



InTouch

The latest in indirect tax news for the Asia Pacific region

Issue 3 – April-June 2021



Introduction

Welcome to the latest issue of InTouch which covers the key developments in value added tax (VAT) and goods and services tax (GST) in the Asia Pacific region during the period April to June 2021. In the current climate, law changes and increased activity by regulators is commonplace, and indirect tax regimes are no exception. This edition of InTouch will keep you up to date.

Please reach out to any of the PwC contacts listed in this issue if you have any questions on the news items.

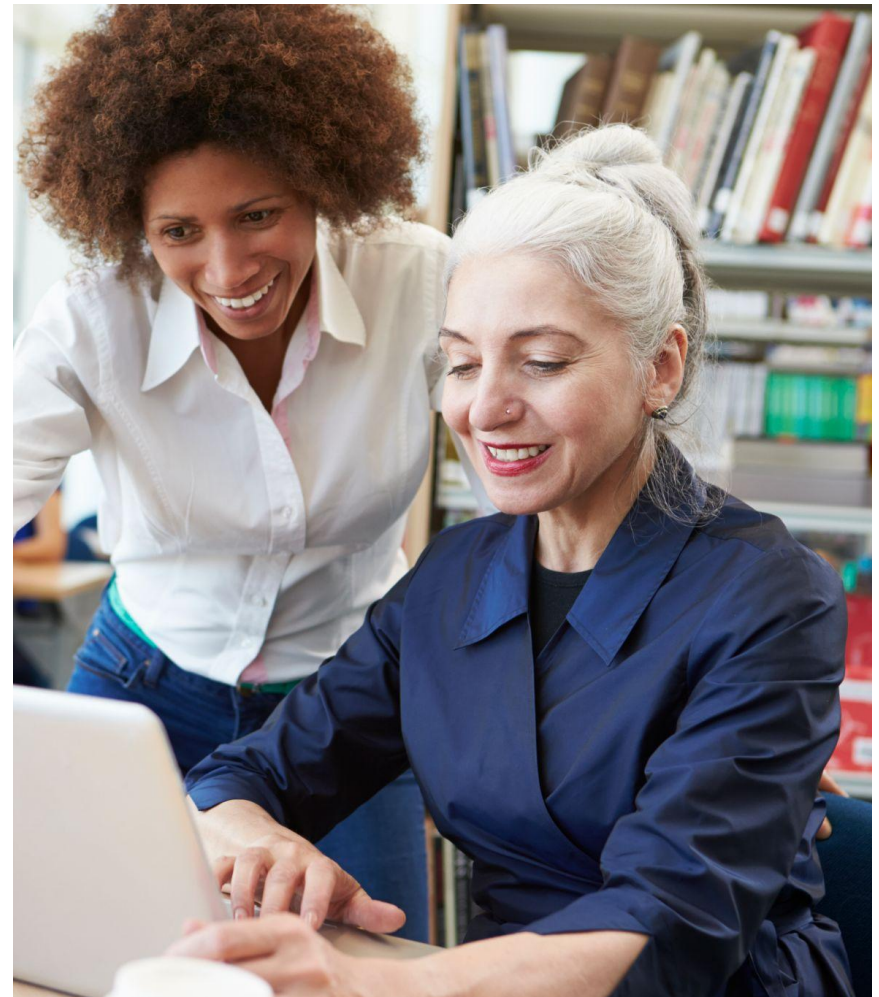


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Australia

Payment Times Reporting

The Payment Times Reporting Scheme (**PTRS**) is nearing its first reporting period. An entity subject to the PTRS is required to publicly report every six months on payment terms and practices for their small business suppliers that have an annual turnover below \$10 million. The first report will be **due on 30 September 2021** for the six month period to 30 June 2021.

The PTR regime applies to businesses with annual gross income greater than \$100m. For corporate groups with aggregate gross income in excess of \$100m, reporting requirements apply to each entity within the group that has annual gross income in excess of \$10m.

Penalties for failing to report are up to 0.2% of annual turnover and producing a false or misleading report are up to 0.6% of annual turnover. The identity of non-compliant entities and details around non-compliance can also be reported publicly.

Australian Taxation Office updates

GST determination on National Disability Insurance Scheme

With effect from 1 July 2021, a new Determination specifies 14 kinds of supplies of support to NDIS participants that are GST-free, assuming the supply also satisfies the criteria set out in section 38-38 of the GST Act.

