PKF worldwide tax update

September 2024

The content of this PKF Worldwide Tax News has been compiled and coordinated by Stefaan De Ceulaer (stefaan.deceulaer@pkf.com) of PKF International. If you have any comments or suggestions please contact Stefaan directly.

Contents

Welcome

In this third quarterly issue for 2024, the PKF Worldwide Tax Update newsletter again brings together notable tax changes and amendments from around the world, with each followed by a PKF commentary which provides further insight and information on the matters discussed. PKF is a global network with 480 offices, operating in over 150 countries across our five regions, and its tax experts specialise in providing high quality tax advisory services to international and domestic organisations in all our markets.

In this issue featured articles include discussions on:

- (EU) VAT and excise tax updates in Hungary, Ireland and Ukraine
- Case law and administrative rulings in Colombia
- Significant personal and corporate income tax changes in Nepal, Switzerland and the UAE
- International tax developments (CFC/thin cap, CbC Reporting, BEPS, MLI, double tax treaties, transfer pricing, etc.) in Brazil, Ecuador and Malta.

We trust you find the PKF Worldwide Tax Update for the third quarter of 2024 both informative and interesting and please do contact the PKF tax expert directly (mentioned at the foot of the respective PKF commentary) should you wish to discuss any tax matter further or, alternatively, please contact any PKF firm (by country) at **www.pkf.com/pkf-firms**.

Brazil

New transfer pricing law in Brazil: A paradigm shift with economic implications

The recent enactment of Law No. 14,596/2023 and its regulation through Normative Instruction No. 2,161/2023 marks a significant overhaul of the transfer pricing rules in Brazil. This legislation aims to align Brazilian practices with the standards of the OECD, introducing a framework that emphasises an economic approach to inter-company transactions.

Key changes

The new legislation centres on the arm's-length principle as the core criterion for determining prices in transactions between related parties. It expands the acceptable methods for transfer pricing calculations to include the comparable uncontrolled price (CUP), cost plus method (CPM) and resale price method (RPM). Notably, it now allows for more sophisticated economic methods such as the profit split method, which requires detailed economic analysis and frequent market-based adjustments.

Economic impact

Transitioning to a framework that requires detailed economic analysis represents a significant shift for Brazilian companies. This new regime moves away from the simpler calculation methods previously used, necessitating a deeper understanding of economic principles in inter-company transactions. This shift can influence financial management and tax strategies, requiring companies to engage in more rigorous economic reasoning and documentation.

Compliance and documentation

The new law enhances documentation requirements, obliging companies to maintain comprehensive reports that support their transfer pricing methodologies. Staying compliant with these detailed requirements is crucial to avoid penalties and emphasises the increased governance burden on corporate practices.

PKF Comment

The new transfer pricing law is a landmark shift in Brazilian tax legislation, promoting greater alignment with international standards and necessitating a more sophisticated economic approach in inter-company operations. For companies, it is crucial to understand and adapt to these changes to ensure compliance and optimise financial performance. PKF Brazil stands ready to support businesses through this transformative period.

Acknowledging the challenges and complexities introduced by the new law, PKF Brazil is well prepared to assist clients in navigating this transition. Our team of experts offers strategic consultancy, detailed economic analysis and compliance solutions to ensure that our clients' transfer pricing practices not only meet legal requirements but also align with global best practices.

If you believe the above may impact your business or personal situation or require any advice with respect to Brazilian taxation, please contact Cleverson Lacerda at **cleverson.lacerda@pkfbrazil.com.br** or call **+55 11 3070 1000**.

BACK

Colombia

Rate applicable to industrial users of goods and services located in a free zone

Until fiscal year 2022, the nominal rate applicable to income tax for industrial users of goods and/or services located in a free zone is 20%. With the issuance of Law 2077 in 2022, the applicable rate from fiscal year 2024 would be 20% of the proportion representing income from exports and 35% of the proportion representing income other than exports.

