



InTouch

The latest in indirect tax news for the Asia Pacific region

Issue 4 July to September 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 July to September 2021. As economies start to reopen, the role indirect taxes play in recovery strategies will become increasingly important.

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

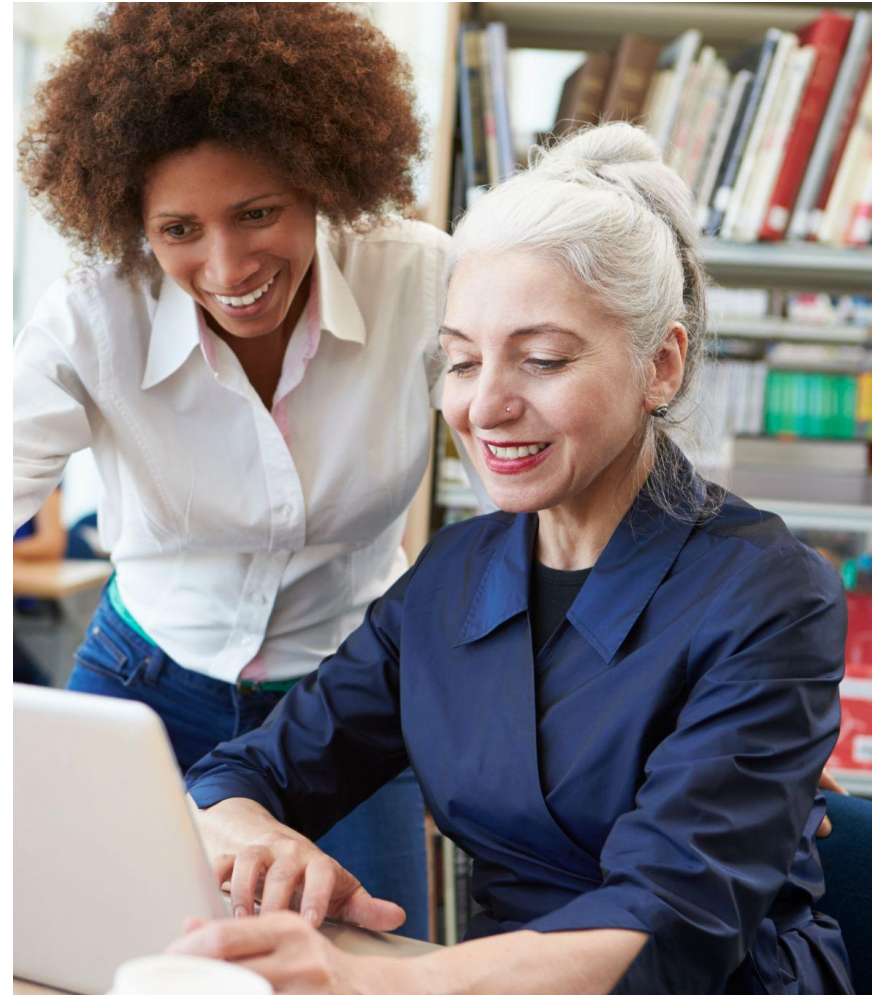


Table of contents

1. Australia	04
2. China	05
3. India	06
4. Japan	07
5. Malaysia	08
6. New Zealand	09
7. Philippines	12
8. Thailand	13

Australia

Legal professional privilege (LLP) protocol

This Protocol contains the ATO's recommended approach for identifying communications covered by LPP and making LPP claims to the Australian Taxation Office (ATO).

The ATO's recommended approach contains three steps:

- Assess – your situation and your communications
 - Consider the nature of your legal engagement/service.
 - Review and determine the status of each individual communication.
 - Check if any identified communications are of a type that needs more intensive scrutiny (including where they are of a type where LPP is unlikely to arise).
- Explain – particularise the basis of your claim
 - Prepare particulars to support your LPP claim.
 - The ATO recommends different levels of particulars based on different types of engagements or communications.
 - Provide the level of detail outlined in the Protocol for the ATO to understand your claim and decide more quickly whether they can accept it.
 - The ATO also has forms available to help explain your claims.
- Advise – tell the ATO how you approach your claims
 - This also includes telling the ATO about the approach you or your advisor took in making your claims, including how the ATO Protocol was used.