Supply of burial rights by a government agency

Draft Goods and Services Tax Determination GSTD 2021/D2 has been published and states that under Division 81 of the GST Act, the supply of a burial right in a public cemetery is not subject to GST when supplied directly by the government or through a funeral director.

Board of Taxation to review GST on low-value imports

The Australian Government recently announced that the Board of Taxation would undertake a review into the Low Value Imported Goods (LVIG) measure which facilitates the addition of Goods and Services Tax (GST) on low value imported goods.

The Board will assess the effectiveness of the LVIG regime and provide advice regarding its ongoing operation. The review will consider whether the measure has met its policy intent to level the playing field between imports and domestic goods, assess how effective the administration has been, and make recommendations. The Board has been requested to report to the government by 17 December 2021.

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Japan

Japanese consumption tax (JCT) is Japan's version of a value-added tax (VAT) or sales tax. On 1 October 2023, a new registration-based qualified invoice system for JCT will take effect. This change will greatly impact not only companies conducting their business physically within Japan, but also foreign companies providing digital services to customers in Japan.

New rules

- Japanese consumption tax (“JCT”) is similar to VAT regimes in other countries. However, it is quite unique in some aspects e.g., a taxable person is not identified by a specific ID number system. Input tax credits can be claimed without retaining invoices under certain conditions.
- With effect from 1 October 2023, a new “qualified invoice system” will be introduced. This will align the JCT regime more closely with European-style VAT regimes.
- Under the new system, in order to claim input tax credits, the purchaser will be required to retain “qualified invoices” issued by “qualified invoice issuers”. A qualified invoice issuer must be registered as a JCT taxable person.

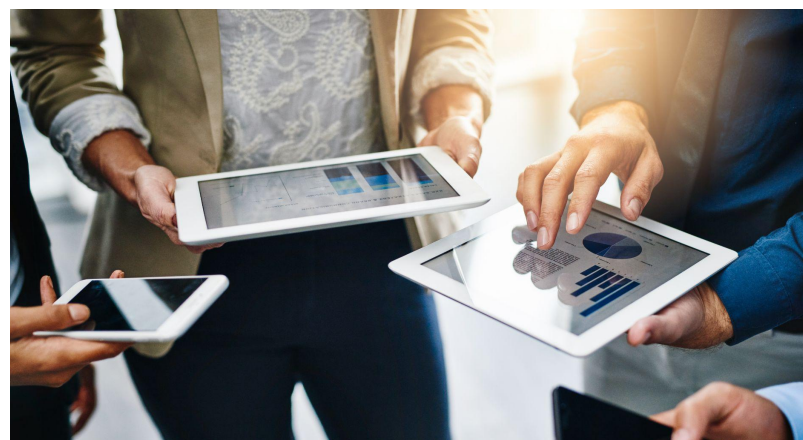
Registration of qualified invoice issuers

- Only qualified invoice issuers, who have obtained a registration number through the necessary registration procedure, can issue a qualified invoice.
- Only taxable persons are eligible to register as qualified invoice issuers. Qualified invoice issuers cannot be JCT exempt enterprises (i.e., cannot be exempt from the obligation to file a JCT return and remit JCT).

- Unlike the current system, this requirement applies even if the enterprise's taxable sales for the base period are JPY 10 million or less.

Taxable purchases from a JCT exempt enterprise

- After the introduction of the qualified invoice system (i.e., after 1 October 2023), in principle, input tax credits cannot be claimed from any purchases from a JCT exempt enterprise or a consumer
- Grandfathering rules allow partial input tax credit for the subsequent six years:
 - 1 October 2023 – 30 September 2026: 80% of input tax creditable
 - 1 October 2026 – 30 September 2029: 50% of input tax creditable



Actions to take before 1 October 2023

The fundamental change in the taxation system requires taxpayers to restructure their operations and systems. Actions to take in order to be compliant with the new JCT regime would include:

- Set up project team + internal trainings
- Identify transactions and processes for issuing / receiving invoices
 - EDI/Cloud, other systems or manual operations etc.
- Alignment on output side
 - Determination of invoice format, including self-invoicing and rebate invoice
 - Modification of invoicing system
 - Review of domestic intra-group transactions
 - Special cases, e.g. retailers, commissionaire arrangements, platform operators, consignment sales, rebates, etc.
- Alignment on input side
 - Internal process/system for validation of vendor's registration number and other information, and for checking invoice errors
 - E-archiving compliance for EDI (e.g., time stamp rules, searchability requirements, etc.)
 - Allocation of tax codes, e.g., to purchases from JCT exempt enterprises
 - Update employees expense reimbursement policy

