

InTouch

with indirect tax news



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Welcome to issue 01/16 of InTouch* which covers developments in VAT/GST in Asia Pacific during the period January to March 2016.

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

Cambodia

New invoicing requirements

The General Department of Taxation (“GDT”) has issued an instruction on invoicing requirements (including invoice criteria) for self-declaration taxpayers (i.e. real regime). In addition to the existing criteria of a tax invoice as stated in the VAT regulations, taxpayers are now required to use good quality ink and paper for printing invoices to ensure that they can be maintained in good condition for 10 years. Based on the sample of invoices attached with the GDT’s instruction, the buyers also have to sign on the invoices.

The invoice must be issued either in the Khmer language or two languages (i.e. Khmer with the English translation beneath).

Any tax invoice not issued in accordance with the existing and new criteria above will not be accepted as valid tax invoices to claim input VAT credit, nor to support the deductibility of expenses.

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China

Business Tax to VAT expansion measures

On 5 March 2016, Premier Li Keqiang indicated in the government work report that the pilot program for the transformation from Business Tax (“BT”) to VAT (the “B2V Reform”) would be expanded to cover the construction sector, real estate sector, financial services and consumer services (the “Four Industries”) from 1 May 2016. On 24 March 2016, the Ministry of Finance (“MoF”) and the State Administration of Taxation (“SAT”) jointly released Caishui [2016] No. 36 (“Circular 36”) on the Comprehensive Roll-out of the B2V Transformation Pilot Program, and the expansion measures of the B2V Reform was officially released.

Circular 36 stipulates that the taxable scope of the B2V reform is “the sales of services, intangibles or immovable properties within China”. The applicable VAT rates are as follows:

Type of service	Rate
Transportation services	11%
Postal services	
Basic telecommunication services	
Construction services	
Immovable property leasing services	
Sales of immovable properties	17%
Transfer of land use right	
Tangible movable properties leasing services	
Financial and consumer services	6%
Cross-border taxable activities within the service scope stipulated by the MoF and SAT provided by domestic taxpayers	0% or exempt

In addition, taxpayers can claim input VAT credit on VAT incurred on the purchase of immovable properties with valid VAT invoices. By 1 May 2016, all industries under the BT regime have been transformed to the VAT regime.

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India

Notifications/Circulars for VAT

Delhi

- With effect from 18 January 2016, the VAT rate on petrol and diesel has been increased from 25% to 27% and 16.6% to 18% respectively.
- Companies engaged in the business of courier activities are liable to furnish an online quarterly return in Form CR-II within 28 days from the end of the relevant quarter.
- Filing of quarterly online return through digital signature has been made mandatory for the following dealers:
 - gross turnover under VAT/CST during FY15 exceeded 50 lakhs for the tax period 1 January 2016 to 31 March 2016 and subsequent tax periods;
 - registered on or after 1 April 2015 for the tax periods following the year during which the gross turnover exceeds 50 lakhs.

Maharashtra

- With effect from 2 January 2016, exemption from VAT has been prescribed on drugs and medical equipment used in dialysis for the treatment of patients suffering from kidney disease.

Uttar Pradesh

- With effect from 2 January 2016, the VAT rate on plastic footwear with the maximum retail price exceeding Rs.300 has been reduced from 14.5% to 5%.

Rajasthan

- With effect from January 2016, e-commerce companies are required to submit monthly information in the prescribed form within 15 days from the end of the relevant month.

VAT case laws

- In the case of Sanjeev Stone Crushing Company vs. State of Haryana and others (2015-TIOL-2743-HC-P&H-VAT), the Haryana High Court held that a buyer could not be denied input tax credit on account of procedural defects on the invoice such as name and taxpayer identification number not being mentioned on the invoice.
- In the case of Maple Exports Pvt. Ltd. vs. Additional Commissioner, Sales Taxes Central Refund Unit & Ors. (2016-TIOL-538-HC-KOL-VAT), the Calcutta High Court held that a taxpayer seeking input tax credit was not obliged to take any responsibility for the supplier's valid registration.

Notifications/Circulars for Service Tax

- The scheme of grant of rebate of service tax paid on input services by exporters of goods under notification no. 41/2012-ST has been amended. Presently, services used beyond the place of removal, as per the Central Excise Act, were eligible for rebate. The eligibility of rebate has been extended to services used beyond the factory or any other place or premises of production or manufacture of the said goods, for their export. Further, the rate at which the rebate is granted under the notification (when claiming rebate at specified rates, instead of on actual basis) is increased, considering the increase in service tax rates.
- Notification no. 12/2013-ST which grants an outright exemption or refund of service tax on input services received and used by the Special Economic Zone ("SEZ") unit or developer has been amended. The SEZ unit or developer is now allowed to claim refund of Swachh Bharat Cess charged by the service providers, if outright exemption is not claimed. The notification also provides for refund of the Swachh Bharat Cess component in cases where there are common services used for SEZ and Domestic Tariff Area ("DTA") units, and the credit of service tax on such common services is distributed to the SEZ.

- Notification no. 39/2012-ST which grants rebate of service tax paid on input services by a service exporter if no CENVAT credit is claimed, has been amended. Such exporters of services are now allowed to claim rebate of Swachh Bharat Cess paid on the eligible input services.
- The Central Board of Excise & Customs (“CBEC”) has announced 1 April 2016 as the effective date on which the amended Section 109(1) of the Finance Act 2015 comes into effect. As a result, with effect from 1 April 2016, any service provided by the Government to business entities would be subject to service tax.
- The CBEC has exempted the services provided by the government or a local authority to a business entity with a turnover up to Rs.1 million in the preceding financial year. The notification is effective from 1 April 2016.