The Protocol also provides further information and sub-steps for each of the above steps on the ATO website (ato.gov.au).

GST determination on supplies of cars to disabled people

A new legislative instrument has been enacted to ensure continued access to GST-free supplies of cars and car parts for eligible individuals with disabilities under section 38-510 of the GST Act.

Medical practitioners will be allowed to issue medical eligibility certificates in the approved form for the purposes of s 38-510 under amendments proposed by the *Treasury Laws Amendment (2021 Measures No 5) Bill 2021*.

Reporting Regime for Online Marketplaces

Legislation was introduced into Parliament requiring operators of online marketplaces to report

information such as seller identification and payment details when they make applicable transactions during the reporting period to the ATO for data matching purposes.

As a result of the proposed amendments, there will be significant interplay between the definitions, rules and reporting requirements of GST concepts, particularly in relation to operators of electronic distribution platforms (EDPs or “online marketplaces”).

Additional information can be found on the PwC Australia website.

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The Stamp Duty Law (“SD Law”) of the People’s Republic of China effective from 1 July 2022.

In general, the SD Law maintains the previous SD framework. At the same time, tax items and tax rates are simplified, with the applicable tax rates for contracts of hired work, reconnaissance and design contracts of construction projects, transportation contracts and intellectual property transfer documents reduced from 0.05% to 0.03%.

Urban Maintenance and Construction Tax (“UMCT”) Law of the People’s Republic of China effective from 1 September 2021

The Urban Maintenance and Construction Tax Law took effect on 1 September 2021, replacing the previous interim regulations of the People’s Republic of China on Urban Maintenance and Construction Tax (hereinafter referred to as the regulations on Urban Construction Tax). The key points for the Urban Construction Tax Law are as follows

- For imported goods and sale of services and intangible assets by overseas entities/individuals in China, no UMCT shall be levied on the amounts of VAT and Consumption Tax (“CT”).
- The exempt-credit VAT amount under the Exemption, Credit and Refund (“ECR”) method shall be subject to UMCT.
- The calculation basis of Education Surcharge and Local Education Surcharge shall be in accordance with that of UMCT.
- Changes in applicable tax rates of UMCT for certain taxpayers.

Announcement on the revision of the “Administrative Measures for VAT Rebate of Domestic Equipment Purchased by R&D Institutions”

Recently, the State Taxation Administration issued Announcement No. 18, which revised the administrative measures for VAT refund of domestic equipment purchased by R&D institutions. Compared to the original administrative measures for VAT of domestic equipment purchased by R&D institutions, the following are modified:

- The restriction on tax refunds which have not been declared within the time limit shall be relaxed. If the R&D institution fails to apply for a tax refund within the specified time limit, it can apply for a tax refund after receiving all the relevant vouchers and electronic information in accordance with Article 4 of the announcement [2020] No. 2 of the Ministry of Finance and the State Taxation Administration;
- The implementation period shall be extended from 31 December 2020 to 31 December 2023.

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CGST Notifications

- Notification No. 30/2021 - Central Tax dated 30 July 2021 seeks to amend Rule 80 of the CGST Rules 2017 and notify Form GSTR 9 and 9C for FY 2020-21. Rule 80 provides for exemption from GSTR-9C to taxpayers having AATO up to Rs. 5 crores;
- Notification No. 31/2021 - Central Tax dated 30 July 2021 seeks to exempt taxpayers having AATO up to Rs. 2 crores from the requirement of furnishing annual returns for FY 2020-21;

