Asia Pacific VAT/GST Alert

InTouch

with indirect tax news

Issue 03/18

Cambodia

- VAT treatment of Cut, Make and Trim ("CMT") activities of Qualified Investment Projects ("QIP")

China

- VAT Reform
- Increase in export VAT refund rates of nearly 400 products

India

- Notifications/Circulars for CGST
- Case law for CGST
- Notifications/Circulars for IGST
- Notifications/Circulars for SGST/UTGST
- Case law for SGST/UTGST

Malaysia

- Abolishment of GST and introduction of the Sales and Services Tax regime

New Zealand

- Interim report of the Tax Working Group
- Zero-rating of services provided in relation to land
- GST on assets sold for non-profit bodies

Singapore

- Amendments to the GST Act

South Korea

- 2018 tax reform proposal for VAT law
- Applicable scope of the deemed supply of goods
- Allocation of supply amount to land and building

Vietnam

- New decree on electronic invoicing
- Transitional period on electronic invoicing
- New regulations on VAT

E-commerce developments

- Australia – GST on imported low value goods
- India – GST provisions pertaining to e-commerce operators
- New Zealand – proposed GST on low-value imported goods
- Singapore – Overseas vendor registration regime
- South Korea – Proposed VAT on cloud computing services provided by a foreign company to Korea
- Taiwan – Cloud-based Government Uniform Invoice ("c-GUI")

Welcome to issue 03/18 of InTouch* which covers the key developments in VAT/ GST in Asia Pacific during the period July 2018 to September 2018. The rapid growth of the digital economy had resulted in tax authorities introducing rules and measures to tax e-commerce digital services and goods. Starting from this issue, we will have a dedicated section to cover indirect tax developments in the e-commerce space in the region.

Please feel free to reach out to any of the PwC contacts on the back of this issue if you have any questions on the news items.

Cambodia

VAT treatment of Cut, Make and Trim ("CMT") activities of Qualified Investment Projects ("QIP")

The Ministry of Economy and Finance had issued Parkas No.741 to provide guidelines in respect of the VAT treatment of Cut, Make and Trim ("CMT") activities of Qualified Investment Projects ("QIP") in the garment, textile and footwear sector, carry bag and handbag production and hat production that provide CMT services under contracts for export purposes. The VAT treatment is set out as follows:

A. Output VAT

- The supply of CMT services for the purpose of exporting the processed products shall be subject to 0% VAT.
- The supply of CMT raw materials, finished products and faulty or excess products to the local market shall be subject to 10% VAT.
- In the case of a destruction of the CMT raw materials or faulty products, the enterprise shall notify the General Department of Taxation in advance to be exempt from the 10% VAT obligation.

B. Input VAT

- Input VAT paid on local purchases of goods or services for CMT activities shall apply in accordance with Articles 29-41 of VAT Sub-Decree No 114 ANKr.BrK of 24 December 1999.
- The enterprise supplying CMT services shall implement the VAT regulations and maintain and record VAT accounting records as stated in Article 50 of the VAT Sub-Decree.

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China

VAT reform

On 28 September 2018, Premier Li Keqiang chaired a meeting to obtain suggestions from entrepreneurs on the development of the economy. During the meeting, Premier Li Keqiang made it clear that China will continue to accelerate the VAT reform by reducing the number of VAT rate brackets from three to two and to lower the existing VAT rates. It is anticipated that the new measures to adjust the VAT rates may be announced in the near future.

Increased export VAT refund rates of nearly 400 products

As a common practice in international trade (based on the general VAT principles) to encourage the export of goods, exported goods are exempted (with credit) from VAT. Exporters can also apply for tax refund on VAT that has already been paid in the manufacturing or procurement of goods for export sale. However, as the VAT paid on the exported goods may not be fully refunded under the current export VAT refund mechanism, if the respective export VAT refund rate is lower than the applicable VAT rates, the non-refundable VAT will be borne by the exporters.

