Welcome to the sixth issue of Ernst & Young LLP’s 2014 VAT Newsletter for the US. These newsletters cover a variety of topics, as VAT can impact businesses in many ways. Approximately 150 countries around the world now have a VAT, goods and services tax (GST), consumption tax, service tax or similar VAT, and the laws and regulations are constantly changing. We use this newsletter as a way of informing you of significant changes taking place. At the end of this newsletter you will find contact details for the senior members of our team who can help answer any questions you may have about the articles in this newsletter, or any other VAT questions.

We are interested in your feedback on the items covered and what topics you would like to see covered in the future. Please provide any feedback to Howard Lambert at howard.lambert@ey.com.

If you would like to subscribe to receive EY’s Indirect Tax updates, please click here.

Summary

Global
EY’s 2014 Worldwide VAT, GST and Sales Tax Guide
EY’s Indirect Tax Briefing (10th edition)

Americas
Bahamas – Introduction of VAT in Bahamas – confirmation of date
Mexico – Maquila companies – VAT on domestic supplies will be refunded as from July 2014

Asia-Pacific
Indonesia – Requirement to issue electronic invoices
Malaysia – GST Bill passed

Europe
European Commission – Updated details of VAT Committee guidelines
European Commission – Taxation trends in the European Union
Finland – Various proposed VAT changes
Georgia – VAT exemption on imported goods abolished

New Zealand – Goods and services tax (GST) treatment of bodies corporate

Ireland – Advanced rulings on the tax consequences of a proposed transaction: revised guidelines
Malta – Administrative simplifications
Netherlands – C-461/12: Granton Advertising BV v Inspecteur van de Belastingdienst Haaglanden/kantoor Den Haag
Portugal – VAT rate increase
UK – HMRC sets up unified VAT office to act as registration agent for businesses

Middle East, India and Africa
Kenya – VAT Amendment Act 2014
Lebanon – New Decree published on VAT treatment of services provided by financial institutions and holding companies
Global

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You can access the latest guide here.

EY’s Indirect Tax Briefing (10th edition)
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Americas

Bahamas – Introduction of VAT in Bahamas – confirmation of date
VAT is expected to be introduced from 1 January 2015 at a rate of 7.5% (the revised draft VAT legislation is due to be passed in September 2014). The introduction date was previously 1 July 2014 with a rate of 15%.

Mexico – Maquila companies – VAT on domestic supplies will be refunded as from July 2014

Executive summary
On 1 July 2014, the Mexican Tax Administration Services (SAT for its acronym in Spanish) issued through its website the draft of the second amendment to the Miscellaneous Tax Resolution for 2014 (the Rules). Among other items, the Rules clarify the types of revenue that maquiladoras may continue to earn in connection with the “maquiladora operation” for purposes of qualifying for the permanent establishment (PE) exemption applicable to their foreign principal (the Rule). The Rules also provide some additional relief for value-added tax (VAT) refunds for certified taxpayers. Although these rules are still in draft form, they may provide guidance to taxpayers as to what to expect. The Rules will become effective upon publication in the Official Gazette, which typically occurs a few days after the draft rules are published on the SAT’s website.

As anticipated, the Rule loosens the 100% productive income test that entered into force on 1 July and would require that a maquiladora’s sole source of revenue be derived from maquiladora services income. The inflexible 100% requirement had raised significant concerns among the maquiladora industry and resulted in a need for many maquiladoras that earned certain non-maquiladora income to restructure their operations.
The Rule, as drafted and published on 1 July would allow a maquiladora to earn revenue from certain non-maquiladora activities as long as this amount does not exceed 10% of its maquiladora services income. Likewise, this Rule extends the deadline to cease earning non-maquiladora revenue to 1 October 2014 from 1 July. This Rule is published as a result of the lobbying efforts of the National Maquiladora Council (INDEX).

In addition, the Rules clarify requirements that must be met by maquiladoras that obtain certification to expedite VAT and special tax on production and services (IEPS) refunds.

Detailed discussion

The Rule, as currently drafted, would allow a maquiladora to earn revenue from certain non-maquiladora activities as long as this amount does not exceed 10% of its maquiladora services income. Likewise, this Rule extends the deadline to cease earning non-maquiladora revenue to 1 October 2014 from 1 July. This Rule is published as a result of the lobbying efforts of the National Maquiladora Council (INDEX).