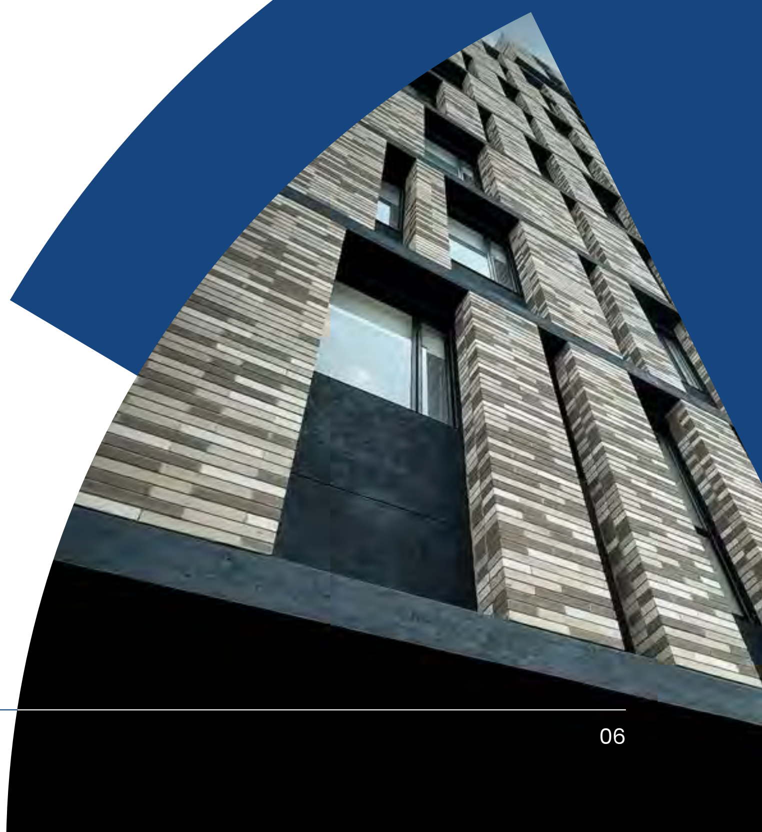
By means of judgment C-384 of 2023, the Constitutional Court considered that industrial users of goods and/or services located in free zones before 13 December 2022, the date of issuance of Law 2077, had met the requirements set forth in the applicable regulations to access the benefit of a reduced nominal rate on income tax (20%) and that being an exporter was not included among such requirements. The court concluded that, although the new tariff scheme 'is not contrary to the principles of good faith and legitimate trust of new taxpayers, those who had already been classified as industrial users and who had complied with the requirements of the previous regime to access the preferential rate would find themselves non-compliant under the new rules. The new tariff scheme was unforeseeable and introduces a fundamental change in the conditions for the preferential rate.'

Based on the above, the Constitutional Court indicated that the 20% rate will continue to apply to taxpayers who had met the conditions to access it before 13 December 2022, the date of entry into force of Law 2277 of 2022. Consequently, the new tariff scheme (based on the type of income accrued) operates for those who are qualified as industrial users of goods and/or services as from 13 December 2022.

Deduction of royalties to companies that exploit non-renewable resources

Law 2277 (article 19) established that the payment of royalties for the exploitation of non-renewable natural resources would not be deductible for income tax purposes and could not be treated as a cost or expense of the respective company, regardless of the name of the payment and the accounting or financial treatment that the taxpayer makes, and, independently of the form of payment, whether in cash or in kind. By means of judgment C-489 of 2023, the Constitutional Court declared this provision unconstitutional, a situation that, in the opinion of the Ministry of Finance, has a significant effect on the expected collection, which is why it filed a fiscal impact incident before this court, which was resolved as observed in the communication dated 27 May 2024, a document in which the court states that:

'….analysed the specific case and concluded that it was not proven that judgment C-489 of 2023 produced serious alterations in fiscal sustainability. Specifically, the Court found that the judgment



does not generate non-compliance with the Fiscal Rule and that the Ministry of Finance and Public Credit did not prove that the ruling caused a serious and specific effect on the macroeconomic environment. Additionally, based on the information collected in the IIF process, the Court found that the calculation of the fiscal impact that underlies the request for modulation of the judgment is overestimated.

Although these conclusions were sufficient to not grant the claims of the Ministry of Finance and Public Credit in the IIF, the Plenary Chamber considered it necessary to rule on the four alternatives for modifying the effects of judgment C-489 of 2023 in light of the two prohibitive clauses that operate on the IIF.

It recalled that judgment C-489 of 2023 declared the unconstitutionality of paragraph 1 of article 19 of Law 2277 of 2022 because it ignored the principle of tax equity for two reasons: it violated the prohibition of confiscation and the right to equality, to the detriment of those who pay royalties in money. These determinations are protected by constitutional res judicata. This means that they have an immutable, binding and definitive character.'

