Welcome to the latest edition of *EY VAT News*, which provides a roundup of indirect tax developments.

If you would like to discuss any of the articles in more detail, please speak with your usual EY indirect tax contact or one of the people below. If you have any feedback or comments on *EY VAT News*, please contact Ian Pountney.

Previous editions of *EY VAT News* can be found [here](#).

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EY Events

EY ReFIT (Retail) Forum – Friday 2 February 2018

The next EY ReFIT Forum will be held on Friday 2 February 2018 at our More London Place office.

ReFIT is our indirect tax forum for people working in Finance/Tax/VAT in a retail environment. The agenda is VAT focussed, but we also include other relevant tax issues. Our aim is to help to make sense of the latest changes, updates and case law and provide you with an excellent opportunity to network with your peers.

Details:

- Date: Friday 2 February 2018
- Time: 10am arrival for tea/coffee, 10.30am start and 1pm finish with a buffet lunch
- Location: 1 More London Place, London, SE1 2AF

We hope that you can join us – there is a lot to update you on, including of course the latest in Brexit developments, and plenty to think about in terms of both UK and overseas indirect tax policies:

Agenda

- Case law update
- Global VAT/GST update including GCC go live on 1 January 2018
- Brexit Update – latest thinking on next steps
- Hot Topics
- Global VAT update
- Open Forum

If you would like to attend, which is free of charge, please register your interest in the event by contacting Simon Baxter.

Brexit

Input VAT implications of Brexit

Nicky Morgan, the Chair of the Treasury Select Committee, has written to HMRC to ask for additional impact assessments to be conducted in relation to concerns that the Taxation (Cross-Border Trade) Bill, which had its second reading on 8 January 2018, will abolish the EU concept of acquisition VAT for business-to-business movements of goods. Such movements are currently subject to a ‘reverse charge mechanism’, which in practice means that for businesses moving goods from the EU into the UK, there is no import VAT paid on entry of the goods into the UK and an obvious cash flow advantage. If the Bill is implemented without amendment, this would mean that post Brexit, import VAT will be charged at the border on goods moving from EU countries into the UK, before entry into free circulation is granted.
The letter acknowledges that at Autumn Budget 2017, the Government announced that it recognised that businesses currently benefit from ‘postponed accounting’ for VAT when importing goods from the EU, as well as the importance of such arrangements due to the cash flow advantage they provide. The letter, which can be viewed here, therefore seeks further details about the options being considered post Brexit to mitigate any cash-flow impacts for businesses.

The British Retail Consortium prepared this briefing for MPs on the issue, which highlights the cash flow and administrative burdens which could result from this change.

Our previous alert on the Taxation (Cross-border Trade) Bill can be found here.

For further information please contact Andy Bradford.

Court of Justice of the European Union

Judgment: Court considers the impact of transfer pricing on customs transaction values

C-529/16 Hamamatsu Photonics Deutschland GmbH

On 20 December 2017, the Court of Justice of the European Union (CJEU) released its decision in Hamamatsu, considering whether a transfer price, which is subject to retroactive price adjustments, can be used as the basis for the transaction value method to determine the customs value.

The CJEU held that EU customs law does not permit an agreed transaction value, composed of an amount initially invoiced and declared and a retroactive adjustment made after the end of the accounting period, to form the basis for the customs value when it is unknown at the time of import whether that adjustment would be made up or down at the end of the accounting period.

The ruling of the CJEU is short and does not include an in-depth analysis of the convergence between transfer pricing and customs valuation. In our view there are a number of possible interpretations of the judgment. However, in the situation where on import a transfer price is being used as the transaction value with retroactive year-end adjustments possibly taking place later, the two most likely interpretations would appear to be:

- The CJEU is of the opinion that the initially reported customs value is the transaction value and that retroactive adjustments, be it downwards or upwards, cannot be applied, or
- The CJEU is of the opinion that the initially reported customs value should be rejected (because it possibly can be adjusted retroactively at year-end) and therefore Hamamatsu should have used one of the other customs valuation methods (not being the transaction value method)

Comments: The ruling of the CJEU creates potential uncertainty for businesses with international supply chains to the EU currently using transfer pricing with possible retroactive adjustments. These businesses should review and assess their current transfer pricing policy and price adjustment mechanism and consider what the potential effects of the judgment might be for them.