Specifically, the Rule is established through amendments to Rule I.3.19.1 and Transitory Article Sixth. These provisions are summarized as follows:

1. An extension to 1 October 2014 of the term under which maquiladoras need to comply with the new requirement to obtain revenues exclusively from activities that are related to the maquiladora operation. The original term was for maquiladoras to be fully compliant as of 1 July 2014. This extension will benefit many companies that are still in the process of restructuring their operations or evaluating the feasibility to continue to operate as a maquiladora for income tax purposes to finalize such processes. Based on this extension, all revenues obtained by maquiladoras between 1 January 2014 and 30 September 2014 will be considered to be related to the maquiladora operation.

2. Revenues arising from the activities listed below will be considered to be related to the maquiladora operation, provided that the total amount of such revenues do not exceed 10% of the total amount of revenues derived from the maquiladora operation:
   - Personnel services rendered to related parties
   - Leasing of property to related parties
   - Sales of scrap derived from the manufacturing process
   - Interest
   - Other related income
3. Revenues from the sale or transfer of property (e.g., fixed assets, real estate) will be considered to be related to the maquiladora operation, provided that the maquiladora files a notice to the SAT in which it informs the business reason for the transaction, amount and percentage that these revenues represent from the total amount of revenues of the maquiladora operation. Additionally, the maquiladora will need to include documentation in such notice to support that the assets were used in the maquiladora operation. It appears that, provided that these requirements are complied with, this type of revenue will not be subject to the 10% threshold mentioned above.

4. Leasing of property to non-related parties will be allowed only for three years or during the term of an agreement executed prior to 1 January 2014. At the end of such a term, such leasing activity needs to be terminated or the leasing activity should be transferred to another entity. The three-year term may be extended only in some cases, subject to an authorization from SAT.

5. In all cases mentioned above, the following requirements will apply:
   - The books and records must be segmented per each activity and must identify the company with which the operation takes place.
   - Related party transactions must comply with transfer pricing provisions in accordance with the Mexican Income Tax Law.
   - Additional information per each operation is submitted in the annual informative return of maquiladoras (commonly known as DIEMSE for its acronym in Spanish). We expect the format of the DIEMSE to be modified accordingly in the future.

   - Article 182 of the Mexican Income Tax Law (maquiladora transfer pricing methods) and the additional deduction for exempt compensation paid to employees in accordance with the Presidential Decree of 26 December 2014 will not be applicable to the activities mentioned above.

6. Revenues from the sale and distribution of finished products, including products manufactured or sent from abroad and purchased for resale, are not allowed under the new maquiladora rules. Questions remain regarding the application of these rules — for example, is the 10% test determined on an annual basis? What types of services will be permitted as “personnel services”? However, the publication of this Rule is welcome news to the maquiladora industry as it provides flexibility to the productive income test.

   Also, this Rule provides companies with additional certainty and, for those maquiladoras that were not able to restructure by 1 July, additional time to define the steps that are required to fully comply with the new requirements to operate as a maquiladora for income tax purposes and protect their foreign principal from constituting a permanent establishment in Mexico. Notably, although this Rule allows flexibility to the productive income test, certain activities such as buy-sell activities are not permissible, so maquiladoras must continue to evaluate their need to restructure by the 1 October deadline.

   In addition to the above, Rule II.2.2.1 is also of interest to maquiladoras that have or will pursue certification for VAT and IEPS purposes.
This rule provides that taxpayers that are certified for VAT and IEPS purposes pursuant to Article 28-A of the VAT Law and the Customs Rules will have the benefit of obtaining VAT refunds in the term that corresponds to the modality of the granted certification (i.e., 10, 15 or 20 days, as applicable). This benefit will become effective as of the date in which the Mexican tax authorities grant notice that the VAT and IEPS certification has been resolved and will be applicable only with respect to VAT refund requests that comply with the following:

- They arise from favorable balances generated as from January 2014.
- The refund requests are submitted as of the month in which the certification has been granted.
- The period that corresponds to the favorable balance has not been previously requested or the refund request has been withdrawn.