In order to refine the prevailing export VAT refund policies, the Ministry of Finance ("MOF") and the State Administration of Taxation ("SAT") jointly issued the "Notice on Increasing the Export VAT Refund Rates of Certain Electrical Appliances and Cultural Products" (Caishui [2018] No.93) on 5 September 2018, thereby increasing the export VAT refund rates of 397 items of electrical

appliances and cultural products etc. Circular 93 took effect from 15 September 2018 and the details are as follows:

- The export VAT refund rate of multi-component integrated circuits, non-electromagnetic interference filters, books and newspapers etc. is increased to 16%;
- The export VAT refund rate of bamboo carving and wooden fans is increased to 13%; and
- The export VAT refund rate of basalt fiber and related products and safety pins etc. is increased to 9%.
- The major changes to the export VAT refund rates are as follows:
- 6 products at the refund rate of 0% and 173 products at the refund rate of 5% have been adjusted to the refund rate of 9%;
- 19 products at the refund rate of 0%, 3 products at the refund rate of 5% and 35 products at the refund rate of 9% have been adjusted to the refund rate of 13%; and
- 42 products at the refund rate of 13% and 119 products at the refund rate of 15% have been adjusted to the refund rate of 16%.

Following the “Notice on Increasing the Export VAT Refund Rates of Certain Electrical Appliances and Refined Oil” (Caishui [2016] No.113) issued by the MOF and the SAT for 418 products, Circular 93 has made major adjustments to the export VAT refund rates of certain products that will have a significant impact on exporters.

The increase in the export VAT refund rates of 397 products means that the VAT paid on certain exported goods will be fully refunded. In addition, the adjustments to the export VAT refund rates will impact the cost and profit of exporters to a certain extent. With the export VAT refund rates of certain electrical appliances and cultural products increased, exporters should review the pricing arrangements of export products, analyse the potential impact due to the changes to the export VAT refund rates and reassess the current export business model.

On 8 October 2018, the Executive Meeting of the State Council determined a set of measures to further refine the export VAT refund policies, including:

- Certain products at the current refund rates of 13% and 15% will be increased to 16%;
- Certain products at the refund rate of 9% will be increased to 10% or 13%; and
- Certain products at the refund rate of 5% will be increased to 6% or 10%.

In order to further simplify the current export VAT refund mechanism, the VAT refund rates will be simplified from seven brackets to five brackets. The aforementioned measures shall be implemented with effect from 1 November 2018. It is anticipated that the fiscal and tax departments will issue the relevant circulars to increase the export VAT refund rates for more export goods soon.

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Notifications/Circulars for CGST

- Pursuant to Notification No. 16/2018-Central Tax (Rate) dated 26 July 2018, services by way of any activity in relation to a function entrusted to a municipality under Article 243W shall neither be treated as a supply of goods nor a service.
- Notification No. 15/2018-Central Tax (Rate) dated 26 July 2018 specifies that services supplied by individual Direct Selling Agents ("DSA") to banks/non-banking financial company ("NBFC") shall be taxed under the Reverse Charge Mechanism ("RCM").
- Pursuant to Notification No. 22/2018-Central Tax (Rate) dated 6 August 2018, the payment of tax under section 9(4) of the CGST Act, 2017 is exempt until 30 September 2019.
- Pursuant to Notification No. 40/2018-Central Tax dated 4 September 2018, the time limit for making the declaration in FORM GST ITC-04 is extended to 30 September 2018.
- Pursuant to Notification No. 44/2018-Central Tax dated 10 September 2018, the due date for filing of FORM GSTR - 1 for taxpayers who have an aggregate turnover above Rs 1.5 crores is extended to 31 October 2018.
- Pursuant to Notification No. 50/2018-Central Tax and Notification No. 51/2018-Central Tax dated 13 September 2018, section 51 and section 52 of the CGST Act (provisions related to tax deducted at source ("TDS") and tax collected at sources ("TCS") respectively) will come into force with effect from 1 October 2018.
- Pursuant to Notification No. 52/2018-Central Tax dated 20 September 2018, the rate of TCS is half percent to be collected by every electronic commerce operator for intra-state taxable supplies.
- The Central Board of Indirect Taxes and Customs ("CBIC") has provided guidelines for the deductions and deposits of TDS by the Drawing and Disbursing Officer ("DDO") under the GST regime.
- The CBIC has clarified the applicability of GST on residential programmes or camps meant for the advancement of religion, spirituality or yoga by religious and charitable trusts.
- Clarification has been provided regarding the removal of restriction on refund of accumulated input tax credit on fabrics.