For further information please contact Magalie Fraiponts or Gerard Koevoets.

New referral

- A Polish referral – C-566/17 Związek Gmin Zagłębia Miedziowego – asking whether Article 168(a) of the VAT Directive, and the principle of neutrality, preclude a national practice where the right is granted to a full deduction of input tax in connection with the purchase of goods and services used for the purposes of both transactions falling within the scope of VAT and those falling outside the scope of VAT, owing to the absence in national law of methods and criteria for apportioning the input tax in relation to these types of transactions?
Calendar update

Thursday 18 January 2018

Judgment – C-463/16 Stadion Amsterdam – A Dutch referral asking whether Article 12(3)(a) of the Sixth Directive, is to be interpreted as meaning that where a service, which is a single supply for VAT purposes, is composed of two or more specific elements which, if supplied as separate services, would be subject to different VAT rates, VAT should be charged at the various rates applicable to those elements if the consideration for the service can be split in a proper ratio to the elements?

See our earlier Indirect Tax Alert for further details.

Hearing – C-648/16 Fontana – An Italian referral asking whether EU law precludes domestic legislation which allows the application of VAT to the overall turnover to be established by extrapolation?

Wednesday 24 January 2018

Hearing – C-5/17 DPAS Limited – A UK referral from the Upper Tribunal asking, in light of Article 135(1)(d) of the VAT Directive and the interpretation of that provision given by the Court of Justice in AXA, Bookit II and NEC, whether:

(i) a service consisting of directing, pursuant to a direct debit mandate, that money is taken by direct debit from a patient's bank account and passed by the taxpayer, after deduction of the taxpayer's remuneration, to the patient's dentist and insurance provider, is an exempt supply of transfer or payment services? In particular, do the decisions in Bookit II and NEC lead to the conclusion that the exemption from VAT in Article 135(1)(d) is not applicable to a service which does not involve the taxpayer itself debiting or crediting any accounts over which it has control but which, where a transfer of funds results, is essential to that transfer? Or does the decision in AXA lead to the contrary conclusion?

(ii) What are the relevant principles to be applied for determining whether or not a service falls within the scope of 'debt collection' within Article 135(1)(d)? In particular, if (as the Court decided in AXA in relation to the same or a very similar service) such a service would constitute debt collection if provided to the person to whom the payment is due (i.e. the dentists in the present case and in AXA), does that service also constitute debt collection if such a service is provided to the person from whom the payment is due (i.e. the patients in the present case)?

For further information please contact Simon Harris.

Thursday 25 January 2018

Hearing – C-108/17 Enteco Baltic – A Lithuanian referral asking whether a member state is prohibited from refusing 'exemption' under Article 143(1)(d) of the VAT directive on imported goods, in circumstances where the goods were to be supplied to a taxable person (and his VAT identification was used on import documentation) but due to a change in circumstances the goods were transported to a different taxable person, with full disclosure to the tax authorities?

Tuesday 30 January 2018

Joined cases –

Opinion – C-660/16 Kollroß – A German referral asking whether the requirements as to the certainty that a supply will take place, as a condition of the deduction of input tax on a payment on account within the meaning of the judgment of the Court of Justice of the European Union in Case C-107/13 Firin, are to be determined purely objectively or from the point of view of the person having made the payment on account in the light of the circumstances apparent to him?

Are Member States, taking into account the fact that the chargeability of tax and the right of deduction arise at the same time, entitled to make the adjustment of both tax and the deduction of input tax subject to a refund of the payment on account? Must the tax office responsible for a person who has made a payment on account refund the VAT to that person where the latter cannot recover the payment on account from the recipient of that payment? If so, must this take place as part of the tax assessment procedure or is a separate equitable procedure sufficient for this purpose?

and

Opinion – C-661/16 Wirtl – A German referral asking whether the deduction of input tax on a payment on account is excluded where the occurrence of the chargeable event is uncertain at the time when the payment on account is made? Is that
exclusion determined by reference to the objective situation or by reference to the point of view of the person having made the payment on account in light of the circumstances objectively apparent to him?