For purposes of the above, the refunds will be made on the following periods:

<table>
<thead>
<tr>
<th>Certification modality</th>
<th>Term of certification</th>
<th>Maximum period to get the VAT refund</th>
</tr>
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<tbody>
<tr>
<td>A</td>
<td>1 year</td>
<td>20 days</td>
</tr>
<tr>
<td>AA</td>
<td>2 years</td>
<td>15 days</td>
</tr>
<tr>
<td>AAA</td>
<td>3 years</td>
<td>10 days</td>
</tr>
</tbody>
</table>

Upon submitting the refund request, taxpayers must indicate the modality of their certifications to identify the maximum term in which the Mexican tax authorities will resolve the refund request.

The benefit granted under this Rule will be available provided that the certification is valid and the general requirements established under the Customs Miscellaneous rules are met.

Lastly, under the Transitory Sixteenth, it is established that pending refund requests submitted between the date at which the certification has been granted and the date at which Rule II.2.2.1 becomes effective will be resolved after no longer than 20 days, as long as additional information requests are not in place and the company is not under review/audit.
Asia-Pacific

Indonesia – Requirement to issue electronic invoices
The Directorate General of Taxation (DGT) has announced its plan to require all taxpayers to use electronic VAT invoices (Regulation ref. no. KEP-136/ PJ/2014, dated 20 June 2014). The first phase of the plan will be applied to certain taxpayers from 1 July 2014 and eventually all taxpayers nationwide will have to use electronic VAT invoices from 1 July 2016.

The plan is aimed at minimizing the administrative burden of VAT invoices and to improve tax compliance. The plan is also applied in conjunction with the current regulation for VAT invoices pursuant to Ministry of Finance Regulation No. 151/PMK.011/2013, dated 11 November 2013.

Malaysia – GST Bill passed
The lower and upper houses of Parliament passed the Goods and Services Tax Bill 2014 on 7 April 2014 and 5 May 2014, respectively, and it is currently awaiting royal assent. The goods and services tax (GST) regime is due to take effect from 1 April 2015.

Royal Malaysian Customs, which will administer the new GST regime, has been releasing a number of GST Industry Guide drafts, GST Specific Guides and GST Orders on zero-rated and tax-exempt supplies. The draft guides and orders are available on the GST Portal.

Here are 10 key actions to consider now to prepare your business, accounting and reporting systems, staff, suppliers and customers for the new regime:

- Make a project plan and budget for the cost of implementing GST (e.g., consultant fees, configuration of accounting systems, training expenses, hiring of additional finance support)
- Consider the cash flow impact, as GST is paid on an accruals basis
- Analyze the capabilities of existing accounting systems to deal with the new tax
- Review accounts payable processes so that expenses are tracked and posted in a timely manner
- Review employees' benefits and the process of approving expense claims
- Determine the changes required for existing documentation to comply with the new tax
- Analyze and understand transitional issues for supplies of goods and services that span the GST implementation period (e.g., a bill for a continuous supply of services supplied in both March 2015 and April 2015)
- Evaluate the impact on pricing for any supplies that span the GST implementation period
- Train employees to appreciate the impact of GST on accounting and reporting processes
- Identify the legal implications of existing long-term contracts spanning the GST implementation period (e.g., contracts for services to be supplied throughout 2015)
New Zealand – Goods and services tax (GST) treatment of bodies corporate

On 6 June 2014, the New Zealand Government’s Minister for Revenue released a discussion document (called “GST treatment of bodies corporate”) proposing legislation to exempt bodies corporate from GST. The policy behind the change is to avoid unnecessary GST registration of many bodies corporate (potentially several thousand) and to promote consistency with other forms of residential homeownership. The changes became effective from 6 June 2014.

A body corporate is a legal entity created under the Unit Titles Act 2010 when multiple owners have unit title properties in one complex. It allows them to act together in relation to their common and shared interests.

Currently, most bodies corporate in New Zealand are not registered for GST, and that has until recently been regarded as correct. However, following a legal review in 2013, the Inland Revenue Department concluded that bodies corporate could be considered to be carrying on a taxable activity when carrying out their functions and obligations under the Unit Titles Act 2010. This in turn may force them to register for GST if they meet the GST turnover threshold of NZD60,000 (approximately US$52,700) per annum.

Accordingly, the proposed legislation is intended to prevent bodies corporate from being able or required to register from 6 June 2014, with respect to supplies made to owners under the Unit Titles Act.