Case law for CGST

- The High Court of Orissa in the case of M/s Shree Shubam Garments [W P (C) No.12127/2018 dated 13 August 2018] held that the alternate mechanism for filing manual returns or assistance in uploading necessary information should be provided to the registered taxpayers. It is essential for the officers to understand that any impediment caused to registered dealers in carrying on their business will also have a direct impact on the collection of revenue for the State. In the event where the dealer faces any problem in uploading data, an alternate mechanism for filing manual returns or assistance in uploading necessary information at their respective offices should be provided. The Commissioner has been directed to attend to the problems faced by the petitioners within a period of six weeks.
- The Hon'ble Allahabad High Court, in the cases of M/s Godrej And Boyce Manufacturing Company Ltd v. State of UP [Writ Tax No.587 of 2018 dated 18 September 2018], LG Electronics India Pvt Ltd Vs. State Of U P And 3 Others [Writ Tax No.454 of 2018], Bharti Airtel Ltd Vs State Of U P And 2 Others [Writ Tax No.455 of 2018], M/s Aditya Birla Fashion And Retail Ltd Vs State Of U P And 2 Ors [Writ Tax No. 464 of 2018] etc. discussed the gross chaos on the account of quick changes in relevant provisions where the field officers could not track these changes. Seeking adherence to the compliance of provisions that are substituted by new provisions and earlier ones that had become otiose, is an unauthorised act. The Notification dated 31 January 2018 where Rule 138 was changed by substitution and made effective from 1 February 2018, appeared to have escaped the attention of the authorities concerned, though it is the said provision which had to be complied by the petitioners. Therefore, the orders passed by the authorities concerned were erroneous due to the mistake of relevant provisions.

Notifications/Circulars for IGST

- Pursuant to Notification No.02/2018-Integrated Tax dated 20 September 2018, the rate of TCS is one percent to be collected by every electronic commerce operator for inter-state taxable supplies.
- Pursuant to Notification No. 23/2018-Integrated Tax (Rate) dated 6 August 2018, the payment of tax under section 5(4) of the IGST Act, 2017 is exempt until 30 September 2019.
- Pursuant to Notification No. 22/2018-Integrated Tax (Rate) dated 26 July 2018, the concessional IGST rate on specified handicraft items is prescribed in accordance with the recommendations of the GST Council in its 28th meeting held on 21 July 2018.

Notifications/Circulars for SGST/UTGST

- Pursuant to Notification No. 16/2018-Union Territory tax (Rate) dated 26 July 2018, services by way of any activity in relation to a function entrusted to a municipality under Article 243W shall neither be treated as a supply of goods nor a service.
- Notification No. 15/2018-Union Territory tax (Rate) dated 26 July 2018 specifies that services supplied by individual DSAs to banks/ NBFCs shall be taxed under the RCM.
- Notification No. 14/2018-Union Territory tax (Rate) dated 26 July 2018 amends Notification No. 12/2017-Union Territory Tax (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council in its 28th meeting held on 21 July 2018.
- Notification No. 13/2018-Union Territory tax (Rate) dated 26 July 2018 amends Notification No. 11/2017-Union Territory Tax (Rate) so as to prescribe the UTGST rates of various services as recommended by the Goods and Services Tax Council in its 28th meeting held on 21 July 2018.

Goa

- Pursuant to Notification No. 22/2018 (Rate) dated 16 August 2018, the Government of Goa specified that persons who did not file the complete FORM GST REG-26 of the Goa Goods and Services Tax Rules, 2017 but received only a Provisional Identification Number ("PID") till 31 December 2017, may apply for a Goods and Services Tax Identification Number ("GSTIN").

Karnataka

- Pursuant to Notification No. 22/2018 Bangalore dated 6 August 2018, the concessional IGST rate on specified handicraft items is prescribed in accordance with the recommendations of the GST Council in its 28th meeting held on 21 July 2018.

Bihar

- Pursuant to Notification No. SO-243 dated 8 October 2018, the rate of TCS is half percent to be collected by every electronic commerce operator for intra-state taxable supplies.

Tripura

- Pursuant to Notification No. F.1-11(91)-TAX/ GST/2018(Part) dated 14 September 2018, section 52 of the TSGST Act (provisions related to TCS) will come into force with effect from 1 October 2018.
- Circular No. 12/2018 – GST (State) dated 18 September 2018 modified the procedure for the interception of conveyances for the inspection of goods in movement, detention, release and confiscation of such goods and conveyances, as clarified in Central Circular No. 41/15/2018-GST dated 13 April 2018 (corresponding State Circular No. 06/2018-GST (State) dated 19 April 2018) and Central Circular No. 49/23/2018-GST dated 21 June 2018 (corresponding State Circular No. 11/2018-GST (State) dated 17 September 2018).