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- Communication policy regarding supplies from non-registered parties (e.g. non-resident vendors, sole proprietorship etc.)
- Preparation for tax filing
 - Consider accounting method to be coordinated with JCT calculation method (aggregation / recalculation method)
- Registration as qualified invoice issuer
 - Application for registration can be submitted from 1 October 2021. To become a registrant by Day 1 (i.e. 1 October 2023), the application must be filed no later than 31 March 2023

Webcast

We have prepared a short webcast, which highlights some key points that taxpayers should be particularly mindful of. The webcast also identifies certain practical issues that may arise. This webcast is a starting point for taxpayers looking to plan their transition to the new invoice system.

Free Webcast - Introduction to the new Japanese consumption tax invoice system.

- Overview of qualified invoice system
- New system to the invoice issuing / receiving process
- Required application

Please contact us to access the webcast or to ask any questions on the new Japanese consumption tax invoice system.

New Zealand

Question We've Been Asked — How do the compulsory zero-rating of land rules apply to transactions involving commercial leases?

Inland Revenue has released a Question We've Been Asked (QWBA) that looks at how the compulsory zero-rating (CZR) of land rules applies to transactions that involve commercial leases. The key provisions considered are sections 11(1)(mb) and 11(8D) of the Goods and Services Tax Act 1985 (GST Act).

The QWBA concludes that generally, the CZR rules will not apply to supplies made under commercial leases. However, the following supplies made under, or in relation to commercial leases are subject to the CZR rules:

- a supply made under a commercial lease where the consideration includes a non-regular payment (lump-sum payment) of more than 25% of the term consideration, and certain other supplies made under the same lease;
- the assignment or surrender of a commercial lease;
- the reverse surrender of a commercial lease (where a lessee pays a lessor to take back a lease); and
- a supply of lease procurement services; that is, a supply made under an arrangement that involves the lessee's surrender of a commercial lease and the grant of a new commercial lease by the lessor to another person.

The QWBA provides nine factual scenarios to illustrate the application of the rules.

GST - Registration of non-residents

In a previous InTouch article (covering October - December 2020), we detailed Inland Revenue's draft Interpretation Statement covering Registration of non-residents under section 54B.



Inland Revenue has now released a final version of interpretation statement *IS 21/03, "GST – Registration of non-residents under section 54B"*. The interpretation statement provides comprehensive guidance on the seven elements required for registration under section 54B of the GST Act.

As previously noted, section 54B attempts to prevent GST from becoming an economic burden on businesses that form part of a supply chain where they incur costs in New Zealand without making any taxable supplies here, whilst also ensuring non-resident businesses who do make taxable supplies in New Zealand are registered under the standard rules.

GST - Definition of a resident

Inland Revenue has released draft interpretation statement "GST – Definition of a resident", with public consultation now closed. The interpretation statement provides guidance on how to determine whether a person is a resident for GST purposes, and notes how this differs from the income tax definition in the following ways:

- By extending it to include a person who has a "fixed or permanent" place in New Zealand, where that place is related to a taxable activity carried on by the person in New Zealand.
- For unincorporated bodies, it provides for a residence test based on its centre of administrative management.

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- For individuals, the definition differs for the commencement and end dates of residency when applying the day-count test.

GST and debt factoring arrangements

Inland Revenue has issued a new binding ruling *BR Pub 21/03, "Goods and Services Tax – Debt factoring arrangements"* which considers whether a GST input tax deduction can be claimed for a bad debt write-off when a debt is factored. It applies to sale by a GST registered person to a third party on a recourse or non-recourse basis, of an outstanding debt at a price less than the debt's face value.

The binding ruling states that an input tax deduction cannot be claimed for the difference between the face value of the debt and reduced price received from a factor as this is essentially the result of a process of agreeing an acceptable amount for the consideration for the debt.

Where a creditor could recover the full amount owing but chooses not to (as in a debt factoring situation), any "loss" suffered by the creditor is not due to a bad debt. Further, for an amount to be written off as a bad debt, a debt must exist at the time it is written off, which is not true where the creditor has factored the debt.