There are three key aspects to the proposed legislation:

- It will remove bodies corporate from the GST system by way of a GST exemption in relation to services required to be provided by a body corporate under the Unit Titles Act.
- It applies a savings provision allowing bodies corporate already registered for GST prior to 6 June 2014 to apply the existing law up to 6 June 2014 and then become de-registered from that date (unless they provide other services that are subject to GST).
- It includes a look-through rule, allowing underlying property owners who are GST-registered to claim input tax deductions for expenses paid by the body corporate on supplies related to the owner’s taxable activity, such as claiming their portion of GST on insurance expenses on the building. This prevents tax cascades when an individual unit owner is GST-registered and uses the unit in their registered activity.

Submissions are sought on the Discussion Document by 18 July 2014, after which draft legislation is expected to be finalized.

New Zealand has a general election in September 2014, and this legislation is not expected to be enacted before then. However, if the new Parliament enacts it as proposed, it will apply from 6 June 2014.

In the meantime, the Inland Revenue Department has issued guidance for bodies corporate wishing to understand their GST obligations pending the enactment of the proposed exemption. The Department has confirmed the existing legislation must be applied, which means any registered body corporate must continue to be registered and account for GST unless it falls below the compulsory registration threshold. However, the Department has said it will not require unregistered bodies corporate to register for GST even if they make supplies in excess of the registration threshold.
European Commission – Updated details of VAT Committee guidelines

The European Commission has published updated details of all guidelines agreed to by the VAT Committee as at 27 May 2014. Click here.


On 28 May 2014, the European Commission received the final report of the High-level Expert Group on Taxation of the Digital Economy (the Group). The Group was asked to examine key issues related to taxing the digital economy in the European Union (EU) and to present its ideas on the best approach to the various challenges and opportunities in this field.

The report covered both the direct and indirect taxation issues linked to the digital economy, as well as broader issues on how tax policy can help maximize the opportunities that the digital economy offers.

Key report findings

The main conclusions include:

No separate tax regime is required for the digital economy, though current rules may need to be adapted to respond to digitization.

Digitization greatly facilitates cross-border business. Therefore, removing barriers to the Single Market (including tax barriers), as well as creating a more favorable business environment through neutral, simplified and coordinated tax rules, is more important than ever.

The Group commends the upcoming move to a destination-based VAT system for digital services, along with the simplification that the mini-One Stop Shop will bring for businesses. The report recommends that this could be further expanded to all goods and services (in business-to-consumer transactions) in the future.

To ensure neutrality and provide a level playing field for EU business, the Group recommends the removal of the VAT exemption for small consignments from non-EU countries. This would be supported by a One Stop Shop and a fast-track customs procedure.

In the area of corporate taxation, the Group recognizes that the G20/OECD BEPS (Base Erosion and Profit Shifting) project will be fundamental to tackling tax avoidance and aggressive tax planning globally. The report strongly recommends that Member States take a common position to ensure a favorable outcome for the entire EU.

Priority areas for the EU within the BEPS project are countering harmful tax competition, revising transfer pricing rules, and reviewing the concepts for defining and applying taxable presence.

The Common Consolidated Corporate Tax Base provides an opportunity for the EU to expand on new international standards (such as transfer pricing profit split methods) and achieve additional simplification within the EU.

More radical reforms of the tax system could also be looked at in the longer term, including a destination-based corporation tax. This mirrors other thinking that a wider OECD-led review of international tax may be required over and above BEPS issues, once the BEPS project has been completed.

The next step is for the European Commission to consider the report and decide on the policy impacts in due course.
European Commission – Updated details of VAT Committee guidelines.
The European Commission has published updated details of all guidelines agreed to by the VAT Committee as at 27 May 2014. Click here.

The Expert Group adopts opinion on taxation of intra-EU business-to-business supplies of goods. Click here.

European Commission – Taxation trends in the European Union
The European Commission and Eurostat, the statistical office of the European Union, have issued the 2014 edition of the publication Taxation trends in the European Union. This report contains a detailed statistical and economic analysis of the tax systems of the EU Member States, plus Iceland and Norway, which are members of the European Economic Area. The report shows that the average standard VAT rate in the 28 EU Member States remained static between 2013 and 2014 at 21.5% (see pages 26 and 27). The Eurostat press release and the full text of the report can be accessed by clicking here and here, respectively.