Case law for SGST/UTGST

In the case of Hon'ble Bombay High Court in the case of O/E/N India Ltd & Anr. [Writ Petition No. 2086 of 2018 dated 26 September 2018], the petitioner was unable to submit Form GST TRAN-1 due to a typographical error. Consequently, it was unable to avail the unutilised Cenvat credit. Hence the writ was filed seeking directions to enable the petitioner to re-submit Form GST TRAN-1 electronically or physically. It was observed by the High Court that human errors in mentioning the correct figures have occurred in past cases too, some of which were resolved in favour of the State while others were settled in favour of the petitioner. Considering the provisions of Section 172 of the CGST Act pertaining to the removal of difficulties, it would be appropriate for the Central Government to issue a general or specific order to mitigate such issues.

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Abolishment of GST

GST was officially abolished on 1 September 2018 and replaced with a Sales Tax and Service Tax framework. There is no requirement for businesses to apply for deregistration from GST on or after 1 September 2018 as the GST Act 2014 was repealed on 1 September 2018.

Notwithstanding the repeal of the GST Act, the GST (Repeal) Act 2018 provides that:

- Any liability incurred under the GST Act may be enforced;
- Any GST due, overpaid or erroneously paid may be collected, refunded or remitted;
- Any application to the Director General ("DG") of Customs for review of a decision by his officer will continue to be dealt with as if the GST Act had not been repealed; and
- Any appeal made to the GST Tribunal before 1 September 2018 will be heard and decided by the Customs Appeal Tribunal on or after 1 September 2018.

As such, any input tax or bad debt relief which has not been claimed before 1 September 2018 must be claimed in the final GST return. Similarly, if there is any GST due and payable which has not been paid, the amount must be paid in the final GST return.

The final GST return must be furnished to the Royal Malaysian Customs Department ("RMCD") within 120 days from 1 September 2018.

Sales Tax

Sales tax is a single-stage tax chargeable on all taxable goods manufactured in Malaysia by a registered manufacturer and sold, used and disposed of by him. Sales tax is also chargeable on all taxable goods imported into Malaysia by any person. All goods that are not exempted from sales tax by order of the Minister of Finance are taxable goods. The list of goods exempted from sales tax is available in the Sales Tax (Goods Exempted From Tax) Order 2018.

For taxable goods, the rates of tax are generally 5% or 10% ad valorem for most types of goods. Specific rates are currently imposed on certain classes of petroleum products.

A manufacturer is liable to be registered for sales tax if the total sales value of his taxable goods for a 12-month period exceeds or is expected to exceed RM500,000.

Sales tax is due at the time the taxable goods are sold, disposed of otherwise than by sale, or first used otherwise than as materials in manufacture of taxable goods, by the taxable person. However, in relation to the classes of petroleum that are subject to sales tax, special provisions apply regarding the time when sales tax is due. Any sales tax that is due during a taxable period, is payable to the RMCD latest by the last day of the month following the end of the taxable period. A taxable period is generally a period of 2 calendar months. However, the DG of Customs may

approve application from a taxable person to vary the taxable period. If the application to vary the taxable period is approved, the sales tax due is payable to RMCD latest by 30 days from the end of the varied taxable period.

Service Tax

Service tax is a consumption tax levied and charged on certain prescribed taxable services provided in Malaysia by a registered person in carrying on his business. The taxable services are prescribed by the Minister of Finance.

The rate of service tax is 6% ad valorem for all taxable services except for provision of charge card or credit card services, of which the service tax is RM25 per year on each principal card or supplementary card.

A person is liable to be registered for service tax if the total value of his taxable services for a 12-month period exceeds or is expected to exceed the prescribed registration threshold (generally RM500,000). The list of taxable persons with their taxable services and prescribed registration threshold is available in the First Schedule of the Service Tax Regulations 2018.

Service tax is due when payment is received for the taxable services rendered. Nonetheless, if payment is not received within 12 calendar months from the date of issuance of the invoice, the tax is due on the day immediately after the expiry of the 12-month period. Any service tax that falls during a taxable period is payable to the RMCD latest by the last day of the month following the end of the taxable period. A taxable period is generally a period of 2 calendar months. However, the DG of Customs may approve application made by a taxable person to vary the taxable period. If the application to vary the taxable period is approved, the service tax due is payable to RMCD latest by 30 days from the end of the varied taxable period.

