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WTS Value Added Tax Newsletter

Editorial

Dear Reader

It is our pleasure to present to you the WTS Global VAT News for Q3 2017. This issue of WTS Global VAT News focuses on changes in compliance duties in various EU and non-EU countries in order to inform especially non-resident companies about their VAT and GST compliance duties in the foreign countries where they are doing business.

In this issue a special topic is the new Spanish high frequency VAT reporting and management system based on the immediate supply of information (Suministro Inmediato de Información del IVA or SII) to the tax authorities which came into force on 1 July 2017. This new system is a big challenge for the IT systems of the taxpayers concerned.

In order to assist companies doing business in Spain, WTS has developed an Excel-based tool, the TRACE-SII ReportingManager, which assists with the automated transfer of the relevant VAT data to the Spanish tax authorities.

Another important topic is the introduction of a single Goods & Service Tax (GST) in India, which went live on 1 July 2017. The GST regime replaces over 20 different overlapping indirect taxes in India and is meant to simplify compliance and eliminate double taxation.

In addition, in various countries compliance duties have changed or are going to change in the near future. WTS Global VAT News reports in this issue about the developments in six selected countries in order to keep you up to date with the rapidly changing legal environment.

We hope you find our Newsletter useful and welcome your feedback and suggestions. If you have any questions regarding any aspects of this Newsletter, please do not hesitate to contact us.

Yours sincerely

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Belgium

VAT advance payments for quarterly VAT returns abolished

In Belgium, VAT reporting obligations should, in principle, be met on a monthly basis. However, if certain thresholds are not exceeded, then these obligations can be complied with on a quarterly basis (option). These thresholds are:

- Annual turnover (excl. VAT) does not exceed EUR 2.5 million per calendar year.
- Intra-Community supplies of goods do not exceed an amount of EUR 50,000 in the current quarter or the four preceding quarters.
- For the supply of certain goods, namely energy products subject to excise duties, mobile phones, computers, IT hardware or motor vehicles, a specific threshold of EUR 250,000 (excl. VAT) applies.

One of the consequences of opting for the quarterly VAT regime under the old rules was the obligation to make "advance payments" of the VAT amount. Such an advance payment was a prepayment of the net VAT amount. These advance payments were based on the net VAT amount resulting from the VAT return of the previous quarter. VAT taxable persons were obliged to pay one third of this net VAT amount before the 20th of the second and third month of the next quarter.

The Belgian VAT authorities monitored the obligation to make these advance payments very strictly. In practice, late payment interest (0.8% per month) could immediately be imposed, even if the payment was only one day late. Of course, this obligation had a huge impact on the VAT cash flow position of (small) companies.

Since 1 April 2017, VAT taxable persons submitting quarterly VAT returns no longer have to make advance payments by the 20th of the second and third month following the previous quarter.

However, as is the case for VAT taxable persons submitting monthly VAT returns, there is a new obligation for a "December advance payment" by 24 December 2016. This advance payment, which covers a purely budgetary issue, obliges VAT taxable persons to make an advance payment for the last month or quarter of each year. For quarterly VAT returns, this December advance payment can be determined as follows:

- Either the VAT amount due is calculated over the outgoing and incoming transactions over the period 1 October 2017 up to (and including) 20 December 2017. This amount should then be paid by 24 December 2017. It should be included in box 91 of the Q4 2017 VAT return (to be submitted by 20 January 2018).
- Or the VAT amount payable resulting from the Q3 2017 VAT return is paid once again by 24 December 2017.

This December advance payment will be set-off against the result of the Q4 2017 VAT return. If this VAT return were to result in a VAT recoverable amount, the VAT credit could, in principle, be reclaimed through the Q4 2017 VAT return. A reimbursement will then in principle follow by 31 March 2018.

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Croatia

Input VAT deduction for costs for vehicles

From 1 January 2018, taxpayers will be able to deduct 50% of the input VAT for personal vehicles and related costs (i.e. for purchase, lease and expenses related to usage). Currently an input VAT deduction for such costs is being denied.

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France

Right of VAT recovery of French permanent establishments

The French Supreme Administrative Court referred two questions to the ECJ concerning the VAT deduction rights of French branch companies (VAT permanent establishments) – Conseil d'Etat, 29 March 2017, Morgan Stanley.

In its previous famous case law, "ESET" (Case C-393/15), the ECJ ruled that a branch is entitled to deduct the amount of VAT incurred on goods and services used not only for the purposes of its taxable transactions but also for purposes of the operations conducted by its foreign head office.