Is an adjustment of the deduction, by a person having made a payment on account for a supply of goods, of the input tax indicated on the invoice issued to that person for that payment conditional upon the refund of the payment on account which has been made, where that supply does not ultimately take place?

**Wednesday 31 January 2018**

Hearing – C-664/16 Vădan – A Romanian referral asking whether, under a proper construction of the VAT Directive and the principles of proportionality and neutrality, a taxable person who satisfies the substantive requirements for the deduction of VAT can deduct VAT in circumstances where he is unable to provide evidence, by way of invoices. If answered in the affirmative, is an assessment by an independent expert, and based on the amount of work/labour involved in the construction of buildings, an acceptable and appropriate measure for determining the extent of the right to deduct?

**Thursday 8 February 2018**

Hearing – C-153/17 Volkswagen – A UK referral from the Supreme Court asking where general overhead costs attributed to hire purchase transactions (consisting of exempt supplies of finance and taxable supplies of cars) have been incorporated only into the price of the exempt supplies of finance, does the taxable person have a right to deduct any of the input tax on those costs?

How is C-93/98 Midland Bank, to be interpreted, specifically the statement that overhead costs “are part of the taxable person’s general costs and are, as such, components of the price of an undertaking’s products”?

For further information please contact Jamie Ratcliffe.

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**Court of Appeal**

**Latest appeal updates**

We understand that United Biscuits (Pensions Trustees) Limited and United Biscuits Pension Investments Limited (UBPT), have applied for permission to appeal the earlier High Court decision.

This case concerns proceedings brought by UBPT for the repayment of the VAT charged on supplies of pension fund management services received by it. UBPT claimed that the supplies at issue were exempt from VAT pursuant to the exemption for insurance transactions and related services contained in Article 135(1)(a) of the VAT Directive and/or by virtue of the EU law principle of fiscal neutrality. Part of UBPT’s claim was that UK law charged VAT on supplies of investment management to pension funds by persons other than those carrying on insurance business, whilst treating those same supplies by persons carrying on insurance business as being exempt from VAT.

In its judgment, and finding against UBPT, the High Court held that non-insurers’ fund management supplies fall outside the insurance exemption and therefore should be subject to VAT when supplied to defined benefit schemes. The High Court also took the view that insurer’s supplies to defined benefit schemes should be taxable.

For further information please refer to our earlier alert or contact Mitchell Moss.

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**First-tier Tribunal**

**Payments are not ‘prepayments’ but are payments for single purpose vouchers which are taxable when issued**

Lunar Missions Limited

The First-tier Tribunal (FTT) has released its decision in this appeal concerning when Lunar Missions Limited (LML) ought to have been VAT registered due to funds raised through a crowdfunding platform ‘Kickstarter’, a web-based crowdfunding
platform for creative projects. HMRC considered that LML ought to have been registered for VAT with effect from 16 December 2014.

LML planned to undertake a project to send an unmanned robotic module to the south pole of the moon. Using pioneering technology the module would drill and access lunar rock to discover the geological composition of the moon in order to improve scientific understanding of the early solar system. LML also offered to place a ‘memory box’ in the boreholes containing, inter alia, supporter’s digital content. By pledging, supporters reserved the digital ‘memory box’, essentially ‘space’ in the time capsule – either digital space (for data) or physical space for example, a strand of hair or a combination of both. LML would send a voucher for a value equivalent to the pledge although it was unable to provide precise data on how much space the voucher would buy.

The benefits to those pledging are generally incremental ranging from £3 (access to an online community) to £3,000 plus (additional digital content/storage, invitations to meetings and launch, name inscribed on the module etc). For the purpose of this appeal the parties have agreed that the only relevant supply for VAT purposes is a single supply of space in the time capsule which required a pledge of at least £60.