Simple taxation regime

Law 2277 of 2022 established some changes to the Simple taxation regime ('SIMPLE'), as set out below:

1. A reduction in the prior year income limit required to access SIMPLE, from 100,000 UVT (unidad de valor tributario, 'tax value unit') to 12,000 UVT for taxpayers who provide consulting and scientific services where the intellectual factor predominates over the material, including services of liberal professions.
2. The addition of a group that includes education activities and human healthcare activities, maintaining the limit of 100,000 UVT.

By ruling C-540 of 2023, the Constitutional Court declared the income caps and rates applicable to the aforementioned groups unconstitutional, for violating the principle of horizontal tax equity applicable among persons who carry out these economic activities. In order not to leave a regulatory vacuum, the court declared the reinstatement of numeral 3 of article 42 of Law 2155 of 2021, which at the time modified article 908 of the Tax Statute, and which in concrete terms meant the application of the tax rate applicable prior to the introduction of Law 2277 of 2022.

This ruling was published in December 2023 when most of the fiscal year had passed, generating bittersweet effects for taxpayers, namely:

- The possibility of accessing SIMPLE in the case of those who provide consulting and scientific services in which the intellectual factor predominates over the material, including the services of liberal professions, whose gross income in the previous year was greater than 12,000 UVT and up to 100,000 UVT. This possibility was not viable until the ruling was issued, because the challenged law only enabled access to SIMPLE to those who had income of up to 12,000 UVT in the previous year.
- The declaration of unconstitutionality of the rate provided for in Law 2277 of 2022 for those who carry out activities in the field of education and human healthcare gives rise to a tax increase for this group of taxpayers because the new rate applicable following the reinstatement of Law 2155 of 2021 is higher than that provided for under Law 2277 of 2022.

Tax on single-use plastics

In accordance with articles 50 and 51 of Law 2277 of 2022, the national tax on single-use plastic products used to wrap, pack or package goods was created.

Article 51 sets out the following terms:

- The taxable event is the sale, withdrawal for own consumption or importation for own consumption of single-use plastic products used to wrap, pack or package goods.
- The tax will be triggered on sales made by producers, on the date of issue of the invoice; on withdrawals for consumption by producers, on the date of withdrawal; and on imports, on the date on which the good is nationalised.
- The taxpayer and responsible party for the tax is the producer or importer, as appropriate.

Article 50, which deals with definitions, indicates that references to the taxpayer (producer and/or importer) denote:

'Natural or legal person who, regardless of the sales technique used, including distance sales or by electronic means, meets any of the following characteristics:

1. Manufactures, assembles or re-manufactures goods for marketing in Colombian territory, which are contained in single-use plastic containers, wrapping or packaging.
2. Imports goods for marketing in Colombian territory, which are contained in single-use plastic containers, wrapping or packaging.'

The Constitutional Court, by judgment C-506 of 22 November 2023, declared the unconstitutionality of the expression 'goods for marketing in Colombian territory, which are contained' included in the definition (art. 50). The plaintiffs consider that when reading the two norms (arts. 50 and 51), it is not clear whether the taxable event:

- is the sale, withdrawal for own consumption or import for own consumption of the packaged product; or
- is the sale, withdrawal for own consumption or import for own consumption of the container, wrapping or packaging.

The court, for its part, noted the following considerations:

- Between articles 50 and 51 there is a 'real contradiction', since the expression used by the legislator in numerals 1 and 2 of article 50 to define passive subjection, i.e. 'goods contained in containers, wrapping or plastic packaging' did not correspond to the norm that defined the taxable event in article 51 that referred, meanwhile, to single-use plastic products used to wrap, pack or package goods.
- The lack of correspondence is evident and generates an insurmountable uncertainty in relation to aspects that are essential to guarantee the principles of certainty and legal security in the context of the national tax on single-use plastics. This is not only because the 'taxable person' element of the tax is closely related to the provisions of numerals 1 and 2 of literal c) of article 50 that establish its content, but also because, if the discordant expression were maintained, the conclusion would be reached that whoever is subject to the tax cannot carry out the taxable event, and whoever carries out the latter is not a taxable person.