In its decision of 29 March 2017, the French Supreme Administrative Court turned the discussion from the principle of the VAT deduction to the more practical question of the computation of the recovery ratio that must be taken into account at the level of the French branch.

The French Supreme Administrative Court asked the ECJ for clarification on the applicable rules by the two following preliminary questions:

Firstly, in a situation where expenses incurred by a branch are exclusively used for the purpose of transactions carried out by its head office established in another Member State, does the Member State where the branch is located apply:

- The recovery ratio of the branch, determined on the basis of the transactions carried out in the Member State where the branch is located and according to the rules applicable in this country, or
- The recovery ratio of the foreign head office, or
- A specific recovery ratio, determined by a combination of the applicable rules of the two Member States?

Secondly, which rules have to be applied in the specific situation of expenses used for both the French branch's activity and the foreign head office's activity?

The anticipated judgment of the ECJ could have a substantial impact on VAT recovery rights of many French branches that have mixed activities.

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Increase in the threshold for small amount invoices

With retroactive effect from 1 January 2017, the threshold for invoices for small amounts has been raised to EUR 250 (gross). Previously the threshold was EUR 150 (gross).

The threshold for invoices for small amounts is meant to simplify the input VAT deduction. Generally, input VAT can only be deducted if the taxpayer is in possession of a correct invoice which contains all necessary invoice details mentioned in sec 14 para 4 German VAT Act. Small invoices only need to contain a reduced number of the general invoice details. For example, it is not necessary for small invoices to state the recipient of the invoice or a separate VAT amount. However, the special regulations for invoices on small amounts do not apply in cases of distance selling, intra-Community supplies of goods or the application of the reverse charge mechanism.

Hungary

Live invoice reporting postponed to July 2018

Based on the current tax rules, taxpayers have to submit a summary report for domestic supplies of goods (purchase of goods) and supplies of services (use of services) where the amount of VAT charged is at least HUF 1 million. The determination of the HUF 1 million threshold and the reporting obligation is technically different for the vendor/service provider and the buyer/service user. From a reporting perspective, it is also advisable for foreign companies having only one Hungarian VAT number to indicate the business partner's tax number on all invoices where the tax charged reaches or exceeds HUF 1,000,000 (approx. EUR 3,300).

In a second step, companies are obliged to make a **data export** of their invoicing software if the tax authority requests related data during a tax inspection. Basically, this means that taxpayers are required to have the technical conditions to electronically present details of invoices issued. This mechanism can be identified as the "forerunner" of the **online data provision** of the invoicing software which will be mandatory from **1 July 2018** in order to provide the tax authority with real-time access to the invoicing process of invoices with a VAT amount above HUF 100,000. According to the original plans, this liability should have been introduced by now. Nevertheless, this has been delayed until July next year. In order to provide enough time for the companies to prepare for the new obligation, there has been an opportunity to try a test version of the data provision from 1 July 2017.

Online data provision is basically a new tool to legalise the economy (in addition to electronic cash registers and the EKAER system already introduced), and we are really curious to see the test version so we can see implementation in practice. The aim of the tax authority is to have a more effective control system during the tax monitoring process and to have better tools to guard against tax evasion.

Based on the draft wording of the underlying Decree that has just been presented, taxpayers have to provide the invoicing data to the tax authorities promptly or – at the latest – 24 hours after the issuance of the invoice. When this regulation regarding online

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data provision is introduced from 1 July 2018, the current liability to report invoicing software details to the tax authority will cease to exist for taxpayers subject to online data provision since, during the online data provision, the program will report the necessary software-specific information automatically.

India

New single GST system from July 2017

After more than 11 years of constant persuasion, India was finally able to transition into the new Goods and Services Tax regime effective 1 July. This is clearly the largest indirect tax reform in India. GST is seen as a „One Nation One Tax" and is also called a „Good and Simple Tax" by the Government.

With the introduction of GST, central indirect taxes, i. e. excise (on manufacture) and service tax (on services) are subsumed into a **Central Goods and Services Tax (CGST)** and most of the State Government levies, i. e. Value Added Tax (on sales) Entry tax/Octroi (on entry of goods into the local area), entertainment tax (applicable on events of entertainment) are subsumed into a **State Goods and Services Tax (SGST)** The Central Sales Tax that was applicable on the inter-state movement of goods is converted into **IGST** (Integrated GST). IGST also applies to imports into India.

A multi-tier rate structure has been adopted, the key ones being 5, 12, 18 and 28. Motor vehicles, beverages and certain other goods attract additional cess ranging from 3% to 15%, taking the highest rate of GST to 43%. (A cess is a tax that is levied by the government to raise funds for a specific purpose.)