This ruling comes into effect on 10 August 2021 and is an update and reissue of *BR Pub 06/01*.

Philippines

Amending Certain Provisions of Revenue Regulations No. 4-2021, which implemented the Value-Added Tax (VAT) and Percentage Tax Provisions Under Republic Act (RA) No. 11534, or the Corporate Recovery and Tax Incentives for Enterprise Act (CREATE)

The Secretary of Finance has issued Revenue Regulations (RR) No. 8-2021 to revise certain provisions of RR No. 4-2021 which implemented the VAT and Percentage Tax provisions under the CREATE Act.

The following are the significant changes under RR No. 8-2021:

1. The VAT-exempt threshold of Two Million Pesos (PHP2,000,000.00) for the sale of house and lot and other residential dwellings is adjusted to Three Million One Hundred Ninety-Nine Thousand Two Hundred Pesos (PHP3,199,200.00) beginning 1 January 2021.
2. The sale and importation of the following items should be exempt from the issuance of the Authority to Release Imported Goods, but may be subject to post-audit by the BIR or the Bureau of Customs, as applicable:
 - a. Capital equipment, its spare parts and raw materials necessary for the production of personal protective equipment components such as coveralls, gowns, surgical caps, surgical masks, n-95 masks, scrub suits, goggles and face shields, double or surgical gloves, dedicated shoes, and shoe covers for COVID-19 prevention;
 - b. All drugs, vaccines and medical devices specifically prescribed and directly used for the treatment of COVID-19; and
 - c. Drugs for the treatment of COVID-19 approved by the Food and Drug Administration for use in clinical trials, including raw materials directly necessary for the production of such drugs.
3. Percentage taxpayers who paid an excess amount of tax due to the decrease in tax rate from 3% to 1% starting 1 July 2020 until the

effectivity of RR No. 4-2021 are allowed to get a tax refund under the following events:

- a. The taxpayer



- b. shifted from non-VAT to VAT-registered status; or
- c. The taxpayer has opted to avail the eight percent (8%) income tax rate at the beginning of taxable year 2021.

These Regulations shall take effect 15 days following their publication on 12 June 2021.

(RR No. 8-2021 dated 11 June 2021)

Implementing the Imposition of Twelve Percent (12%) Value-Added Tax (VAT) on Transactions Covered Under Section 106(A)(2)(a) Subparagraphs (3), (4), and (5), and Section 108(B) subparagraphs (1) and (5) of the National Internal Revenue Code (Tax Code) of 1997, as amended

The Secretary of Finance has issued RR No. 9-2021 to implement the imposition of the 12% percent VAT on certain sale transactions previously considered as zero-rated sales.

The following export sales are now subject to 12% VAT:

1. Sale of raw materials or packaging materials to a non-resident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packaging or repackaging in the Philippines of the said buyer's goods and paid for in acceptable foreign currency, and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

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2. Sale of raw materials or packaging materials to export-oriented enterprises whose export sales exceed seventy percent (70%) of total annual production; and
3. Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, and other special laws.

Similarly, the following sale of services and use or lease of properties are now subject to 12% VAT:

1. Processing, manufacturing or repackaging goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP); and
2. Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of the total annual production.

These Regulations shall take effect 15 days following their publication on 12 June 2021.

(RR No. 9-2021 dated 9 June 2021)

1. GST treatment of cancellation fees charged by tour agencies in the context of tour bookings

The Inland Revenue Authority of Singapore ("IRAS") has issued updated guidance on the GST treatment of the fees charged by travel agencies in the event the tour bookings are cancelled.

In the past, the IRAS has maintained the view that such cancellation fees are subject to GST. Based on the updated guidance, cancellation fees which are imposed to deter customers from backing out of their bookings or serve to compensate the travel agencies for losses suffered as a result of the cancellation would not be subject to GST. This is on the basis that there are no goods or services provided in return to the customers. The updated guidance takes effect from 1 July 2021.

Fees which are imposed for administrative services provided to assist customers in cancelling their bookings or effecting the cancellation remain subject to GST. Hence, there is a need for tour agencies to review the purpose of the associated fees chargeable in the event of a cancellation and determine if the GST treatment of such fees needs to be amended in light of the updated guidance.

2. Impending changes to zero-rating rules for the supply of media sales

With effect from 1 January 2022, a supply of media sales (e.g. sale of advertising/media space / airtime) will be zero-rated if the contractual customer belongs to a foreign country and the direct beneficiary of the services is either from outside Singapore or is GST-registered in Singapore. This is a departure from the current rules which use the "place of circulation" as the criteria for determining if zero-rating would apply.