As a result of this ruling, doubts were raised regarding the period of application of the tax. Some consider that it is only enforceable from the ruling issued by the Constitutional Court, while others (including the DIAN) maintain that the tax is applicable from the date of issue of the law because it is an instant tax.

PKF Comment

If you believe the above measures may impact your business or require any advice with respect to Colombian taxation, please contact Raúl Hoyos at rhoyos@pkfcabrera.com or call **+57 (2) 485 4141**.

BACK

Ecuador

Deadline extension to issue decision on refund requests for the application of double tax treaties

The tax administration has amended the timeframe to process a refund for income tax withheld at source, which is requested by a non-resident taxpayer as a result of applying a double tax treaty signed between Ecuador and other contracting parties.

The new resolution establishes that the tax administration has a period of 120 business days to resolve the request, initiated from the business day following the filing of the claim (previously, 60 days).

Resolution No. NAC-DGERCGC24-00000018 was published in the Official Gazette on 20 May 2024 and entered into effect thereafter.

Penalties and extension of filing deadline for transfer pricing reporting

By way of Resolution NAC-DGERCGC24-00000020 (issued on 28 May 2024), the tax administration has amended the existing rules with regard to the presentation of the annex on related party transactions and the comprehensive transfer pricing report. The resolution entered into force upon its publication in the Official Gazette.

The tax administration provided that the annex and the comprehensive transfer pricing report for fiscal year 2023 may be submitted by September 2024, in alignment with the deadlines for submitting tax returns. Any reports submitted after the effective date of Resolution NAC-DGERCGC24-00000020 must comply with the technical specifications published on the administration's website on 27 May 2024.

Furthermore, taxpayers subject to the transfer pricing regime are now categorised into three groups: large taxpayers, special taxpayers and other taxpayers. This classification will determine the amount of the penalties for non-compliance with the reporting requirements.

Penalties for non-submission of information

The penalties for not submitting the comprehensive transfer pricing report and the annex on related party transactions vary according to the taxpayer category as follows:

Type of taxpayer	Comprehensive transfer pricing report US$	Related party transactions annex US$
Large taxpayers (including high net worth individuals)	15,000	10,000
Special taxpayers	7,500	5,000
Other taxpayers subject to the transfer pricing regime	3,750	2,500

Penalties for incomplete, inaccurate or erroneous information

In cases of incomplete, inaccurate or erroneous information, the amount of the penalties depends on whether the issue is voluntarily rectified by the taxpayer or identified by the tax administration.

Type of taxpayer	Voluntary rectifications by the taxpayer US$	Detected by the tax administration US$
Large taxpayers (including high net worth individuals)	11,250	15,000
Special taxpayers	5,625	7,500
Other taxpayers subject to the transfer pricing regime	2,812	3,750

The comprehensive transfer pricing report or the related party transactions annex shall be deemed to contain incomplete, inaccurate or erroneous information when one of the following scenarios applies:

1. Failure to prepare the transfer pricing report and/or the annex on transactions with related parties in accordance with the technical sheet for the standardisation of transfer pricing analysis and the technical sheet for the annex on transactions with related parties in force for the fiscal year in question.
2. Presenting incomplete or inaccurate information, which differs between the comprehensive transfer pricing report and the annex on transactions with related parties, regarding:
   a) transactions carried out with related parties
   b) methodology and indicator, where applicable.
3. When the values declared or reported in the income tax return, annex on transactions with related parties and comprehensive transfer pricing report reflect inconsistencies across the three documents.
4. In the case of the comprehensive transfer pricing report, when the working papers established in the technical sheet for the standardisation of the transfer pricing analysis in force for the fiscal year in question are not included.

Penalties for late filing

Type of taxpayer	Penalty for voluntary submission US$	Processed by the tax administration US$
Large taxpayers (including high net worth individuals)	750	1,000
Special taxpayers	375	500
Other taxpayers subject to the transfer pricing regime	187	250

PKF Comment

The Ecuadorian government, with the aim of preventing tax fraud and increasing collection levels, has adopted these measures to create an environment in which taxpayers feel motivated to comply with the law, since sanctions act as a deterrent to avoid voluntary or negligent non-compliance, and turning these procedures into another source of tax collection.

If you believe the above may impact your business or personal situation or require any advice with respect to Ecuadorian taxation, please contact Manuel García at mgarcia@pkfecuador.com or call **+593 4 236 7833**.