The GST as introduced is distinct from what has been followed globally, where a single GST is applicable at a single GST rate. This is considering that India is a democratic federal republic i.e. a country made up of multiple states where each state has independent powers under the Constitution. Every intra-state transaction of supply will attract a CGST and SGST, and a transaction involving inter-state movement will attract IGST, a total of CGST and SGST. The GST is a destination-based tax, i. e. it is charged at the place of consumption.

A reform of this size was bound to have a lot of teething issues considering that multiple indirect taxes have been subsumed. The level of detail and attention which was required to study a new law of this magnitude was very high. The onerous reporting and compliance duties requiring a taxpayer to report all his purchases and sales divided into multiple sections in different GST returns have put further pressure on the taxpayer – especially those taxpayers who have never paid taxes until to date due to the threshold limits applicable under earlier law. There are complex reporting requirements requiring substantial modification to the IT systems. These requirements become even more difficult to comply with in the case of small taxpayers who may not even have the requisite infrastructure to print invoices.

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To realise the full potential of GST, a lot more needs to be done. The Government should issue binding clarification on various unclear aspects of the law, including unclear classification, so that taxpayers are confident about their tax liability and compliance duties.

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Italy

New measures to tackle VAT fraud

In Italy, the VAT gap (i.e. the difference between expected VAT revenues and VAT actually collected) is approx. EUR 40 billion. This amount is astonishing, also considering that the overall VAT gap in the EU is approx. EUR 160 billion. To tackle tax fraud and tax evasion, Italy recently adopted additional measures aimed at collecting more detailed and timely data and increasing a cooperative tax compliance approach. In brief, the main measures recently implemented are:

→ **Quarterly communication of the data of periodical VAT computations**
Such communication shall include the data of periodical VAT computation (i.e. output VAT less deductible input VAT). It shall be filed even if the result of the VAT computation is a VAT credit. In general, it shall be electronically filed within the end of the second month following each quarter (i.e. for the first quarter the deadline is 31 May; for the second quarter there is an automatic postponement to 16 September). However, for 2017, the first deadline has been postponed from 31 May 2017 to 12 June 2017. In the event of errors or omissions, specific penalties are applied.

→ **Quarterly communication of the detailed data of invoices**
Such communication shall include the detailed data of sales invoices, purchase invoices, credit notes and customs bills, i.e. data of parties involved, date and number of the invoice, tax base, VAT rate, VAT amount, type of transaction. In general, it shall be electronically filed by the end of the second month following each quarter (i.e. for the first quarter the deadline is 31 May; for the second quarter there is an automatic postponement to 16 September). However, for 2017, the communication shall be filed on a half-year basis, i.e. the first deadline is 16 September 2017 for the first semester. In the event of errors or omissions, specific penalties are applied.

→ **Extension of the split payment mechanism**
The split payment is a peculiar mechanism according to which VAT is charged by the supplier according to standard rules. However, the customer pays the supplier only the net amount and the customer himself pays the related VAT amount (if due) directly to the tax authorities. This mechanism was implemented in 2015 and it applied to a limited extent to supplies of goods and services rendered to public bodies (see EU Council Decision (EU) 2015/1401). From 1 July 2017, the application of this mechanism has been extended to supplies of goods and services rendered to state-owned companies and stock market listed companies (see EU Council Decision (EU) 2017/784 authorising Italy to apply said special measure from 1 July 2017 to 30 June 2020).

→ **Reduction of the standard terms for VAT deduction**
Shorter terms for exercising the right of VAT deduction apply from 2017. According to new rules, for invoices received in 2017, the right of deduction can be exercised at the latest in the VAT return relating to the year when the right of deduction has arisen (formerly it could be exercised at the latest in the VAT return relating to the second year following the year when the right of deduction has arisen). Operationally this means that input VAT relating to an invoice received in 2017 (i) according to VAT rules formerly into force could be deducted at the latest in the VAT return relating to FY2019

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to be filed by 30 April 2020; conversely (ii) according to VAT rules at present into force it can be deducted at the latest in the VAT return relating to FY2017 to be filed by 30 April 2018. For purchase invoices received in 2015 and 2016, the former (longer) term shall apply.

Spain

SII VAT changes

On 1 July 2017, the Spanish tax agency introduced a new high frequency VAT reporting and management system based on the Immediate Supply of Information (Suministro Inmediato de Información del IVA or SII).

SII requires large taxpayers (over EUR 6 million turnover per annum) submitting monthly VAT returns, companies in VAT groups and companies on the monthly refund scheme to complete online submissions of invoices. These submissions must be completed within four working days of the issuance or receipt of the invoice. However, for 2017, an eight-day requirement will be applied.

