Asia Pacific VAT/GST Alert

InTouch

with indirect tax news

Issue 04/12

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Welcome to issue 04/12 of InTouch* which covers developments in VAT/ GST in Asia Pacific during the period July 2012 to September 2012.

Please feel free to reach out to any of the PwC contacts on the back of this issue

Australia

GST rulings and determinations

The following GST rulings and determinations were issued:

- GSTR 2012/3 (Issued on 11 July 2012): GST treatment of care services and accommodation in retirement villages and privately funded nursing homes and hostels.

- GSTD 2012/6 (Issued on 1 August 2012): When an entity makes a taxable supply of second hand goods by way of lease before making a taxable supply of the goods by way of sale (or exchange) both taxable supplies are taken into account to quantify and attribute input tax credits under Subdivision 66-A of the GST Act.

- GSTR 2012/D3: This draft ruling was released on 25 July 2012 and sets out the minimum information requirements for a tax invoice under subsection 29-70(1). It also explains when a document is in the approved form for a tax invoice.

Exposure draft legislation relating to GST refunds

On 17 August 2012, the Assistant Treasurer released exposure draft legislation (ED) on refunds of overpaid GST. The ED proposes to ensure that overpaid GST is only refundable if certain restrictive criteria are met. The amendments are intended to apply when working out net amounts for tax periods commencing on or after 17 August 2012.

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China

Update on Business Tax to VAT (B2V) Transition

The B2V Pilot Program will further expand to other locations while the nationwide Pilot Program may be introduced for selected industries in 2013. It is still uncertain which location / industries will be selected, while it is expected that Construction, Telecom and Transportation may be considered for the nationwide Pilot Program.

Beijing authorities have rolled out a financial subsidies arrangement under the B2V Pilot Program. All B2V payers need to submit the <Forms to Record the Tax Impact of the B2V Transformation Pilot Program on Pilot Enterprises in Beijing> on monthly basis together with monthly VAT return.

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India

Notifications/Circulars for VAT

- **Karnataka** - The VAT rate slabs of 5% and 14% have been increased to 5.5% and 14.5% respectively effective from 1 August 2012.

- **Delhi** - Filing of online declaration of tax rate wise details of closing stock as at 31 March has been made mandatory for all dealers. The due date for filing the declaration is 30 June of the relevant year. However, information pertaining to stock as on 31 March 2012 has to be furnished online by 31 October 2012.

  Online submission of details of purchases/ stock transfer of goods received from outside Delhi has been made mandatory effective from 1 October 2012 for all dealers.

- **Uttar Pradesh** - VAT rate in UP has been increased from 13.50% to 14% effective from 8 September 2012.

Notifications/Circulars for Service Tax

- The Central Board of Excise & Customs (CBEC) has clarified that there is no service tax per se on the amount of foreign currency remitted to India from overseas as this is merely a transaction in money which has been excluded from the definition of 'Service' effective from 1 July 2012.

- CBEC has clarified that vocational/education/ training courses ('VEC') offered by an institution of the Government or a local authority are not subject to service tax.

- CBEC has prescribed new accounting codes for payment of service tax under 'Negative list' regime effective from 1 July 2012.

- CBEC has come out with new notifications to extend the reverse charge provisions to services rendered by the directors to the company and to security services rendered by specified persons to a body corporate.

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Japan

Transitional measures for JCT rate increase

The Japanese Consumption Tax (JCT) rate of 5% is to be increased in two steps to 8% from 1 April 2014 and 10% from 1 October 2015. Transitional rules have been provided for certain types of asset transfers or services transactions, including:

- Fixed fee job contracts
- Retainer services contracts
- Fixed fee lease contracts

Where conditions for the transitional rules are met, consumption tax of 5% can apply after 1 April 2014.

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Malaysia

Public consultation for proposed amendments to GST Bill 2009

In July 2012, the Ministry of Finance released the proposed amendments to the Goods and Services Tax Bill 2009 for public consultation. A total of 62 amendments were proposed.

In the 2013 Budget presented on 28 September 2012 by the Malaysian Prime Minister and Minister of Finance, it was mentioned that the implementation of a new tax structure which is more comprehensive and fairer, is imperative. Sufficient time will be given for the necessary adjustments.

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New Zealand

New September 2012 Bill

In a positive development, the Government has introduced a bill to incorporate an enhanced GST registration regime for non-resident businesses as a mechanism for recovery of GST costs incurred in New Zealand. If implemented, the proposed rules will apply from 1 April 2014.

Another proposal allows GST-registered manufacturers to zero-rate the supply of tools and dies to a non-resident customer, where the tools and dies are used to manufacture goods for export, but are not themselves exported. This change also applies from 1 April 2014.

Determining when a property developer's activities constitute a taxable activity

The Taxation Review Authority (TRA) recently examined the question of when a property developer's activities constituted a taxable activity. The case is of interest as Inland Revenue has previously asserted that the purchase of a property with the intention to conduct a taxable activity does not, on its own, amount to a taxable activity. Inland Revenue used this argument to refuse refunds of GST costs incurred.