The crowdfunding target was £600,000, to be raised by 17 December 2014. The timetable for the project extended to 2024 with the mission launch, although the Kickstarter material acknowledged that there were “lots of uncertainties” and “no guarantees”.

LML raised funds of £672,447 and disputed that at the time of receiving payment it intended to make any taxable supply for VAT purposes. It argued that the payments amounted to risk funding and were not consideration for a taxable supply. In the notice of appeal however, LML conceded that there is a taxable supply in the form of rewards to be provided to those making a pledge in the future. The argument before the FTT concerns the time of supply.

In summary, the FTT was asked to consider whether:

- The sums received by LML represent a prepayment of consideration for supplies of services, or consideration for supplies of face value-vouchers?
- If the sums received were consideration for a supply of face value vouchers, were those vouchers ‘single purpose vouchers’ within Schedule 10A VATA 1994?

If the sums received were prepayments for supplies of services then it is common ground that the tax point is the date of receipt and LML was liable to be registered with effect from 16 December 2014, as asserted by HMRC. If the sums received were for face value vouchers, as defined by Schedule 10A, then the tax point would depend on whether or not those vouchers were single purpose vouchers. What might be regarded as the default position, for face value vouchers the tax point is the date of redemption rather than the date the consideration is received. For single purpose vouchers however, output tax is accounted for at the time the consideration is received on issue of the vouchers.

The FTT held that whilst LML was contractually bound to provide digital space and/or physical space in return for a pledge, there was considerable uncertainty in relation to what, if anything, would be supplied. Consequently the sums received could not be considered to amount to prepayments. The FTT further held that the vouchers in this case represent the right to receive services up to the value stated. The vouchers are redeemable for a digital memory box of a value equivalent to the pledge. Alternatively they may be redeemed for physical space. There is a monetary limit on the voucher such that when the limit is reached the voucher is exhausted. Those making a pledge are supplied with face value vouchers within paragraph 1 Schedule 10A. However, dismissing the appeal, the FTT considered that the vouchers were redeemable for one type of service, as it would be arbitrary to distinguish types of supply by reference to whether the supply is of physical space in the time capsule or of digital space (it was not suggested that such a distinction would affect the VAT treatment applicable to the supply). As such they were single purpose vouchers, taxable at the time they were issued.

Comments: Any businesses obtaining funding in similar circumstances, receiving prepayments or issuing vouchers, should consider the implications of this decision.

The current UK rules on vouchers are complex, having developed over a number of years. On 1 December 2017, the UK VAT and Vouchers Consultation opened and the period of consultation closes on 23 February 2018. It considers the EU Vouchers Directive (Council Directive (EU) 2016/1065) which amends the VAT Directive and legislates for a common VAT treatment of vouchers across the EU. It applies to any vouchers for which a payment has been made and which will be redeemed against goods or services.

For further information please contact Jo Crookshank.
HMRC Material

Notice 799: disclosure of tax avoidance schemes for VAT and other indirect taxes – update

HMRC has updated VAT Notice 799 at paragraph 9.2 to provide further information on how to obtain and submit forms disclosing VAT and other indirect tax avoidance schemes.

This notice explains the rules if you promote or use arrangements that intend to provide a VAT or other indirect tax saving or deferral from 1 January 2018.

For further information please contact Fiona Campbell.

Guidance on the Serial Tax Avoidance Regime – update

HMRC has updated its guidance on the Serial Tax Avoidance Regime to include information about disclosure of tax avoidance schemes for VAT and other indirect taxes (DASVOIT).

The serial tax avoidance legislation is part of a range of measures to clamp down on tax avoidance, to change the behaviour of those who engage in tax avoidance and to discourage them from using avoidance arrangements in the future. It imposes a range of sanctions, which can include penalties, on anyone who uses avoidance arrangements to reduce their tax liability, but on which they later have to pay some or all of the tax they tried to avoid.

The legislation was introduced on 15 September 2016 and is designed to deter people from using tax avoidance schemes.