Finland – Various proposed VAT changes

Reverse-charge mechanism (VAT self-assessment) to be extended
The scope of the reverse-charge mechanism is to be extended to domestic supplies of scrap metal and waste. The reverse-charge mechanism will apply to supplies of scrap and waste of ferrous metals, copper and nickel, among other items, as from 1 January 2015.

Removal of low-value consignment relief
The Ministry of Finance has published a proposal in order to remove the low-value consignment relief (€22, or about US$30) for imports of newspapers and magazines published once a week or less frequently. Moreover, the provision providing for a minimum payable import VAT amount of €5 (approximately US$7) will not be applied to such imports. The purpose of the proposed change in the VAT legislation is to prevent the circulation of newspapers and magazines via the Aland Islands, which do not belong to the EU tax area (they have a non-EU country status). If approved by the parliament, the new rules would apply as from 1 January 2015.

Place of supply of telecommunications, broadcasting and electronically supplied services
New place of supply rules for telecommunications, broadcasting and electronically supplied services in the Finnish VAT legislation will take effect from 1 January 2015. This is in line with the same changes in EU VAT legislation.
Georgia – VAT exemption on imported goods abolished

The President of Georgia signed an order on 4 April 2014 abolishing certain VAT exemption on imports.

Until 3 April 2014, if a taxpayer paid VAT in excess of GEL200,000 (approximately US$113,000) in any 12-month period, it was possible for that taxpayer not to have to pay any VAT on imports of goods into Georgia, provided those goods were sold to a third party.

The order became effective for imports from 1 June 2014.

VAT exemption will still apply for those goods that are in any event exempt from VAT.

Ireland – Advanced rulings on the tax consequences of a proposed transactions: revised guidelines

The Revenue Commissioners have issued eBrief No. 35/14, drawing attention to Tax Briefing No. 4/14, which outlines the revised guidelines that will apply to taxpayer requests for an opinion on, or confirmation of, the tax/VAT treatment of a proposed transaction, event or business activity.

The eBrief and Tax Briefing can be accessed by clicking here and here, respectively.

Malta – Administrative simplifications

Various changes in the VAT Act have been introduced as published in The Budget Measures Implementation Act 2014 on 29 April 2014. The changes are in line with the Government’s policy to support economic activity by reducing administrative penalties.

The changes are as follows:

Removal of “short payment penalty”

Penalties for payment default of VAT declared in a VAT return or any other form required to be submitted to the VAT authorities (i.e., the so-called “short payment penalty”) were removed, effective 1 January 2014.

In addition, where a VAT return is submitted to the VAT authorities without the relevant VAT payment, such return will still be considered as filed.

Attribution of payments

With effect from 1 January 2014, payments made to the VAT authorities will be attributed as follows:

- Where a VAT return or other form is timely submitted to the tax authorities and is connected to a payment, that payment is deemed to be made on account of the VAT payable related to that VAT return.

- However, where a VAT return or other form is timely submitted to the tax authorities and accompanied by a payment that does not cover the full VAT amount declared to be payable therein, the taxpayer may (subject to certain conditions) pay the remaining amount of VAT with respect to that return/form by submitting a declaration along with the payment to the tax authorities. The payment shall be deemed to be made on account of the VAT declared to be payable in the said return or form.

- All other payments made to the VAT authorities will first be attributed to any interest due and then to any administrative penalties still payable. Any remaining balance payments will be attributed to any outstanding amounts of VAT due. Such remaining balancing payments will be attributed to the oldest amounts of VAT due.
Netherlands – C-461/12: Granton Advertising BV v Inspecteur van de Belastingdienst Haaglanden/kantoor Den Haag

The European Court released its judgment on 12 June 2014 in this Dutch referral concerning the VAT treatment of sales of discount (Granton) cards. For completeness, the CJEU delivered the Opinion of Advocate General Juliane Kokott on 24 October 2013.