The IRAS has released details of how the new rules would apply in the e-tax guide "GST: Guide for Advertising Industry (Third Edition)". The guide also covers the transitional rules for supplies of media sales and imported media sales straddling 1 January 2022. The salient points of the new rules taking effect from 1 January 2022 are as follows:

- a GST registered business who is not entitled to full input tax claim would have to account for reverse charge on the purchase of media sales from an overseas media supplier (with certain exceptions). This is regardless of where the advertisement is circulated.
- the supply of media sales will not be regarded as directly in connection with the advertising media in circulation nor the subject matter of the advertisement.
- an overseas supplier who is registered under the Overseas Vendor Registration (OVR) regime has to charge GST on the supply of digital media sales to non-GST registered customers in Singapore. This is regardless of where the advertisement is circulated.
- overseas suppliers who make supplies of digital media sales to non-GST registered customers in Singapore are liable for GST registration under the OVR regime if its global turnover and the value of digital services made to non-GST registered customers in Singapore exceed S\$1 million and S\$100,000 respectively in a 12 month period.

3. Imposition of GST on low value imported goods and non-digital services

With effect from 1 January 2023, the Government will impose GST on the following transactions:

- Low-value goods imported via air or post that are valued up to and including \$400 (the current GST import relief threshold).
- Business-to-consumer imported non-digital services.

The Inland Revenue Authority of Singapore will release guidance on the new rules by 31 July 2021.

The GST legislation would be updated to reflect the changes mentioned in 2 and 3 above. The Ministry of Finance has circulated the draft amendment bill for public consultation. The public consultation exercise will close on 27 July 2021.

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Decree on extension of deadlines for tax payments in 2021

Similar to last year, on 19 April, the Government released Decree 52 regarding the extension of deadlines for payment of taxes applicable for the 2021 tax year. The Decree took effect from the signing date.

In addition to the eligible business activities stated in last year's rules on extension (Decree 41), Decree 52 now adds some additional business activities as emphasized in bold below.

Companies engaging in the eligible business activities and which have generated revenue from such activities in 2020 or 2021 will be entitled to the extension.

Manufacturing sector

- Agriculture, forestry and fishery;
- Food production and processing; weaving; producing clothes; producing leather and related products;
- Wood processing and producing products from wood, bamboo of various species (except beds, wardrobes, tables, chairs); producing products from straw and plaiting materials; producing paper and paper-related products; producing products from rubber and plastic; producing products from other non-metallic minerals, metal production;
- Mechanical processing, handling and coating metal; manufacturing electronic products, computers and optical products; manufacturing automobiles and other motor vehicles;
- Production of beds, wardrobes, tables, chairs;
- Construction;

- Publishing activities; cinematographic activities, television program production, music recording and publishing;
- Exploiting crude oil and natural gas (no extension for corporate income tax on crude oil, condensate, natural gas collected under agreements or contracts)
- Manufacturing of beverages; printing, copying records of all kinds; production of coke coal, refined petroleum products; chemical production and chemical products; manufacturing of products from prefabricated metal (except for machinery and equipment); motorbike manufacturing; repair, maintenance and installation of machines and equipment; and
- Drainage and wastewater treatment.

Service sector

- Transportation and warehousing; accommodation and catering services; education and training; health and social assistance activities; real estate business;
- Labour and employment service activities; activities of travel agents, tour operators and support services related to advertising and organizing tours;
- Composing, artistic, entertainment activities; library activities, conservation, museums and other cultural activities; sports activities, entertainment activities; movies;
- Radio and television activities; computer programming, consulting services and other activities related to computers; information service activities; and
- Supporting services for mining activities.

Other in-scope sectors/activities

- Production of supporting industry products given priority for development; key mechanical products as defined;
- Small and micro enterprises as defined;
- Banking – in certain circumstances.