The TRA held that the developer had engaged in a taxable activity, which commenced upon the purpose of the property. The TRA confirmed that the activities undertaken (such as consideration of the property, the purchase of the property, setting up the purchase and ownership structure) took the activities beyond the preparatory stage and amounted to a taxable activity.

Offshore online shopping

Customs currently do not collect sums less than NZ$60 in relation to private imports. Where there is no duty this equates to a NZ$400 Customs value. There is mounting pressure from the retail sector for this limit to be reviewed.

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Singapore

Exemption for Investment Precious Metals

With effect from 1 October 2012, the importation and supply of Investment Precious Metals ("IPM") in Singapore are exempt from GST. Investment-grade gold and precious metals in the form of a bar, ingot, wafer or coin that meet certain criteria would qualify as IPM.

A new scheme "Approved Refiner and Consolidator Scheme" was introduced to relieve the cash flow costs for refiners and local consolidators of IPM.

Advertising in applications on mobile devices

The e-tax guide "GST: Treatment of Advertising Services" has been updated to clarify that the GST treatment for advertising in applications on mobile devices is based on viewer access, which is similar to that for internet advertising.

New e-tax guide for banking industry

A new e-tax guide has been issued by the IRAS on 1 August 2012 to provide guidance on the GST treatment for certain banking transactions.

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South Korea

Zero-rating of R&D services provided to a foreign company

Where a domestic company provides R&D services to a foreign company without having a domestic place of business in Korea and collects the service fee in Korean Won from the foreign company through a foreign exchange bank, the domestic company's services may be eligible for the zero-rate VAT.

Also, the company may deduct from output tax its expenses incurred to lease or purchase machinery that is necessary for the said R&D activities when such payment is substantiated with a tax invoice.

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Taiwan

Business tax implication on offshore decoration project

According to the Taiwan Business Tax Act, the sale of goods or services in Taiwan and the import of goods into Taiwan will be subject to business tax assessment.

A newly released tax ruling clarifies that if a Taiwanese business entity ("Company A") engages another Taiwanese business entity ("Company B") to perform decoration services outside of Taiwan, and Company B further subcontracts this offshore decoration project to a foreign company ("Company C"), the relevant decoration services rendered outside of Taiwan by Company C shall not fall within the scope of business tax assessment in Taiwan. This is because neither the services are rendered nor utilised in Taiwan.

However, if Company B earns commission income i.e. the excess of the service remuneration received from Company A over the service remuneration paid to the foreign company Company C, Company B would be liable for 5% VAT on the commission income earned.

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Thailand

Extension of the VAT reduction period

On 7 August 2012, the Cabinet approved a Royal Decree to extend the VAT reduction period.

As a result, the reduced VAT rate of 7% will apply for the period 1 October 2012 to 30 September 2014. This applies to the sale of goods, the provision of services and the importation of goods and services.

VAT to be imposed on sale of cigarettes from dealer to end user

Prior to 15 October 2012, the sale of cigarettes produced by a manufacturer which is an organisation of a government, by a reseller is exempt from VAT. This is where the reseller is not the manufacturer of the cigarettes.

With effect from 15 October 2012, VAT exemption would no longer apply due to a repeal. The sale of cigarettes from a dealer to an end user would be a normal sale of goods which is subject to VAT.

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Vietnam

Interpretation of permanent establishment ("PE") for zero-rating purposes

There have been a number of recent rulings which provide some guidance on how the Vietnamese tax authorities will judge whether a PE in Vietnam exists for zero-rating purposes.

The recent Official Letters ("OLs") suggest that the General Department of Taxation of Vietnam ("GDT") is taking a broader interpretation of PE based on the domestic PE definition in relation to eligibility for VAT zero rating (e.g. Official Letter ("OL") 2251 dated 27 June 2012) . Other OLs indicate, for example, that a PE can exist where a foreign company subcontracts work to a Vietnamese company.

VAT invoices quoting foreign currency

The Ministry of Finance had provided guidance on VAT invoices denominated in foreign currency.

Ho Chi Minh City Tax Department ("HCMCTD") has issued Letter No. 4380/CT-TTHT dated 13 June 2012 ("Letter 4380"), which reconfirms the position mentioned therein.

Letter 4380 reiterates that if a seller of goods or services is not allowed to receive payments in foreign currency, but nevertheless issues a VAT invoice which shows the payment value in foreign currency and an exchange rate for a VND equivalent, such a VAT invoice is considered an illegal invoice. Accordingly, the buyer shall not be allowed to claim an input VAT credit as well as a corporate income tax deduction for such invoice.

Letter 4380 again indicates that the tax authorities have become stricter in relation to invoicing in foreign currency and therefore, companies should closely monitor invoices received to ensure that no risk arises.

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