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New Zealand

Tax Working Group – Interim report

The Tax Working Group ("TWG") released its interim report on 20 September 2018. In the interim report, the TWG has recommended that GST should remain largely unchanged and that the introduction of a financial transactions tax should not be pursued.

The final report is planned for submission to the Minister of Finance and the Minister of Revenue no later than February 2019.

Zero-rating of services provided in relation to land

Before 1 April 2017, a supply was zero-rated only if the services were directly in connection with land outside New Zealand or not directly in connection with land in New Zealand but the recipient of the services was a non-resident and outside New Zealand at the time the services were performed.

From 1 April 2017, the GST Act added a new test that broadened tests to include services that are "supplied in connection with such land or improvement and are intended to enable or assist a change in the physical condition, or ownership or other legal status, of the land or improvement".

The Inland Revenue has released an exposure draft to discuss the phrases used both before and after the 1 April 2017 amendments, together with examples of how the new tests should be applied. Submissions on the exposure draft have closed on 12 October 2018.

GST on assets sold for non-profit bodies

In a bill currently before Parliament, changes are proposed to the GST treatment of assets sold by non-profit bodies ("NPB"). It is proposed that with effect from 15 May 2018, where a GST credit has been claimed at the time an asset is acquired, or if the asset has otherwise been brought within the GST net (for example, if input tax has been claimed in relation to the asset's operating expenditure), the NPB could be required to return 15% GST on the future disposal of that asset.

There will be a limited period during which the NPB can elect to repay any input tax previously claimed rather than accounting for 15% of the GST due on any future disposal. This would be beneficial and worthwhile considering for appreciating assets, to minimise the total GST cost over the lifetime of the asset.

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Singapore

Amendments to the GST Act

The GST Act would be amended to provide for the following changes:

- Introduction of GST on imported services (as announced in the 2018 Budget Statement);
- Enhancement of the Inland Revenue Authority of Singapore ("IRAS")'s powers to investigate tax crimes;
- Sharing of information by the IRAS with law enforcement agencies to combat serious crimes; and
- Extension of the customer accounting rules to transactions with the Government.

The GST (Amendment) Bill 2018 has been presented for debate before Parliament and is expected to be enacted in the next few months.

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South Korea

2018 tax reform proposal for VAT law

On 30 July 2018, the Ministry of Economy and Finance ("MOEF") announced the government's tax reform proposals for 2018. The reform proposals confirm the government's commitment to drive tax policies and regimes to facilitate job creations as well as innovative growth and narrow the income inequality. The proposal includes changes to embrace the base erosion and profit sharing ("BEPS") initiatives taken by the Organisation for Economic Co-operation and Development ("OECD"). The government's proposal package has been finalised through public hearings in the cabinet meeting on 28 August 2018 and submitted to the National Assembly. Most of the proposed changes will take effect from 1 January 2019 or in the fiscal year beginning on or after 1 January 2019 unless otherwise specified.

A summary of significant VAT changes contained in the government's reform proposals is set out as follows.

1. Applicable scope of deemed supply of goods

Deemed supplies are not treated as supplies made by a business. For VAT purposes, these are considered as taxable supplies. Currently, it shall be deemed as the supply of goods that a company directly uses or consumes for its own tax-free business for any of the following goods that are produced or acquired in connection with its own taxable business ("self-produced or self-acquired goods"):

i) Goods for which an input tax amount is deductible; and

ii) Goods acquired through a business transfer for which the seller is entitled to deduct an input tax amount.

According to the proposal, goods purchased at the zero rate which are deemed exports will be added to the list of self-acquired goods.

2. Allocation of supply amount to land and building

In principle, the supply of land shall not be subject to 10% VAT, while the supply of building shall be subject to VAT. Generally, if the transaction amount for each land and building is clearly separated, the transaction amount is deemed to be a VAT-exempt and VAT-able amount.

In cases where the land and building is supplied in an aggregated amount and not separated, there is a requirement to allocate the aggregate amount to each land and building based on the market value designated by the National Tax Service ("NTS").

However, some taxpayers may determine the transaction amount for land at a higher amount and for building at a lower amount at its own discretion to avoid paying the VAT for the supply of building. Accordingly, the proposal is to allocate the aggregate amount to land and building based on the market value designated by the NTS in cases where the land transaction amount exceeds 30% of the allocated amount to land based on the market value designated by the NTS.