BACK

Germany

Liquidation procedure for a small corporation

The liquidation of a company in Germany is very complex. The practical case that follows illustrates how a liquidation is carried out in a simplified manner and which special tax features need to be considered.

1. Case study

K GmbH is an online grocery retailer. The company was unable to attract enough customers. The shareholder, S, who is also the managing director, therefore decides to liquidate the GmbH. The next steps were as follows:

- 28 February 2023: Resolution on dissolution
- 24 March 2023: Entry of the dissolution in the commercial register
- 26 April 2023: Announcement of the creditor notification in the Federal Gazette
- 3 May 2024: Completion of the liquidation.

2. Liquidation process

2.1 Resolution

Resolution: The shareholders decide to dissolve the company; at least 75% of the votes cast must be in favour. This resolution must be passed before a notary.

Registration: The managing director must apply for the dissolution to be entered in the commercial register. In the example case, the managing director S becomes the liquidator from 24 March 2023. From this date, the GmbH bears the addition 'i.L.' (in liquidation).

2.2 Settlement

First short financial year: From 1 January 2023 until the end of operating activities on 27 February 2023, there is a so-called short financial year. Annual financial statements with a closing balance sheet must be prepared for this short financial year. Liquidation begins on 28 February 2023 with an opening liquidation balance sheet.

Call to creditors: Upon entry into the commercial register on 24 March 2023, creditors are requested to contact the company to register their claims. The notice will be published in the Federal Gazette on 26 April 2023. No assets may be distributed to the shareholders for a period of 12 months from the date of the entry in the commercial register (24 March 2023).

Annual financial statements: Annual financial statements must be prepared from 28 February 2023 to 27 February 2024.

Final distribution: At the end of the 12-month period from the announcement of the creditor notification in the Federal Gazette, i.e. from 27 April 2024, a final liquidation balance sheet must be prepared. After this, the remaining assets can be distributed to the shareholders. In this specific case, this distribution was made by 3 May 2024.

Second short financial year: Financial statements for a second short financial year must be prepared for the period from 28 February 2024 to 3 May 2024.

2.3 Deletion

The liquidation ends on 3 May 2024, when all liquidation measures have been completed. The GmbH will then be deleted from the commercial register.

3. Tax treatment of liquidation

3.1 Settlement period

The GmbH still needs to pay corporation tax and trade tax.

The charge to corporation tax (15.825%) is no longer based on the calendar year, but on a liquidation period of a maximum of three years. The beginning of the liquidation period is the day of dissolution; the end is the completion of liquidation or the end of the blocking year.

In this case, the settlement period is from 24 March 2023 to 3 May 2024. There are no financial years in the sense of tax law during the settlement period. A tax balance sheet is only to be prepared at the end of each tax period. A tax balance sheet must therefore be prepared by 23 March 2023 (covering the period before the settlement period). A further tax balance sheet must be prepared for the period from 24 March 2023 to 3 May 2024 (covering the settlement period).

The charge to trade tax (approx. 14%) does not cease as a result of the liquidation but continues until the end of the liquidation. In this case, a liquidation period of several years is not treated as a single taxation period. Instead, the ratio of calendar months is distributed over the years of the liquidation period.

3.2 Liquidation gain

If, after complete liquidation, a profit remains from the difference between assets and liabilities, this is taxed at the level of the GmbH.

4. Effects on the shareholder

The assets remaining after deduction of taxes can be distributed to the sole shareholder S. The tax liability of this distribution depends on various factors.

The repayment of contributions represents a non-taxable return of capital. If the liquidation proceeds exceed the contributions, the distribution is taxable.

PKF Comment

If you believe any of the above measures may impact your business or require any advice with respect to German taxation, please contact Daniel Scheffbuch at **d.scheffbuch@pkf-wulf.de** or call **+49 711 69 767 238**.

BACK

Hungary

Certain default penalties will be doubled from 1 August 2024

The most recent amendment will affect the general default penalty, as well as penalties imposed on the failure to register employments with the tax authorities and non-fulfilment of the obligation to issue invoices and receipts and keep (archive) documents.

Under the general rules, the maximum amount of the default penalty that can be levied on individual taxpayers will be HUF 400,000 (approx. €1,000) instead of the current HUF 200,000 (approx. €500) cap, whereas the default penalty applicable to any other taxpayer will be capped at HUF 1 million (approx. €2,500) instead of the current maximum amount which is HUF 500,000 (approx. €1,250).