CGST Circulars

- Circular No. 159/15/2021 - GST dated 20 September 2021 issues clarification on doubts related to scope of “Intermediary”;
- Circular No. 161/17/2021 - GST dated 20 September 2021 issues clarification relating to export of services-condition (v) of section 2(6) of the Integrated Goods and Service Tax Act 2017 (IGST);
- Circular No. 162/18/2021 - GST dated 25 September 2021 provides clarification in respect of the refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act;



Case laws

The Supreme Court in the case of M/s VKC Footsteps India Pvt Ltd. held that inverted duty refund is admissible only with respect to inputs and not for input services, thus putting to rest the doubts after contradictory views by the High Courts of Madras and Gujarat. However, the apex court pointed to some anomalies in the computation formula for refund and urged the GST Council to look into them. The principles laid out in this decision are also likely to impact cases where a benefit is derived based on the formula and cases where the provisions of the CGST Act are challenged citing the principle of equivalence and neutrality.

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Vendor registration for "Qualified Invoice Retention System" opens on October 1, 2021

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.

On 1 October 2021, the National Tax Agency ("NTA") officially began accepting vendor registrations for the new system. After a registration is accepted, the NTA will publish registered vendor information on its dedicated [website](#) (Note: Currently only available in Japanese).

Many companies are now beginning the preparations necessary to be compliant with the new invoice system. This could entail implementation of new or revised internal systems for accounting or the processing of invoices. Companies may often rely on the information published by the NTA in order to verify vendor information, and incorporate such verification procedures into their internal processes. Accordingly, the expectation is that many companies will opt for early registration so that their information is publicly available to business partners. In order for a company to be registered by 1 October 2023, applications should be submitted no later than 31 March 2023.



Webcast

We have prepared a short webcast which highlights some key points of the new invoice system and 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.

Available from July 12, 2021 to July 11, 2022

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

[Click here to register](#)

Please access the webcast and feel free to contact us if you have any questions on the new Japanese consumption tax invoice system.

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Malaysia

Postponement of effective date for digital platform service providers to register and to charge tourism tax

It was recently announced that the effective date for digital platform service providers (DPSPs) to charge tourism tax (TTx) on accommodation premises in Malaysia booked through them has been postponed from 1 January 2022 to 1 January 2023. As such, the effective date for DPSPs to register for TTx has also been postponed from 1 October 2021 to 1 October 2022.

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New Zealand

GST-related changes proposed in recent Tax Bill

The Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Bill (“the Bill”) was introduced to Parliament in September. Included in the Bill is a variety of proposed amendments and clarifications related to GST. We provide an overview of the proposed GST changes contained in the Bill below.

Modernising the GST invoicing rules and information and record-keeping requirements

Potentially the most significant of the proposed changes is in respect of the information requirements for GST. These changes have been characterised as “modernising” invoicing requirements to align with 21st century business recordkeeping practices, e-invoicing initiatives and electronic recordkeeping.

Broadly, the proposed changes would see a fundamental shift from rigid recordkeeping under a prescribed manner and form, to allowing for flexibility to GST registered persons to determine the manner and form in which they create and retain information. As such, rather than requiring formal tax invoices, a wider set of ordinary business-to-business information, including electronic information, could be used to support GST output tax and input tax obligations.

However, while the manner and form would differ, the nature of the information would remain unchanged, ensuring that there is no disturbance to the process for calculating and paying GST. The primary list of required information would continue to be:

- Prescribed information identifying the supplier and the recipient
- The amount of the consideration payable for the supply of goods and services

- The date of the supply
- A description of the goods or services supplied
- The amount of GST charged for the supply (which can be on an inclusive basis)



A series of other specific amendments would occur in parallel in order to support this shift in requirements. These include:

- Repeal of simplified tax invoices for taxable supplies having a value not exceeding \$1,000;
- The low-value threshold where taxable supply information is not required will increase from \$50 to \$200 (to align with the amount typically authorised for “PayWave” transactions);
- Where a copy of taxable supply information is requested by a recipient, this would no longer be required to be marked “copy only”;
- Buyer-created tax invoices (BCTIs) would no longer be required to have Inland Revenue pre-approval. However, other requirements remain, including an agreement between the supplier and recipient (who must both be GST registered) stating that only the “buyer” will create the taxable supply information and will provide that information to the “seller”, and the reasons for entering into the agreement; and
- Clarification that a group of registered persons may use the shared invoice process, provided none of those entities are part of a GST registered group.