Granton Advertising issued and sold Granton cards to consumers at a price of €15 to €25. The holder of a Granton card was entitled, for a defined period, to obtain certain goods or services on preferential (discounted) terms from selected businesses (e.g., restaurants, cinemas or hotels). The redeeming businesses committed to accept the discounted price for their goods and services and received no payment from Granton Advertising. The Granton cards were not personal but transferable. They could not, however, be exchanged for cash or goods. Granton Advertising treated its sales of the Granton card as exempt from VAT, whereas the Dutch tax authorities considered that VAT was due and assessed accordingly. Against this background, the referring court asked whether the sale of a Granton card was exempt from VAT. The CJEU held that this referred to payment instruments, such as checks. However, although the Granton cards entitled their holder to price reductions, they did not constitute, in themselves, a payment instrument. Even if Granton cards were transferable and could be resold at a certain price, they did not operate as a way of transferring money, unlike payments, transfers and checks. More generally, the CJEU held that transactions exempt from VAT under Article 13(B)(d) were, by their nature, financial transactions (although they did not necessarily have to be carried out by banks or other financial institutions). However, a Granton card had no nominal value, and it could not be exchanged for cash or goods from the redeeming businesses. In those circumstances, the sale of a Granton card to consumers did not constitute, by its nature, a financial transaction within the meaning of Article 13(B)(d).

The Court summary judgment reads:

Article 13(B)(d) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment must be interpreted as meaning that the sale of a discount card, such as that at issue in the main proceedings, does not constitute a transaction in “other securities” or concerning “other negotiable instruments,” within the meaning, respectively, of paragraphs 5 and 3 of that provision, which refers to certain transactions which the Member States must exempt from value added tax.

The full judgment can be accessed by clicking here.
Portugal – VAT rate increase
The Government has announced that the standard VAT rate is likely to be increased from 23% to 23.25% as a sustainability measure to fund the public pension system. This change will in principle enter in force as of 1 January 2015.

UK – HMRC sets up unified VAT office to act as registration agent for businesses
The UK’s tax agency announced that it will offer a value-added tax “mini one-stop shop” (VAT MOSS) service beginning in 2015 for suppliers of digital services that are being required under new European Union rules to pay tax in the EU Member State of their customers. Beginning 1 January, the EU VAT directive will require suppliers of electronic services, telecommunications services and broadcasting to apply VAT and pay tax in each Member State according to where their customers reside, rather than the location of the supplier. EU Member States are required to implement the changes under the directive before it takes effect. Her Majesty’s Revenue and Customs said on 9 June that the establishment of VAT MOSS will mean UK businesses that supply services to other EU Member States won’t have to register for tax purposes in each Member State where they sell services. Instead, HMRC will act as an agent on behalf of the business.
Kenya – VAT Amendment Act 2014

Executive summary

Kenya’s Value-added Tax (VAT) (Amendment) Act 2014 came into effect on 29 May 2014. It expanded the list of goods and services that are exempt from VAT. Its objective was to protect low-income citizens from the rising prices of basic commodities ensuing from the enactment of the VAT Act 2013. The VAT (Amendment) Act 2014 also corrected some errors in the list of exempt supplies that had created ambiguity regarding the affected items, most notably the VAT status of airplanes and other aircraft.

Additional amendments are expected to the provisions of the VAT Act 2013, mainly through advance rulings and the Finance Bill 2014. This will assist in clarifying ambiguities in the VAT Act 2013.

To assist in the implementation of VAT (Amendment) Act 2014, its impact and to improve compliance, we summarize the amendments designed to mitigate the noncompliance risk associated with the amendment of the VAT Act 2013.

Detailed discussion

A summary of the VAT (Amendment) Act 2014 is as follows:

Additions to the list of exempt supplies

The list of exempt supplies was widened by the inclusion of supplies under the First Schedule to the VAT Act 2013, mainly focusing on these key sectors:

- Agriculture
- Sugarcane
- Unprocessed produce of plant species camellia sinensis
- Made-up fishing nets of manmade textile material
- Milk and cream, neither concentrated nor containing added sugar, or other sweetening matter of tariff numbers:
  - 0401.10.00 – of a fat content, by weight, not exceeding 1%
  - 0401.20.00 – of a fat content, by weight, exceeding 1% but not exceeding 6%
- Materials, waste, residues and by-products, whether or not in the form of pellets, and preparations of a kind used in animal feeding
- Unprocessed green tea

Health

Mosquito nets

- Inputs or raw materials (either procured locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing of medicaments, as approved from time to time by the Cabinet Secretary for National Treasury in consultation with the Cabinet Secretary responsible for health

Energy

- Specialized solar equipment and accessories, including solar water heaters and deep cycle-sealed batteries that exclusively use or store solar power

Tourism

- Air ticketing services supplied by travel agents
Deletion from the list of exempt supplies
Food preparation specially prepared for infants that was previously exempt is now taxable.