For those in the above list, the following would be applied:

1. Extension of deadlines to pay VAT

- Generally, the deadlines for payments of VAT are extended as follows:
- The deadline for VAT payments for March, April, May and June 2021 (for companies declaring VAT on a monthly basis) and Quarter 1 and Quarter 2 of 2021 (for companies declaring VAT on a quarterly basis) will be extended by 5 months, for example, payment of March 2021 VAT return will be due by 20 September 2021. VAT payments for July and August 2021 will be extended by 4 months and 3 months, respectively, after the statutory deadlines. Of note, this will not apply to import VAT.
- Dependent units and branches of in-scope companies which separately file VAT returns at local tax departments will also be entitled to the above extensions. However, if the branches and dependent units do not conduct in-scope business activities, they are not entitled to extensions.

2. Extension of deadline to pay VAT for individuals and business households

- Similar to Decree 41, the deadline for payment of VAT for 2021 will be extended to 31 December 2021, applicable to individuals and business households which engage in in-scope business activities.

3. Companies which engage in both in-scope and out-of-scope business activities

- Companies which engage in multiple business activities shall be entitled to extension of taxes payments incurred pertaining to all

activities provided that at least one of their business activities falls under the in-scope activities.

4. Some administrative requirements

- In case the extended deadline falls on a public holiday, the deadline shall be the next working day.
- Eligible taxpayers are required to submit a request (in prescribed form as attached to Decree 52 - the form is generally similar to that under Decree 41 except for the inclusion of some new in-scope business activities) to their directly managing tax department together with the monthly or quarterly tax return. The deadline is 30 July 2021 and failure to meet the deadline will result in forfeiture of these benefits. The submission can be done either electronically, by hard copy directly sent to the local tax department or by postage and should be done once, covering all types of taxes for all eligible periods.
- If a taxpayer is eligible for taxes payment extensions in multiple locations, which are under different managing tax departments, then its directly managing tax department has to send copies of the submitted request form to the relevant tax departments in the other locations.
- In order to be entitled to the extensions under Decree 52, taxpayers must fully settle the taxes amounts which are deferred according to the provisions under Decree 41 and corresponding late payment interest (if any) to the State budget before 30 July 2021.

Draft E-commerce regulations

The Ministry of Industry and Trade (“MOIT”) has released draft amendments to Decree 52/2013 on E-commerce for public comments.

Taken together with the new rules being drafted to tighten up on the taxation of e-commerce, these proposed amendments underline the Vietnam government’s determination to regulate and tax the start growing e-commerce sector.

Key points in the draft decree include:

- Narrowing down the scope of Decree 52 by excluding activities dealt with under other specialised laws, for example e-transactions relating

to banking, insurance, money exchange, online games, radio, and television services.

- Expanding the range of entities governed by Decree 52 to include all “foreign traders and organisations that have e-commerce activities in Vietnam” notwithstanding whether they have a physical presence in Vietnam.
- “Foreign traders and organisations that have e-commerce activities in Vietnam” may comprise:
 - **Type 1:** Foreign traders, without a presence in Vietnam, indirectly participating in commercial activities via Vietnam based e-commerce platforms
 - **Type 2:** Foreign traders, without a presence in Vietnam, with direct commercial transactions with Vietnamese consumers by way of:
 - setting up an e-commerce website under a Vietnamese domain name;
 - setting up an e-commerce website in Vietnamese language; or
 - owning an overseas platform with transactions in Vietnam reaching a prescribed annual threshold (e.g. 100,000 transactions)
 - **Type 3:** Foreign investors that set up foreign-invested enterprises engaging in e-commerce transactions in Vietnam.
- For **Type 1**, the draft decree requires owners of Vietnam-based e-commerce platforms to:
 - verify the identities of the foreign traders selling goods on their platforms;
 - request foreign traders to export or import in accordance with the law;
 - request foreign traders to appoint their own commercial agents in Vietnam;
 - act as the importer-of-record on behalf of the buyers for the goods transacted via their platforms; and

- declare, withhold, and pay tax on behalf of foreign traders.



- For Type 2, the draft decree requires foreign traders who set up an e-commerce website under a Vietnamese domain name or in Vietnamese language to register with the MoIT.
 - For non-resident overseas e-commerce platform operators, the draft Decree provides 2 options. Option 1 states that if a platform has 100,000 transactions in Vietnam in a year, they must notify/register with the MoIT.