In case of infringement of the rules on employee registration, the legislator has doubled the maximum amount of default penalty from HUF 1 million (approx. €2,500) to HUF 2 million (approx. €5,000).

In case of infringements of the rules on the obligation to issue invoices and receipts and to keep documents, the taxpayer will be subject to a default penalty of up to HUF 2 million instead of the current HUF 1 million cap.

"

PKF Comment

The rationale behind this measure is that the maximum amounts of default penalties had not been changed for more than a decade. As a result of recent rampant inflation, the default penalties in place had lost their preventive effect.

Changes to the social security contribution tax from 1 August 2024

From 1 August 2024, the conditions for applying social security contribution tax allowances for employees newly entering the labour market and the duration of eligibility for the tax relief will change.

For the social security contribution tax allowance applicable to those entering the labour market, the existing 275-day monitoring period will be extended to 365 days from 1 August 2024, i.e. the tax allowance can only be claimed for employees who have been employed for a maximum of 92 days within the preceding 365 days before the start of the beneficiary's employment (and not the previous, much shorter 275-day period). For the purposes of this rule, any form of employment or self-employment that constitutes a social security relationship (subject to specific exceptions) is taken into consideration.

Furthermore, the period for claiming the tax allowance is also shortened, from 2+1 years (36 months) to 1+0.5 years (18 months). Firstly, the period during which the tax allowance equals the social security contribution tax on the gross wage up to the minimum wage will be reduced from two years to one year. Secondly, the 50% of the tax allowance calculated as mentioned above will only be available for an additional six months, instead of the current one-year supplementary period.

The above changes should be applied to an employment relationship established from 1 August 2024.

Another social contribution tax-related change effective from 1 August is the elevation of a previous emergency decree to a statutory level, stipulating that, in addition to the 15% personal income tax, an additional 13% social security contribution tax is due on a private individual's interest income. This regulation has been in effect since 1 July 2023, so it must be emphasised that the tax rate itself has not changed; however, the previous temporary regulation has now been made permanent.

"

PKF Comment

Stricter regulations on the social security contribution tax allowances with regard to the employment of persons entering the labour market will most likely be enacted in the foreseeable future.

Changes to the extra-profit tax levied on financial institutions

From July 2022, financial institutions are subject to an extra-profit tax. In a nutshell, the tax was initially payable on the adjusted local business tax base (in general terms, the adjusted gross profit), whereas from 2023, the tax is levied on the adjusted pre-tax profit of the fiscal year starting in 2022.

Effective from 1 August 2024, the tax payment liability can be decreased by up to 50% if the financial institution invests in government securities, denominated in Hungarian forints. The tax relief corresponds to 10% of the increase in the nominal value of the daily average stock of the securities in the period between 1 January 2024 and 30 November 2024 compared to the period between 1 January 2023 and 30 April 2023.

"

PKF Comment

The financial institutions' extra-profit tax has been introduced as a transitory measure in 2022. The current amendment suggests that its phase-out is not anticipated in the near future.

Significant increase in the financial transaction tax rate

From August 2024, the government will increase the financial transactional tax levied on money and security transfers as well as on cash withdrawals. The general tax rate (0.3% of the transactional value) will be increased to 0.45% with the current cap of HUF 10,000 per transaction being increased to HUF 20,000 per transaction. The tax on cash withdrawals will be 0.9% of the transactional value instead of the current 0.6% rate. An additional 0.45% tax will be payable (and will result in a 0.9% effective tax rate) if the transaction results in a conversion between currencies with the HUF 20,000 per transaction cap in place.

Self-revision function on machine-to-machine interface of eVAT system now available

We have mentioned in earlier tax updates that Hungary launched eVAT from 1 January 2024 with the aim of providing support and automation to the VAT compliance procedure. The eVAT system offers two solutions: (i) the tax authority prepares a draft return subject to the taxpayer's approval; and (ii) it is also possible to upload VAT analytics to the so-called machine-to-machine (M2M) interface, which provides an automatic verification process and generates a draft return. However, self-revision through the M2M interface had been unavailable thus far.

Effective from 1 July 2024, users of the eVAT system can submit their self-revisions through the M2M connection.