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Vietnam

New decree on electronic invoicing

Decree 119/2018/ND-CP on e-invoicing has been approved by the government and was officially released on 12 September 2018. The decree will take effect from 1 November 2018. Decree 119 requires e-invoices to be compulsory for all enterprises from 1 November 2020. Some of the key changes are highlighted below:

- E-invoices without the verification code of the tax authorities are acceptable for enterprises in selected industries, such as electricity, petroleum, telecommunication, transportation, financial services, insurance, medicals, e-commerce, supermarket, trading and other enterprises and economic organisations that has:
  - Transacted or will transact with the tax authorities electronically; and
  - Maintained technology infrastructure, accounting software, e-invoice software as regulated.
- Enterprises other than the above and high-risk enterprises must use e-invoices with the verification code of the tax authorities.
- Before the use of e-invoices (either with or without the verification code), enterprises must register and obtain approval from the tax authorities via the web portal of the General Department of Taxation ("GDT").
- E-invoices can be issued and digitally signed by the sellers via the e-invoicing system of the e-invoice solution providers. E-invoices with the verification code can also be issued and digitally signed by the seller via the web portal of the GDT. E-invoices shall be sent from sellers to buyers via an electronic method as agreed by both parties.
- The threshold of VND 200,000 in regard to the value of purchase for issuance of invoices (which applies to normal paper invoices) does not apply for e-invoicing.
- E-invoices can be converted into paper invoices for the purpose of recording and monitoring under the Law on Accounting. Paper invoices that has been converted are not valid for executing transactions or payment.
- For goods in transit, competent authorities can access the web portal of the GDT for detailed information on the goods origin. Paper invoices are not required in this case.
- Credit institutions, commercial banks and organisations with payment functions shall provide the tax authorities with electronic data of the payment transaction periodically, via the organisations and individuals' accounts in the standard data format, as required by the Ministry of Finance. Detailed guidance on this matter shall be provided by the Ministry of Finance.

Transitional period

- Enterprises that has used or is using e-invoices with or without the verification code before the effective date of the decree will continue using such e-invoices from the effective date of the decree.
- Enterprises using self-printed invoices, pre-printed invoices or purchased invoices from the tax authorities before the effective date of the decree will be allowed to continue using such invoices until 31 October 2020. E-invoices must be used from 1 November 2020 onwards.
- During the period from 1 November 2018 to 31 October 2020, enterprises that are notified by the tax authorities to switch to e-invoices with verification code of the tax authorities (presumably high risk enterprises) are required to submit Form 03 (promulgated together with the Decree) which contains information regarding output VAT invoices to the tax department together with the VAT return, if the enterprises' IT systems are not qualified to adopt e-invoicing.

- Enterprises established during the period from 1 November 2018 to 31 October 2020, if instructed by the tax department, shall apply e-invoicing according to the decree or follow the guidance for enterprises whose IT systems are not qualified to adopt e-invoicing as mentioned above.
- Public organisations (e.g. public schools, clinics) using receipts will be allowed to continue its use. These organisations shall switch to e-invoices or e-receipts in accordance with the timeframe of the Ministry of Finance.

New regulations on VAT

In August 2018, the Ministry of Finance released Circular 82/2018/TT-BTC ("Circular 82"), amending Circular 219/2013/TT-BTC on VAT. Circular 82 will take effect from 15 October 2018. The key change under Circular 82 is highlighted below:

- Under Example 37 of Point a.4, Clause 10, Article 7, Circular No. 219/2013/TT-BTC ("Circular 219"), any gains arising from the transfer of land use right ("LUR"), which was previously acquired from others, will be subject to VAT and invoicing issuance as regulated if the transferor does not carry out any activities on such LUR since the last acquisition.
- Circular 82 has removed this above-mentioned example, which releases taxpayers from such an obligation upon transfer of LUR. This amendment also aligns with the VAT treatment applicable to the transfer of LUR under Article 4 of Circular 219 whereby the transfer of LUR will not be subject to VAT.

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E-commerce developments

Australia

GST on imported low value goods

From 1 July 2018, offshore low value goods (AUD 1,000 and under) supplied by retailers to Australian consumers will be regarded as taxable supplies and subject to Australian GST.

The vendor collection model will be used for collecting the GST, whereby vendors (including online marketplaces and "redeliverers") will collect the GST on low value imported goods at the time of sale.