- Option 2 introduces an “open” threshold and the MoIT, the Ministry of Information and Communications, and the Ministry of Finance will coordinate to set such a threshold.
- Option 1 requires all foreign traders under Type 2 to set up a representative office to meet their obligations to protect the interests of Vietnamese consumers, while Option 2 requires the foreign traders to appoint a legal representative in Vietnam to do the same.
- The draft Decree also requires all imported goods to go through Customs procedures.
- According to Article 27.7 of the draft decree, all domestic website owners must store information on transactions made through the website in accordance with the Law on Accounting and fulfil applicable tax obligations. However, it is unclear whether offshore websites must comply with this.
- For Type 3, as e-commerce is a “conditional sector” industry for both local and foreign investors in Vietnam, market access conditions for foreign investment in e-commerce are introduced in the draft decree, including:
 - Form of investment can be 100% foreign owned or a joint venture.
 - The foreign investor must be in the “list of global reputable technology companies involved in the e-commerce industry”. This list will be published periodically by the MoIT. However, this requirement will not apply for foreign investment in innovative start-up SMEs.
 - Appraisals must be obtained from the Ministry of Defence and Ministry of Public Security for any substantial investment in the top 5 e-commerce companies in Vietnam. Again, the MoIT will announce the list of such top 5 e-commerce companies periodically.
- Further guidance will be issued by several ministries. The draft decree sets out the responsibilities of seven ministries, including:
 - The MoF will provide guidance regarding tax declaration and payment. The MoF must also coordinate with the MoIT to provide

information and share data on the number of exports and imports transacted via the e-commerce market.

- The State Bank of Vietnam is to coordinate with the MoIT to request the payment service providers and payment intermediaries to provide information about transactions on e-commerce websites.
 - **Other notable proposed changes, e.g.:**
- No need to notify/register if a website does not have online ordering function;
- Various new regulations aiming to ensure the transparency of information on goods/services and to combat counterfeiting and infringing intellectual property rights;
- Social networks may be considered an e-commerce platform in certain cases; and
- Introduction of “guarantee payment method”.

New Circular clarifying the conditions to be entitled to 5% VAT rate on medical equipment

In an effort to remove the uncertainty with respect to the requirement for a confirmation from the Ministry of Health (“MoH”) in order to apply 5% VAT rate to medical equipment, on 11 June, the Ministry of Finance issued Circular 43/2021/TT-BTC which amends the provisions in the VAT Circular 219/2013/TT-BTC which deal with the VAT rate applicable to medical equipment.

The new Circular 43 will take effect from 1 August 2021.

Below are some notable points:

- Previously, in order to apply the 5% VAT rate, the medical equipment and devices must either be:
 - specifically mentioned in Clause 8, Article 1 of Circular 26 amending Clause 11, Article 10 of Circular 219, or
 - supported by a confirmation of the Ministry of Health as being specialized medical equipment.
- The new rules provide that the confirmation from the MoH is no longer required for medical equipment and devices in order to be

entitled to the 5% VAT. Instead, the following medical equipment and devices are stated to be entitled to 5 % VAT:

- those which have an import license issued by the MoH; or
- those which have circulation registration certificate issued by the MoH; or
- those supported by documents certifying standards in accordance with medical regulations; or

- those which are in the list of medical equipment under supervision of the MoH.
- These new rules are welcome and provide a clearer and more practical approach for taxpayers to assess entitlement to the 5% VAT rate. They also address the issue of the constant changes in the types of medical equipment circulated in the market and question marks as to whether changes in the VAT rates need to be made.

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Thailand

Digital service tax in Thailand

The Act Amending the Revenue Code No. 53 (the digital service tax law) was published in the Royal Gazette on 10 February 2021 and came into force on 11 February 2021. However, the VAT liability under this law will apply to overseas digital service providers or operators of electronic platforms on revenue received from 1 September 2021 onwards.

Under this law, the overseas digital service providers or operators of electronic platforms will be required to file VAT returns and pay output tax to the Thai Revenue Department without any input tax deduction.

The following are the key conditions for VAT collection:

1. Digital services are provided from overseas;
2. Services are provided by electronic means and are used in Thailand; and
3. The recipient of the service is not a VAT registrant.

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Furthermore, VAT registration may be affected by electronic means. Details of the registration procedures will be released at a later date. Overseas digital service providers that are VAT registrants are prohibited from issuing tax invoices.

The following definitions are included:

'Electronic services' means a service, including intangible assets, delivered via the internet network or any other electronic network in which the nature of the service is substantially automated, such that the service cannot be performed without information technology.

'Electronic platform' means a market, channel or other process that many service providers use to provide electronic services to the recipients.

Subordinate regulations providing more guidelines will also be announced.