It is noteworthy that the M2M self-revision is still not available for filing periods in which a self-revision has already been submitted via a form.

The updated Hungarian-language specification and new XSD schema can be accessed for download from the designated location:

https://github.com/nav-gov-hu/eVAT/tree/master/docs/spec

"

PKF Comment

The implementation of and transition to M2M is a complex and time-consuming process. Furthermore, self-revision was not feasible under the M2M system until now. As a consequence, only a limited number of taxpayers have adopted its use. The introduction of the self-revision function is expected to enhance the popularity of M2M.

For further information or advice concerning the above or any advice with respect to Hungarian taxation, please contact Krisztián Vadkerti at vadkerti.krisztian@pkf.hu or call **+36 1 391 4220**.

BACK

Ireland

Irish VAT registrations

The Irish Revenue have provided updated guidance on the requirements of the conditions to be satisfied before an Irish VAT number will be issued. The main requirement is that the applicant must be involved in a VATable business activity in Ireland. There are detailed rules to determine the place of supply of a good or service.

Evidence of the applicant's trading activities, or intention to trade, should be submitted along with the completed VAT application form. Applications by foreign entities to register for VAT in Ireland can be delayed due to insufficient supporting documentation submitted with the application. This can also be due to the ability of workers to work remotely rather than from a physical office space.

Where an application is made prior to commencing to trade in Ireland, the application must show a clear intention to trade in Ireland. Evidence to support this intention may include:

- business plans and projections
- commencement of Irish-based employments
- renting of office space
- opening Irish bank accounts
- contracts or negotiations with customers or suppliers.

Revenue have stressed that they take a holistic view of the evidence provided when determining if there is sufficient evidence that a VATable activity is being carried on, or is due to be carried on, in Ireland. Revenue have highlighted the following common reasons for disallowing Irish VAT applications:

- Irish company registered with mainly non-resident directors
- no physical location in Ireland or use of virtual/serviced office as business address
- no evidence of contracts or customers
- inability to produce a valid invoice
- no employees based in Ireland.

To prevent long delays in applications for an Irish VAT number, it is important that sufficient supporting documentation is submitted to the Irish Revenue at the same time as a VAT application is submitted.

Employed or self-employed

Following a landmark Supreme Court judgment (Revenue Commissioners v Karshan (Midlands) Ltd. t/a Domino's Pizza), Revenue have published a new manual titled Revenue Guidelines for Determining Employment Status for Taxation Purposes, outlining a five-step decision-making framework that must be used to determine whether a person is employed under a contract for services (self-employed) or employed under a contract of service (employee).

In the Karshan case, the Supreme Court decided that, when deciding whether a contract is one 'of service' or 'for service', the following five questions need to be considered:

1. Does the contract involve the exchange of wages or other remuneration for work?
2. If so, is the agreement one pursuant to which the worker is agreeing to provide their own services and not those of a third party, to the employer?
3. If so, does the employer exercise sufficient control over the putative employee to render the agreement one that is capable of being an employment agreement?
4. If these three requirements are met, the decision maker must then determine whether the terms of the contract between employer and worker, interpreted in the light of the admissible factual matrix and having regard to the working arrangements between the parties as disclosed by the evidence, are consistent with a contract of employment or with some other form of contract having regard, in particular, to whether the arrangements point to the putative employee working for themselves or for the putative employer.

5. Finally, it should be determined whether there is anything in the particular legislative regime under consideration that requires the court to adjust or supplement any of the foregoing.

In May, Revenue published Guidelines for Determining Employment Status for Taxation Purposes. Some of the key points are outlined below:

- Rectifying the position – prior to the above judgment, a number of workers across various sectors who previously would have been considered self-employed will now need to be treated as employees. Businesses as a priority now need to review arrangements with all workers.
- Previous decisions by deciding officer – these can no longer be relied on; the five-step framework will now need to be considered.
- Regular review of arrangements – businesses should undertake a regular review as the engagement may change overtime.
- Provision of workers through a company – where a worker has incorporated their own business (separate legal entity), an engagement of these companies by businesses cannot be a contract of service or employments for taxation purposes. The judgment does not change this.
- General commentary provided on different sectors and worked examples.