Correction of errors in the list of exempt supplies
The following errors have now been corrected:

Matching the tariff number 8802.20.00 as per the East African Customs Common External Tariffs (EACCET) with the right description of airplanes and other aircraft

There was confusion among airline companies as to which particular airplanes were exempted since the tariff number and the description in the VAT Act 2013 did not match with the description in EACCET. That has now been corrected, and only airplanes and other aircraft of unladen weight not exceeding 2,000kg are exempt.

This is likely to further complicate the cash flow of major airlines, which are still lodging massive VAT refund claims with the Kenya Revenue Authority (KRA).

Deleting the word “tax” in item 30 immediately before the word “supplies” and substituting with the word “taxable.”

This removes the ambiguity by clarifying that it is “taxable supplies,” and not “tax supplies,” purchased or imported by licensed companies undertaking oil and mining activities that are exempt from VAT, subject to the exemptions given in the Act.

Lebanon – New Decree published on VAT treatment of services provided by financial institutions and holding companies

A new Decree (Decree No. 11359 for 2014) was published in Official Gazette No. 19 for 2014 of 1 May 2014, which applies as of the day of its publication. The new Decree amended Decree No. 7485 for 2002 and clarified the VAT treatment of services provided by:

- Financial institutions, the activities of which are subject to a license from the Lebanon Central Bank
- Companies incorporated under the holding company regime introduced by Law 45 of 1983, as subsequently amended

The most important provisions of the Decree are summarized below.

Transactions subject to VAT
Income from transactions carried out by financial institutions and holding companies, which are not connected with their ordinary VAT-exempt activity, are subject to VAT. For financial institutions, these include:

- Income from financial leasing activities
- Income related to legal and financial advice
- The lease of immovable properties for commercial purposes
- With respect to holding companies, taxable activities include: Management fees charged to their subsidiaries
- Royalties received from the licensing of copyrights, inventions, trademarks and other protected rights, whether registered in Lebanon or abroad

Transactions exempt from VAT

- The Decree confirmed that financial and banking services provided by banks, financial institutions, financial brokers and other institutions licensed by the Lebanon Central Bank are exempt from VAT.
- Revenues generated by companies incorporated in Lebanon under the holding company regime are exempt from VAT. The revenues include specifically the following types of income:
  - Dividends paid to a holding company by resident and nonresident subsidiaries
  - Interest on loans granted by a holding company to its subsidiaries
  - Guarantee fees charged by a holding company on the performance of guarantee services to its subsidiaries in connection with their commitments with third parties

Refund of input VAT

Financial institutions and holding companies are not entitled to refund of input VAT charged on assets and services used for the purpose of carrying on exempt transactions.
EY newsletters and alerts

If you would like a copy of a green paper, newsletter or alerts covering some of the topics mentioned below, please contact Howard Lambert at howard.lambert@ey.com.

Trade Watch for June 2014: The latest edition of Trade Watch is attached here. Trade Watch is a quarterly communication prepared by Ernst & Young LLP’s Customs & International Trade practice.

Belgium: VAT Alert: Authorities tackle artificial split of sales of new residential property. Click here.

Czech Republic: The May edition of the Czech Republic Tax News. Prepared by the Tax Department of EY’s Czech Republic member firm, this update provides a summary of the recently decided Scandia America CJEU case.

Czech Republic: EY Tax News, June 2014: EY Czech Republic has recently issued Tax News 06/14. From an indirect tax perspective, the edition includes the following items:

- Proposed anti-fraud measures to the VAT and Excise Duty Acts, including the introduction of a second lower VAT rate of 10% for essential baby food, drugs and books
- A discussion on CJEU cases concerned with the question of economic and noneconomic activities


UK client Alert: Advocate General’s Opinion in Welmory case C-605/12: Whether using a supplier’s infrastructure creates a fixed establishment for VAT purposes. Click here.

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ED None
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