Goods and Services Tax (GST)

Notifications/Circulars for CGST

CGST Notifications

- Notification No. 08/2021-Central Tax dated 01-05-2021 Seeks to provide relief by lowering of interest rate for the month of March and April, 2021.;
- Notification No. 11/2021-Central Tax dated 01-05-2021 Seeks to extend the due date for furnishing of FORM ITC-04 for the period Jan-March, 2021 till 31st May, 2021.
- Notification No. 12/2021-Central Tax dated 01-05-2021 Seeks to extend the due date of furnishing FORM GSTR-1 for April, 2021;
- Notification No. 19/2021-Central Tax dated 01-06-2021 Seeks to rationalize late fee for delay in filing of return in FORM GSTR-3B ; and to provide conditional waiver of late fee for delay in filing FORM GSTR-3B from July, 2017 to April, 2021; and to provide waiver of late fees for late filing of return in FORM GSTR-3B for specified taxpayers and specified tax periods.
- Notification No. 23/2021-Central Tax dated 01-06-2021 Seeks to amend Notification no. 13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuance of e-invoice.
- Notification No. 24/2021-Central Tax dated 01-06-2021 Seeks to amend notification no. 14/2021-Central Tax in order to extend due date of compliances which fall during the period from "15.04.2021 to 29.06.2021" till 30.06.2021

CGST Circulars

- Circular No. 150/05/2021- Central Tax dated 17-06-2021 issues clarifications regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity).;
- Circular No. 154/05/2021- Central Tax dated 17-06-2021 issues clarification regarding GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them;
- Circular No. 156/12/2021- Central Tax dated 21-06-2021 provided clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020-Central Tax dated 21st March, 2020 - Reg.



Case laws

- CESTAT Chandigarh in the case of M/s Schlumberger Asia Services Ltd. [TS-227-CESTAT-2021-ST] holds that assessee entitled to refund of Education Cess, Secondary & Higher Education Cess and Krishi Kalyan Cess ('Cesses') lying unutilized in CENVAT credit account as on July 01, 2017; ; Further, finds that refund claim filed is not barred by limitation since the relevant date of filing the refund claim shall be one year from date of amendment (i.e. August 30, 2018).
- Madras HC in the case of M/s ARS Steels & Alloy International Pvt. Ltd. vs. The State Tax Officer [TS-287-HC(MAD)-2021-GST] has set aside the assessment order to the extent it seeks the reversal of input tax credit (ITC) in proportion to the portion of inputs lost during the manufacturing process. The Court held that the situations contemplated under clause (h) of sub-section 5 of section 17 of the Central Goods and Services Tax Act, 2017 (CGST Act) indicate the loss of inputs arising from external factors or compulsions; loss that is occasioned by consumption in the process of manufacture is not enumerated under this section.
- Delhi HC in the case of M/s Samsonite South Asia Pvt. Ltd. vs. UOI & Ors. [[TS-546-HC-2020(DEL)-NT]] allows Samsonite to deposit the principal profiteered amount of Rs. 22 crores (approx.) in 6 equated monthly instalments keeping in view the COVID-19 pandemic situation; Further, stays interest as well as penalty proceedings until further orders.
- Split verdict by Bombay HC in the case of M/s Dharmendra M. Jani vs UOI & Ors [TS-258-HC(BOM)-2021-GST] on the issue of constitutional validity of Section 13(8)(b) and Section 8(2) of the IGST Act, 2017 ('IGST Act'). The Division Bench of the Bombay High Court directed the Registry to place the matter before Hon'ble Chief Justice on account of divergent views of the judges.

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Taiwan

On June 3 2021, the MOF issued a tax ruling which extended the effective period of the existing tax ruling, whereby taxpayers impacted by COVID-19 are allowed to obtain prior approval to defer tax payments between January 15, 2020 to June 30, 2022 for up to 1 year, or pay taxes due in installments for up to 3 years (with 36 monthly installments), regardless of amount of taxes due.

On June 25 2021, the MOF issued a tax ruling which extended the effective period of the "Guideline for Assessing VAT Refund Application for Excess VAT Paid by Business Entities Impacted by COVID-19" to June 30, 2022, whereby entities with excess VAT paid which experienced significant decrease in revenue within a short period of time as a result of COVID-19 can apply for a VAT refund with the tax authority (total amount of VAT refund shall not exceed TWD 300,000)

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Thank you



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