Once HMRC has ‘defeated’ a tax avoidance scheme that a business has used, a warning notice will be issued to that business. That warning notice will remain in place for five years, known as the ‘warning period’, during which the business will be required to provide to HMRC detailed information about any tax avoidance schemes used during that period. If HMRC defeat a tax avoidance scheme the business has used during a warning period, it may impose certain sanctions and the existing warning period will be extended by up to five years. Sanctions include penalties and publication of the names of serial tax avoiders.

The serial tax avoidance legislation doesn't apply to schemes entered into before 15 September 2016 and where HMRC defeated the scheme before 6 April 2017.

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EY Global Tax Alerts

Italy – The Italian Budget Law for 2018 (Law no. 205 of 27 December 2017, published on 29 December 2017 entered into force on 1 January 2018) and Law Decree no. 148/2017 (Law no. 172/2017, published on 5 December 2017, entered into force on 6 December 2017), introduced several changes to the Italian VAT Law:

- The increase of VAT rates has been postponed to 2019, 2020 and 2021. Therefore the 22% standard and 10% reduced VAT rates continue to apply in 2018. The Law also provides some specific provisions and interpretations in relation to the VAT rates applicable to the building and construction sector, entertainment and sports activities
- A general business to business (B2B) and business to consumer (B2C) e-invoicing obligation will apply from 1 January 2019 with reference to transactions performed between persons established/resident in Italy, permanent establishments in Italy of foreign taxable persons, as well as non-established taxable persons VAT registered in Italy
- The Law also provides that VAT charged on automotive fuel purchases is recoverable, only if the payment is made through credit and debit cards, prepaid cards, or by any other suitable means of payment to be identified by an appropriate implementing provision
- Extension of the split payment mechanism effective from 1 January 2018
- Changes regarding the communication of sales and purchase invoices
- Implementation of the principles set in the CJEU Judgment Skandia (C-7/13). The new provision brings within the scope of VAT certain head office-branch and branch-to-branch transactions, where one or both parties are members of VAT groups. The provision reflects the Skandia decision, which held that VAT groups are separate taxpayers for VAT purposes
- VAT recovery on pharmaceutical pay-backs
- New provisions regarding certain energy products held in tax warehouses or at registered consignees
- Simplification of electronic bookkeeping procedures
New provisions regarding penalties for the incorrect application, and consequently incorrect deduction, of VAT

Also see EY Global Tax Alerts below and Italy amends VAT Law on communications regarding invoices and split payment mechanism.

Italy – The Italian Budget Law for 2018 has implemented, with effect from 1 January 2018, the principles set in the CJEU Judgment Skandia (C-7/13). The new provision brings within the scope of VAT certain head office-branch and branch-to-branch transactions, where one or both parties are members of VAT groups. The provision reflects the Skandia decision, which held that VAT groups are separate taxpayers for VAT purposes.

This clarification forms part of the new provisions under Italian VAT grouping rules. Under these new rules, businesses will be able to form VAT groups from 1 January 2019.

Italy – On 29 December 2017, Italy published the Budget Law of 2018 (the Law) in the Italian Official Journal and, among other measures, the Law introduces the following new provisions regarding certain energy products held in tax warehouses or at registered consignees:

- The methods of payment of VAT in the case of certain energy products released for consumption from a tax warehouse (i.e., a warehouse authorised for the excise duty suspension regime) or extracted from a warehouse of a registered consignee
- The requirement for authorisation from the Customs Authority in order to store energy products in a third-party tax warehouse or a warehouse of a registered consignee

UAE – On 9 January 2018, the Federal Tax Authority of the United Arab Emirates (UAE) published two key pieces of legislation relating to the recent implementation of VAT in the country. The first addresses designated zones for VAT purposes and the other addresses zero-rating for the healthcare sector.

The legislation provides absolute certainty as to which of the existing free trade zones in the UAE are to be so designated for VAT purposes. This has important implications for the VAT treatment of goods and services supplied into, within and out of these zones. The second piece of legislation provides suppliers, customers and consumers of healthcare services with confirmation as to which of their supplies and purchases qualify for relief.

