, a taxpayer is not precluded from obtaining a GST refund for GST paid, and there is no requirement to pass on any GST refund to the recipient of the supply in such circumstances. The judgment leaves open the opportunity for motor vehicle dealers to seek refunds of GST paid in relation to holdbacks without having to pass on this refund to manufacturers. The decision is likely to be appealed by the Commissioner of Taxation.

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China

'Encouraged Category' of foreign invested projects eligible for duty-free and VAT-free importation

Foreign invested projects falling into the 'Encouraged Category' of the Catalogue of Industries for Guiding Foreign Investment (the FI Catalogue) are eligible for duty-free and VAT-free importation of capital equipment under certain conditions.

The General Administration of Customs released several circulars to address the change of customs policies in light of the update of the FI Catalogue which took effect on 1 December 2007.

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India

E-filing of VAT Returns

The Punjab Excise and Taxation Department has started the facility of e-filing of VAT returns with effect from January 2008. The e-filing is optional for financial year 2007-08 but will be compulsory for companies with an annual turnover exceeding Rs. 1 crore with effect from 1 April 2008.

Specified dealers in the State of Kerala have been directed to file VAT returns as well as purchase and sale lists electronically with effect from 31 December 2007.

VAT rate reduction

The VAT rate on aviation turbine fuel in the State of Andhra Pradesh has been reduced from 33% to 4% with effect from 15 February 2008.

The VAT rate on furnace oil in the State of Punjab has been reduced from 12.5% to 4%.

Inclusion of equipment in the list of goods chargeable to VAT at 4% in the State of Assam

'Cranes, bulldozers, excavators and earthmoving equipment' have been included in the list of goods chargeable to VAT at 4% with effect from 2 February 2008.

Amendments to Tax Schedules in the State of Uttar Pradesh

Significant amendments have been made to the Tax Schedules appended to the Uttar

Pradesh VAT Ordinance, 2007. For example, under Schedule IV, certain fuel oils are taxable at 4% when sold to registered dealers for use in the process of manufacture of any taxable goods against certificates prescribed by the Commissioner.

Extension of the mechanism for refund of input services taxes to exporter of goods

The Central Government has extended the mechanism for the refund of input service taxes to exporters of goods to the following input services:

- Courier services in relation to export
- Goods Transport Agency services from the place of removal to the Inland Container depot/port/airport
- Rail transport services from the place of removal to the Inland Container Depot/port/airport

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Japan

Liberal Democratic Party announced its tax reform package

The ruling Liberal Democratic Party announced its tax reform package on December 2007. The package does not have any major reforms regarding Japanese Consumption Tax, but does indicate enhancement of local consumption taxes through the reform of financial power between regions.

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Laos

VAT set to be introduced from 1 January 2009

Under the VAT law, all companies with annual turnover above Kip400m (approx US\$45,000) must register for VAT. The VAT law also introduces a VAT withholding tax (WHT) on payments made for services provided by foreign companies. A VAT Instruction has been drafted, and is expected to be issued by June 2008.

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New Zealand

Proposed changes to the GST Act

In December 2007, the Government released a Discussion Document outlining a number of possible tax simplification measures with the aim of exploring ways of reducing taxpayers' compliance costs. The measures include:

1. Threshold changes

The proposal is to increase the annual GST registration threshold from \$40,000 to \$50,000. It also proposes to increase the threshold dealing with the situation where a taxpayer may be eligible to file GST returns every six months, from \$250,000 to \$500,000.

The deadline for making submissions on these threshold changes was 29 January 2008.

2. Tax invoice requirements

The changes proposed will simplify tax invoice requirements and include:

- Doing away with the requirement to state 'tax invoice' and the inclusion of details, quantity/volume of supply on the document;
- Allowing taxpayers to re-issue a tax invoice and mark re-issued documents with 'copy' in a way that makes it clear that it is not the original tax invoice;
- Removing the need for buyer-created invoices to be pre-approved by the Commissioner; and
- Allowing taxpayers to outsource tax invoice preparation to a billing agent.

The deadline for submissions on these matters was 29 February 2008.

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Singapore

New e-tax guides

The Inland Revenue Authority of Singapore (IRAS) has issued the following new e-tax guides on GST:

- (i) GST Concession For REITs & Qualifying Registered Business Trusts Listed In Singapore to (issued on 29 Feb 2008).

This GST concession allows Singapore listed Registered Business Trusts (S-RBTs) carrying on qualifying businesses, namely infrastructure business, aircraft leasing, ship leasing and S-REITs to claim GST on business expenses regardless of whether they are eligible for GST registration.

- (ii) Basic Record Keeping guide for small businesses (issued on 27 Mar 2008).

Compulsory GST E-filing

All traders will have to file their GST returns electronically by September 2008. There are some transitional arrangements for smaller businesses.

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South Korea

New Amendments to the VAT Law

There have been two notable amendments to the VAT law in South Korea effective from 1 January 2008:

- (i) Penalty on receipt of false tax invoice - a taxpayer who receives a false or artificial VAT invoice shall be subject to a penalty of 2% on the purchase amount. Prior to this amendment, only a taxpayer who issued a false or artificial VAT invoice was subject to a penalty of 2% on the supply amount.
- (ii) Non-Refund of purchase VAT related to rental of a vehicle.

**New Ruling (Seomyun 3 team - 2043):
- Withholding of VAT in relation to telecommunication education services provided via the internet by a foreign corporation**

A Korean company in receipt of education services provided via the internet from a foreign company that does not have a permanent establishment in Korea, will be liable to withhold and pay VAT on the fees it pays to the foreign company.

However, if the Korean company is a VAT taxable entity, the Korean company does not have to withhold tax.

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Thailand

VAT rate of 7% to continue until 30 September 2008

Royal Decree No. 465 was issued extending the VAT rate of 7% on the sale of goods, provision of services and import of goods until 30 September 2008.

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Vietnam

Proposed VAT changes from January 2009

A number of changes are due to be made to the existing VAT Law, with a proposed effective date of 1 January 2009. These include amendments to international transportation which will now be subject to 0% VAT and capital transfer, derivative finance services and certain telecommunication and postal services, which will become VAT exempt.

Tax booklet 2008

The booklet presents a general guide to tax rates in Vietnam for the year, based on current taxation regulations and practices, including certain legislative proposals and measures as of 28 January 2008. It includes a detailed section on VAT, providing a general overview and analysis on scope of application; exempt and zero rated goods and services, and rates of tax.

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For a comprehensive guide to global VAT/GST information from over 70 countries worldwide, please visit GlobalVATOnline at www.globalvatonline.com. GlobalVATOnline can keep you up to date on all VAT issues and developments as they unfold.

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