Another change relates to the supplier's obligation under current law to provide a tax invoice, only if requested by the recipient. The proposed amendments would require the supplier to provide a registered recipient with the taxable supply information in all cases.

In respect of ensuring integrity of the system, the proposals would be supported overall by removing the “knowledge” offence for issuing multiple invoices for the same supply with a strict liability offence for a taxpayer who claims input tax multiple times for the same supply.

Exclusion of cryptoassets from GST and financial arrangements rules

The Bill proposes the exclusion of cryptoassets from GST (retrospectively from 1 January 2009) to ensure that these rules do not impose barriers to developing new products, raising capital, and investing through cryptoassets. The Bill additionally proposes allowing GST-registered businesses that raise funds through issuing cryptoassets with similar

features to debt or equity securities to claim input credits for their capital-raising costs. Significantly, services connected with cryptoassets would be subject to the standard GST rules, and non-fungible tokens are also covered by the standard GST rules as they are not within the definition of “cryptoasset”.

Domestic leg of the international transport of goods

Under the proposals in the Bill, the domestic leg of the international transportation of goods will be zero-rated. This would ensure that partially irrecoverable GST costs are not included in the final price of the goods paid by the consumer and that the tax system does not create incentives to pick one transport carrier over another. This will bring New Zealand's rules into line with those of Australia, which similarly zero-rate the domestic leg of the international transport of goods.

Secondhand input tax credits on supplies between associated persons

Under the current rules, where an asset is transferred to an associated person, the secondhand input tax credit claimable by that associated person is limited to the initial amount of GST charged on the purchase of the asset. As such, if no GST was charged on the original purchase of the asset, no deduction is available when it is transferred to the associated person. This has generally been viewed as an unfair and unintended outcome.

The Bill proposes to amend this by allowing an input tax credit for secondhand goods acquired from an associated person based on what would have been available to the original associated purchaser.

Clarifying rules for groups of companies

The Bill proposes a “single company” approach to GST grouping by clarifying certain key principles, including that supplies made to third parties by any member of the group are treated for GST purposes as made by the representative member of the group.

Changes to the GST apportionment rules

The Bill proposes two changes to the GST apportionment rules:

- The first is aimed at ensuring that the apportionment rules do not overtax the disposal of assets that have appreciated in value, which have been partly used for business and partly used privately, by allowing a deduction that correctly reflects the non-taxable use. This primarily involves removing the current cap which limits an input claim to the unclaimed portion of GST paid by the registered person at the time the land was acquired (i.e. the amount attributed to their non-taxable use of the land).
- Secondly, the Bill proposes to repeal the current rule in section 5(18) of the GST Act, which states that where a registered person has claimed a GST deduction for a proportion of a dwelling, the sale of that dwelling is deemed to be a taxable supply, but only to the extent that the proportion claimed bears to the whole dwelling.

The apportionment rules are a complex part of GST law and these changes aim to provide more flexibility and simplicity.

More information on these rules and the Bill can be found in PwC New Zealand's latest Tax Tips Alert for September 2021. This can be accessed via our website.

The Bill is expected to be passed by 31 March 2022.

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Philippines

Publishing the FDA List of VAT-Exempt Products

The Philippine Bureau of Internal Revenue (BIR) published a letter dated 17 June 2021 from the Director-General of the Food and Drugs Administration (FDA) containing the List of VAT-Exempt Products. Pursuant to the Tax Code, as amended by Republic Act Nos. 10963, 11467 and 11534, the VAT exemption for sale and importation shall take effect on the following dates:

- a. Medicines for diabetes, high cholesterol and hypertension beginning 1 January 2020;
- b. Medicines for cancer, mental illness, tuberculosis, and kidney diseases beginning 1 January 2021;
- c. Drugs and vaccines prescribed and directly used for COVID-19 treatment beginning 1 January 2021 until 31 December 2023; and
- d. Medical devices directly used for COVID-19 treatment beginning 1 January 2021 until 31 December 2023.