The legislation has been given retrospective effect from 1 January 2018. Therefore, the VAT treatment applied by affected businesses to transactions that have taken place over the preceding nine days may now need to change.

Lithuania – In December 2017, the Lithuanian Parliament approved the Budget Proposal for 2018, which included amendments to the VAT Law. The following changes were enacted and effective from 1 January 2018:

- The reduced VAT rate of 9% will apply for an indefinite period of time to thermal energy supplied for the heating of residential premises
- Removal of the €300 threshold, which applies to supplies of non-reimbursed prescription drugs, in order for such supplies to be eligible to the reduced 5% rate of VAT
- The reduced VAT rate of 9%, for accommodation services supplied according to the procedures prescribed by legal acts governing tourist activities, will apply until 31 December 2022
- Foreign taxable persons established in countries which are members of the Organisation for Economic Co-operation and Development, in which there is no VAT (or an identical tax to it) are entitled to apply for a VAT refund and claim the VAT paid in Lithuania. Currently, the provision applies only for taxable persons established in the United States
- Taxable persons are now only allowed to deduct 50% of the VAT incurred on entertainment and representation (under previous provisions, 75% of the VAT was deductible). In addition, the amount of such deductible expenses shall not exceed 2% of the taxable person's revenues for the fiscal year

Argentina – Through publication in the Official Gazette on 29 December 2017, Argentina enacted a comprehensive tax reform generally effective from 1 January 2018. VAT and indirect tax amendments include:

- Digital services are subject to VAT when the services are rendered by resident or foreign parties where the effective use of the services is conducted in Argentina. It will be presumed that there is an effective use in Argentina when the following are located in Argentina: the IP address, the device used by the client or country code for the SIM card, the client's billing address or the bank account used for payment, the client's billing address reported to the bank or financial institution issuing the credit or debit card used for payment. The Law also contains a broad definition of digital services
- The Law creates a new system to reimburse VAT credits resulting from the purchase, manufacture, preparation or import of fixed assets (other than automobiles) that remain as a VAT credit for the taxpayer after six months
The Law creates a reimbursement method for taxpayers conducting activities that qualify as utilities, the price of which is reduced through subsidies, price offsetting or financial aid funds granted by the Argentine government.

The Law indicates that, to classify services as imports and exports, the evaluation of where the effective use takes place must be made in the jurisdiction in which the service is immediately used or operated by the service recipient. The amendments will be effective for taxable events occurring as from 1 February 2018.

The Law includes amendments that contain excise tax rate changes and mechanisms for calculating taxes for a number of products.

Latvia – Effective 1 January 2018, Latvia has introduced a number of changes to its VAT law. The changes include:

- Reduction of the threshold for reporting VAT transactions. The threshold for the requirement to include detailed information on domestic transactions in the VAT declaration has been reduced to domestic transactions with a net value exceeding €150 (previously the threshold was €1,430).
- Extension of the domestic reverse charge regime.
- Application of the reduced VAT rate of 5% on supplies of vegetables, fruits and berries.
- The VAT registration threshold for domestic enterprises has been reduced to €40,000 (previously €50,000).

Uruguay – On 8 December 2017, Uruguay’s Executive Power enacted Law No. 19,566, introducing changes to Law No. 15,921, which established the Free Trade Zone (FTZ) regime. The changes are effective 8 March 2018.

Malaysia – At the end of December 2017, Malaysia enacted the goods and services tax (GST)-exempt and zero-rated supplies included in the 2018 Malaysian Budget (the Budget 2018) announcement on 27 October 2017.

All services provided by local government authorities will no longer be subject to GST (outside the scope of GST), effective as of 1 October 2018. The zero-rating on newspapers and all types of books will be expanded to include magazines, journals, periodicals and comics, and will be effective as of 1 January 2018. Further, the GST exemptions have been expanded to include management and maintenance services provided by housing developers, effective as of 1 January 2018.