The Australian Taxation Office ("ATO") has undertaken a targeted communications strategy, advising taxpayers that may be caught by the measures of their registration obligations and the impact of any non-compliance. The ATO will use all available enforcement strategies to ensure compliance once the measures commence.

India

GST provisions pertaining to e-commerce operators

With effect from 1 October 2018, an Electronic Commerce Operator ("ECO") who has operations in India is compulsorily required to obtain a tax collection at source ("TCS") registration and to collect tax at source at 1% of the net value of taxable supplies made through their portal by other suppliers, provided that the consideration with respect to such a supply is collected by the operator. The ECO is required to furnish a monthly TCS statement (i.e. GST Return 8) and pay the collected TCS to the government within 10 days after the end of the month.

An ECO is defined as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Impact of TCS provisions in India

The amount of TCS deposited by the operator with the appropriate Government will be reflected in the e-return of the actual registered supplier (on whose account such collection has been made) and the supplier then becomes eligible to claim credit of the amount. Accordingly, TCS is a portion of tax which is deposited by ECO on behalf of the supplier.

The GST law also requires a matching of the supplier's outward return (to be filed by the 10th of the succeeding month) with e-commerce TCS returns. Any discrepancy will be communicated to both parties for rectification. Any unrectified discrepancy will be added in the following month's outward tax liability of the supplier for payment along with applicable interest. Furthermore, the department holds the right to demand the ECO to furnish details of the supplies effected through its portal during any period.

The TCS provisions help curb tax evasion by many small businesses who make supplies through e-commerce platforms and bring them under the tax bracket in India.

New Zealand

Proposed GST on low-value imported goods

The Minister of Revenue has announced on 18 October 2018 that the government would be introducing new rules to impose GST on low-value imported goods (NZD 1,000 and under).

Under the proposed rules, offshore suppliers would be required to register for GST and collect GST on low value goods at the moment of sale. The GST Act would be amended to incorporate the changes and the proposed rules are expected to come into effect from 1 October 2019.

South Korea

Proposed VAT on cloud computing services provided by a foreign company to Korea

Currently, a foreign company or a non-resident that provides electronic services to individual customers in Korea is required to register for VAT under a simplified VAT registration regime. The taxable electronic services include the sale of software such as game, audio and video files, electronic documents etc. by download. The taxable scope would be expanded to cloud computing services.

The proposed change is intended to enhance the fair taxation between foreign and domestic companies. Currently, VAT applies on the supply of cloud computing services by domestic companies to private customers in Korea. The proposed VAT change will apply to cloud computing services provided on or after 1 July 2019.

Singapore

Overseas vendor registration regime

Under the overseas vendor registration regime which would be introduced with effect from 1 January 2020, an overseas vendor will be required to register for GST in Singapore and to charge and collect GST on "digital services" to Singapore consumers if the registration threshold is exceeded. The registration threshold is a global turnover exceeding S$1 million and business-to-consumer ("B2C") supplies of digital services to customers in Singapore exceeding S$100,000.

Digital services are currently defined as "services which are delivered over the Internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology. Examples of digital services include the supplies of digital products, subscription-based and licensed content, as well as support services to arrange or facilitate, via electronic means, the provision of transactions which may not be digital in nature.

Taiwan

Cloud-based Government Uniform Invoice ("c-GUI")

With effect from 1 January 2019, foreign electronic service providers providing electronic services to domestic individuals shall issue cloud-based Government Uniform Invoices ("c-GUI") based on the "Regulations Governing the Use of Uniform Invoices".

Under the domestic VAT regulation, the term "electronic services" is defined under Article 4-1 of the Enforcement Rules of Value-added and Non-value-added Business Tax Act to be the following:

1) The services used are downloaded via the Internet and saved to computers or mobile devices for use; or
2) The services are used online without being downloaded and saved into any devices; or
3) Other services used are supplied through the Internet or other electronic tools.

In consideration that the integration of the foreign electronic service providers' IT system with the government's E-Invoice Integrated Service Platform could be time-consuming and labour intensive, the MOF promulgated Tax Ruling No.10704607091 on 16 July 2018, stipulating that the competent authority shall actively provide guidance to foreign electronic service providers who fail to issue c-GUI up till 31 December 2019. Further, such foreign electronic service providers shall be exempt from penalties imposed under the Business Tax Act and Tax Collection Act during the grace period of one year commencing from 1 January 2019.

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