(Revenue Memorandum Circular No. 81-2021 dated 6 July 2021)

Extension of the Deadline for the Filing of Applications and Suspension of the Ninety (90) Day Processing of Value Added Tax (VAT) Refund Claims Pursuant to Sec. 112 of the Tax Code of 1997, as amended by Republic Act (RA) No. 10963 (TRAIN Law) with the VAT Credit Audit Division (VCAD)

The BIR issued RMC No. 101-2021 to inform all concerned about the temporary closure of VCAD until 3 October 2021 in compliance with the existing health protocols for the mitigation of the COVID-19 pandemic.

Following this circular, the filing of the VAT refund, where the end of the two (2) year period within which to file the claim originally falls on 30 September 2021, shall be extended until 15 October 2021.

Furthermore, the 90-day period processing of all pending VAT refund claims shall be suspended during the temporary closure of the VCAD pursuant to Sec. 5(3) of Revenue Regulations No. 27-2020.

(Revenue Memorandum Circular No. 101-2021 dated 17 September 2021)

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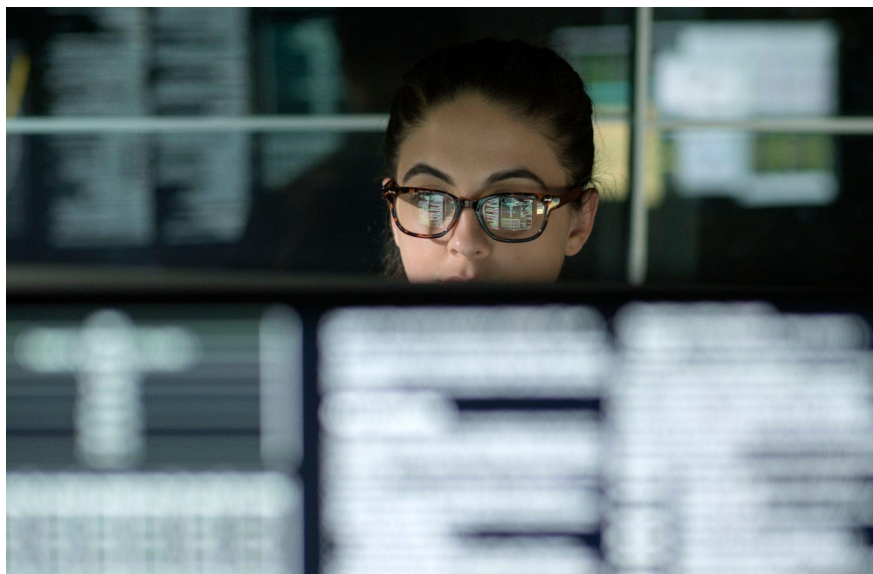
Thailand

Extension of 7% VAT rate for two more years

Royal Decree No. 724 was published in the Royal Gazette on 27 August 2021 to extend the 7% VAT rate for two more years from 1 October 2021 to 30 September 2023.

VAT on digital services

The Digital Services Tax Law (The Act amending the Revenue Code No. 53, 2021 (B.E. 2564)) came into force on 11 February 2021.



Under this law, VAT will now be payable on the revenue received by (a) overseas digital service providers and (b) operators of electronic platforms, on the services provided to Thai consumers who are non-VAT registrants. VAT is imposed on revenues received from 1 September 2021 onwards and the due date of the first VAT submission is 25 October 2021.

On 7 July 2021, the Revenue Department released the first edition of the “Guide on VAT on Electronic Services Provided to Non-VAT Registrants in Thailand by Non-resident Business Persons”. This guideline is intended to explain in more detail the application of the digital services tax law and to address the compliance procedures to be undertaken by non-resident suppliers. This guideline is available on the Revenue Department’s website.