Services Tax case laws

- In GoDaddy India Web Services Pvt. Ltd. (2016-TIOL-08-ARA-ST), the Advance Ruling Authority held that various marketing and promotion services, supervision of third party customer care centre services, and payment processing services proposed to be provided by GoDaddy India to GoDaddy US were naturally bundled in the ordinary course of business, and was a single service, categorised as “Business Support services” and not “Intermediary services”. Since the recipient of the services was located outside India, the place of provision of such services would be outside India, and qualify as export of taxable services.
- In the case of Jet Airways (India) Limited vs. Commissioner of Service Tax, Mumbai I (TS-693-CESTAT-2015-ST), the Mumbai Tribunal held that the package tours offered by the appellant in addition to air travel were not classifiable as “tour operator services” as the appellant did not plan, schedule or organise the tours for the passengers.

- In the case of CCEx. vs. HSBC Software Development (India) Pvt. Ltd. (2016-TIOL-415-CESTAT-MUM), the Mumbai Tribunal held that when employees sitting in India access the servers/computer networks of the clients abroad, at least part of the services could be said to have been performed outside India, and the services qualified as export of services.

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Japan

Japanese tax reform 2016

On 29 March 2016, a proposal for the 2016 Japanese tax reform was approved at the plenary session of the Upper House.

Due to the 2016 Japanese tax reform, the following amendments were made to the Japanese Consumption Tax (“JCT”) rules:

- (a) Amendment of the in-or-out-of-scope criteria for certain B2B electronically supplied services;
- (b) Restriction on JCT holiday system and simplified taxation system after acquisition of High-priced Asset; and
- (c) Reduced Rate System
 - Reduced rate items and tax rate
 - Transitional measure before the introduction of Qualified Invoice Archiving System on 1 April 2021
 - Introduction of the Qualified Invoice Archiving System

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Malaysia

Update of GST guides

The Royal Malaysian Customs Department (“RMCD”) has updated a large number of GST guides which are available on the official GST portal (<http://gst.customs.gov.my/>).

GST (Zero-Rated Supply) (Amendment) Order

The GST (Zero-Rated Supply) (Amendment) Order 2016 takes effect from 14 March 2016 and expands the list of zero-rated goods to include the following categories of goods.

Tariff code	Description
0713.10 000	Peas (<i>Pisum sativum</i> - exclude whole and not skinned)
1108.14 000	Manioc (cassava) starch
1108.19 100	Other starches - sago

Certificate of Scrap/Waste Destruction

The RMCD has issued a new form (Certificate of Scrap/Waste Destruction) to be completed by manufacturers who are under the Approved Tolled Manufacturing Scheme (“ATMS”) after the manufacturers destroy their scrap or waste. The form can be downloaded from the official GST portal.

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New Zealand

Increased Inland Revenue activity in GST reviews and audits

GST processes and procedures are being scrutinised by the Inland Revenue through targeted questionnaires in order to determine businesses that may be at a higher risk of non-compliance. The Inland Revenue is also undertaking more data interrogation. Examples of questions and requests for information include:

- Requests for general ledgers along with GST tax coding;
- A step-by-step rundown of how the GST returns are prepared by the business;
- Any safeguards or checks that the business has in place in preparing and reviewing the GST returns; and
- How the GST treatment of the supplies is determined.

The Inland Revenue is specifically looking at output tax items and the criteria for any exempt or zero-rated treatment. The Inland Revenue is also looking at input tax and that correct documentation is held.

Digital products and remote services purchased from offshore sellers

The digital GST rules which will apply from 1 October 2016 will result in changes to GST obligations for offshore businesses, including those supplying digital content and remote services. Offshore sellers would need to take these rules into consideration when planning their systems and compliance procedures.

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Singapore

Clarification on incidental exempt supplies

The Inland Revenue Authority of Singapore (“IRAS”) has provided more guidance on when an exempt supply made can be regarded as incidental to business activities made by a GST registered person. This guidance is set out in the updated edition of the e-tax guide “GST: Partial Exemption and Input Tax Recovery”.

The IRAS has indicated that GST registered persons can treat an exempt supply as an incidental exempt supply under the following conditions:

- (a) The business makes predominantly taxable supplies; and
- (b) The making of the exempt supply does not amount to a separate business.

Details on the application of the above conditions are set out in the said e-tax guide.

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Taiwan

Proposal to increase VAT rate to 5.5%

Lawmakers in Taiwan are currently in the process of amending regulations to increase Taiwan's VAT rate from the current 5% to a new rate of 5.5%. The regulation is currently being drafted by lawmakers. The change is proposed to take effect two years from now.

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Thailand

Extension of period granted for filing additional VAT returns without penalty or surcharge

The Revenue Department has issued a clarification dated 16 March 2016 stating that the Minister of Finance has exercised his authority under the Revenue Code to extend the period for filing additional VAT returns for the tax months from January 2015 to March 2016. The due date for the VAT return filing for these months has been extended to 30 June 2016 and will carry no penalty or surcharge. However, the extended filing due date is granted only to the corporate entities who are registered with the Revenue Department by 15 March 2016 for the waiver of a tax audit under the relevant Royal Ordinance.

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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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