On 15 May 2017 the requirements for large businesses for regular e-submissions of sales and purchase invoices were published in the official gazette.

Taxpayers do not actually need to submit the invoices themselves, but instead an XML file containing essential information such as identification details of the customer/ supplier, whether the invoice is a service or a supply of goods or correcting a former transaction, and the type of operation (domestic operation, intra-Community supply of goods or services, import/export), and detailing whether it is subject to reverse charge, place of supply in Spain (or not) for VAT purposes, etc.

As mentioned above, while the term to submit the invoices is four days from the day they are issued/registered by the taxpayer, the idea of the tax authorities is that the invoices are to be submitted automatically in a machine-to-machine communication. For this purpose, the taxpayer must be identified by its digital certificate (although they can authorise a representative to submit the files on their behalf).

A significant field to submit is the one describing the operation. The company must describe in 500 characters the type of transaction. The essential part in this area is that the VAT due date varies if it is a recurrent supply of services, or when the good is made available to the purchaser.

As we can see, the SII raises several problems for taxpayers. The first, technical one is "mapping" the accounting/invoicing systems to the codes required by the tax authorities. The second one is having the proper knowledge of when the invoices issued/ received have to be registered. While, up to now, companies had sufficient time to amend any invoice wrongly registered, the fact that the information is submitted almost in real time requires a higher level of expertise when undertaking such an activity.

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An additional problem occurs in the case of those companies which issue an "invoice" for transactions where it is not required, such as cash flow between parent/subsidiary or a company and its permanent establishment.

While the SII is applicable from 1 July 2017, under this new obligation taxpayers must submit the relevant information about the invoices issued/received during the first semester (1 January to 30 June 2017) no later than 31 December 2017, except those that were already included in the VAT Monthly Refund Register (in Spanish, REDEME) and, as a result, they were obliged to file the Form 340 which related to the first half of 2017.

Taxpayers who fall under the SII obligation will no longer be required to submit the yearly VAT report (Model 390) and the declaration of transactions with third parties (Model 347). Taxpayers included in REDEME also no longer have an obligation to submit Form 340. Additionally, the term to submit and pay their periodical VAT self-assessments is extended from the 20th to the 30th of the following month.

The SII is considered to be an essential tool by the tax authorities in their fight against VAT fraud, as the tax authorities will have "big data" or "data mining" information almost in real time, which will allow them to filter and select information. The SII is applicable to companies which are actually supposed to account for around 75-80% of Spain's revenue derived from VAT. In Portugal, such revenues have significantly increased since a similar system was implemented.

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Spain

TRACE-SII ReportingManager (Reporting Tool)

New VAT reporting challenges in Spain

Since July 2017 most of the entrepreneurs registered for VAT purposes in Spain are obliged to transmit VAT relevant data, e.g. invoices issued and received, within 4 days[1] only to the Spanish tax authorities.

Contents of the reporting

The information that needs to be transmitted comprises (amongst others) the following records:

- Invoices issued
- Invoices received
- Certain Intra-community transactions.

Fines in case of non-compliance

In case of a delayed transmission an administrative penalty of 0.5% of the invoice amount shall be imposed.

1 For the period July to December 2017 the period is extended to 8 days

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Integrated solution by WTS

By use of the TRACE-SII Reporting Manager the required data can be transferred to the Spanish tax authorities out of an ordinary Excel sheet by a touch of a button. Any data transformation can be set up in the tool. In case of a consistent quality of the data the reporting can made by a few clicks.

Tracing of transaction uploads and rejections

As the transmitted data is validated by the Spanish tax authorities any mismatching records will be rejected. Therefore, the possible inquiries by the Spanish tax authorities have to be clarified and re-submitted immediately. This is supported by TRACE-SII Reporting Manager by an intelligent workflow, so that the effort is reduced to a minimum. Certainly each operation is documented and therefore each report is TRACEable for you in years.

Reconciliation of mismatches and clearing inquiries

The Spanish tax authorities perform a check of the data transmitted by the respective business partner. Hence also by own correct records a vast number of clearing inquiries are to be expected. TRACE-SII Reporting Manager is able to manage this in addition to the transmission and provides an integrated processor functionality for the correction of errors and the returning of the transmission. No installation needed As a stand-alone tool TRACE-SII Reporting Manager does not need any IT-installation but only a Microsoft Excel and Microsoft Access license[2], each for Microsoft Windows, and is directly executable.

For more information on the tool please **click here**.

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2 Included in Microsoft Office Professional

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