The Revenue Department also recently introduced a database called “VAT for Electronic Service” (VES). This replaces the Simplified VAT System for E-Service (SVE).

The key takeaways from the recent development are summarised below:

Topic	Key issues
Scope	<p>Non-resident electronic service providers and electronic platform operators, who receive income of more than Baht 1.8 million per year from providing electronic services to non-VAT registered customers in Thailand, must register for VAT, file VAT returns and pay VAT by calculating output tax (without deducting input tax).</p> <p>These taxpayers are not required to issue tax invoices or prepare input tax reports.</p>
Key elements	<p>The guideline gives more insight into the following:</p>

- **The definition of 'electronic services':** the guideline provides a non-exhaustive list of services which are included (e.g. mobile applications, online advertising) and excluded (e.g. telecommunication services, money transfer services) from the definition.

Interestingly, distance teaching via pre-recorded media is treated as an electronic service. However, a live teaching course is excluded from the definition of electronic services.

- **Location determination:** The rules for determining whether a service is 'used in Thailand' are clarified. The service should be treated as used in Thailand if the customer information indicates that the customer is in Thailand. The non-resident service provider should determine the location of the customer based on one of the following items of customer information.

1. Payment information
2. Residence information
3. Access information

If the above information is not consistent, the taxpayer should obtain at least two pieces of non-conflicting evidence of where the customer is located or the service is used.

- **Determining the VAT registration status of customer:** By default, non-resident electronic service providers and electronic platforms can treat the customer as a non-VAT registrant (and must charge VAT). If VAT registration information is provided by the customer, the non-resident service provider is not required to completely verify the customer's VAT registration. The guideline indicates that the non-resident service provider may request and rely on a Tax ID number provided by the recipient of the service.

The non-resident service provider can also visit the Revenue Department's website to verify the validity of the customer's VAT registration and tax identification number.

- **The provision of services through an electronic platform:** An electronic platform operator is required to pay VAT on behalf of non-resident service providers who provide e-services through a platform with all of the following processes:

1. Offering services
2. Receiving payment
3. Delivering services

VAT registration	<p>The guideline provides more details of the VAT registration date and process. If the non-resident service provider or non-resident electronic platform operator has revenue exceeding Baht 1.8 million in an accounting period (for a corporation) or a calendar year (for an individual), it should register for VAT within 30 days from the day on which the revenue exceeds Baht 1.8 million.</p> <p>For corporations, income should be calculated from the first day of the accounting period that ends after September 1, 2021. For individuals, income should be calculated from January 1, 2021. If the income exceeds Baht 1.8 million before 1 Sep 2021, the VAT registration should be completed by 1 September 2021.</p> <p>All registration documents must be submitted to the Revenue Department through VES on the Revenue Department's website.</p>
VAT point, VAT filing and VAT payment	<p>The VAT liability from the provision of electronic services to customers in Thailand will arise when the service fee is paid either fully or partially. If payment is made using a credit card, the VAT liability arises when proof of the credit card usage is issued.</p> <p>More details are also provided on the exchange rate for converting foreign currency into Thai Baht, VAT filing through the form called "P.P.30.9", the VAT filing due date (i.e. the 23rd day of the following month) and the VAT payment channels via VES.</p>
Output tax report	<p>The guideline provides a sample of the VAT output tax report and stipulates that the non-resident VAT operator must retain the output tax report for at least five years. This is similar to other VAT operators in Thailand.</p>
VAT refund	<p>The guideline clarifies that VAT operators have the right to request a VAT refund if there is an overpayment of VAT. However, the details of the VAT refund process have not yet been disclosed.</p>
Compliance and enforcement	<p>The Revenue Department's Large Tax Administration (LTO) is responsible for supervising and auditing non-resident electronic service providers and electronic platform operators.</p>

If the non-resident VAT electronic service providers fail to comply with the law, they will be subject to the same civil and criminal penalties as VAT operators in Thailand.

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Thank you



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