Turkey – In Turkey, additional customs duty (ACD) applies to the importation of certain product categories, unless a preferential arrangement is in place. Under new regulations, published on 30 December 2017 and effective 28 February 2018, an ‘exporter declaration’ will generally be sufficient to prove the origin of EU imports (and to exempt them from ACD). A certificate of origin will no longer be requested unless the Turkish authorities have doubts related to the origin of the imported goods based on ‘serious and concrete reasons’.

This measure will reduce the compliance burden for traders importing goods into Turkey from the EU.

Russia – Federal Law No. 335-FZ (the Law) includes changes to the VAT rules for electronic services provided by foreign companies.

The Law eliminates the current tax agent mechanism in relation to electronic services provided by foreign companies to companies and private entrepreneurs registered with the Russian tax authorities. As from 1 January 2019, foreign suppliers of electronic services and foreign intermediaries involved in settlements with Russian taxpayers for electronically supplied services, will be obliged to register for the purpose of paying VAT on those supplies.

For these purposes, electronic services include, inter alia:

- Sale of computer programs via the internet.
- Provision of internet advertising services.
- Provision of services involving the posting of offers to acquire goods and property rights on the internet.
- Provision and (or) maintenance of a commercial or personal presence on the internet.
- Storage and processing of information on the internet.
- Provision of hosting services.
- Sale of electronic books, graphic images and musical works via the internet.
- Provision of access to internet search engines and the maintenance of statistics on internet sites.

Businesses should consider:

- Analysing activities to identify supplies which may be classed as electronic services and result in obligations to register for VAT purposes in Russia.
Assessing the feasibility of applying a VAT exemption in relation to certain types of electronic services
Assessing the possibility and/or necessity of changing the business model, finance model, procedures and/or documents in order to reduce tax risks
Customising ERP systems to facilitate the collection and processing of information on electronic services which the tax authority may request in the course of a tax audit

House of Commons

Public Accounts Committee Report – Challenges facing HMRC

The Public Accounts Committee (PAC) has published a report highlighting concerns for the taxpayer from growing challenges facing HMRC.

The report highlights that, in summary, HMRC is undertaking 15 major transformation programmes. With Brexit, it faces additional pressures and is having to consider how to change priorities. It needs to be clear about what it will do differently, or not do, and what the impact will be on customer service.

Together with HM Treasury, HMRC has to make tough decisions on how it allocates limited resources to its operations to increase tax revenues, protect performance levels, prioritise its transformation and estate programmes, and invest in measures to tackle tax evasion, fraud and error. The PAC comments that it is particularly concerned about the impacts on the ordinary taxpayer from the growing challenges facing HMRC, and whether HMRC is doing enough to support vulnerable Tax Credits recipients, especially as they transfer to Universal Credit. There is a lack of incentive for HMRC to reduce Tax Credits fraud and error in the transition period to Universal Credit. The PAC remain concerned about the estate rationalisation and the lack of flexibility available as a result of decisions made.

The PAC has published some conclusions and recommendations arising out of its report which include:

- Information from the ‘Paradise Papers’ should be obtained by HMRC as soon as possible, and HMRC should report back to the PAC by March 2018 to set out its response, including any additional revenue likely to be at stake
- On HMRC’s transformation programme, the PAC recommend that HMRC should report back to the PAC by March 2018 with clear plans on how HMRC will manage the many challenges it faces in its transformation programme due to Brexit. Building on this, HMRC should: update its original assumptions and amend its forecasts for its transformation programme, particularly those concerning customer demand for its various services; and set out the financial implications of this for the PAC by April 2018

European Commission

Commission objects to a derogation request from Latvia

The European Commission (Commission) has objected to a request from Latvia, under Article 395 of the VAT Directive, to apply a special measure derogating from Article 193 of the VAT Directive as regards the application of the reverse charge mechanism in relation to domestic supplies of consumer electronics and electrical household appliances.

Latvia had submitted the request for the purpose of combating VAT fraud. In objecting to the request, the Commission considered that such a derogation could have adverse impacts on fraud at the retail level and on other Member States. Therefore, it is not considered an appropriate solution.
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