Enhanced employer reporting obligations

At the beginning of 2024, a new provision, introduced by Finance Act 2022, provides for the mandatory reporting to Revenue by employers of 'reportable benefits'. Such reportable benefits are made without the deduction of tax. The reportable benefits are:

1. the remote working daily allowance of €3.20;
2. the payment of travel and subsistence expenses; and
3. the small benefit exemption.

Some of the main benefits to the introduction of enhanced employer reporting include the following:

1. Enhancement of Revenue's compliance framework to ensure that the correct amount of tax is collected efficiently at the right time.
2. Diversion of resources and contacts away from compliant employers, thereby avoiding associated compliance costs.
3. Providing increased visibility and assurance to employees that their income is being reported properly to Revenue.
4. Provision of meaningful and effective high-level data for policy consideration by the Department of Finance on such reportable measures.

Earlier in the summer, Revenue confirmed they are continuing to support those employers who are making genuine efforts to meet their reporting obligations. As part of this, Revenue have confirmed that they will not seek to apply penalties for non-compliance during the remainder of 2024. However, it is expected that any employer who commences filing after 1 July 2024 will be expected to backdate its filings to 1 July 2024.

"

PKF Comment

If you believe the above may impact your business or personal situation or require any advice with respect to Irish taxation, please contact Michael O'Leary at michael@pkfbl.ie or call **+353 (01) 668 9760**.

BACK

Malta

Public country-by-country reporting introduced in Malta

Act XVIII of 2024 has introduced public country-by-country (CbC) reporting into Maltese domestic legislation. This enactment, known as the Companies (Amendment) Act, transposes EU Directive 2021/2101, adopted by the European Parliament and the Council on 24 November 2021. The directive amends Directive 2013/34/EU concerning the disclosure of income tax information by certain undertakings and branches and is effective for accounting periods commencing on or after 22 June 2024.

The requirement to disclose income tax information under the Public CbC Reporting Directive is applicable to multinational enterprise (MNE) groups with consolidated revenues exceeding €750 million for each of the past two consecutive financial years, as well as standalone undertakings with revenues surpassing this threshold. Groups and standalone entities operating solely within a single EU or EEA state, without any business activities in other tax jurisdictions, are excluded from this requirement.

Specifically, Maltese entities required to publish a public CbC report, provided they meet the €750 million threshold, include:

a) Maltese ultimate parent entities of qualifying MNE groups;

b) Maltese qualifying standalone undertakings (entities not part of a group);

c) Maltese medium-sized and large undertakings (exceeding at least two of the following: a balance sheet total of €4 million, net turnover of €8 million or an average of 50 employees) which are part of a group with an ultimate parent entity not governed by EU or EEA laws; and

d) Branches in Malta with net turnover exceeding €8 million for each of the last two consecutive financial years, belonging to an in-scope standalone entity or a group where the ultimate parent entity is outside the EU or EEA, unless specific exceptions apply.

The requirement for Maltese subsidiaries and branches mentioned in (c) and (d) does not apply if the public CbC report is prepared by the MNE group's ultimate parent entity or a standalone undertaking not governed by EU or EEA laws, provided the report is publicly accessible and identifies another EU or EEA subsidiary or branch that has published the report in compliance with Article 48d(1) of the Public CbC Reporting Directive.

Credit institutions, investment firms and their affiliated entities required to disclose a report under Article 89 of the Capital Requirements Directive IV (Directive 2013/36/EU on the activity and prudential supervision of credit institutions and investment firms) that includes comprehensive activity information, may be excluded from the scope of public CbC reporting.

Contents of the income tax information report

The contents of the report on income tax information are detailed in the Fourth Schedule of the Companies Act and include, inter alia, the following information:

- name of the ultimate parent undertaking or standalone undertaking
- financial year concerned
- currency used for presentation of the report
- list of subsidiaries consolidated in the financial statements of the ultimate parent undertaking
- brief description of the nature of their activities
- number of full-time employees
- revenues (including from transactions with related parties), income, profit or loss before income tax, income tax accrued and paid (cash), and accumulated earnings at the end of the relevant financial year.

Audit requirements

When undertaking the audit of financial statements for entities governed by an EU or EEA state, auditors must indicate whether the entity is obliged to publish a public CbC report. If applicable, auditors should also confirm whether the report has been published in compliance with either the Public CbC Directive or corresponding local regulations.

Timing

Public CbC reporting obligations apply to accounting periods starting on or after 22 June 2024.

Public CbC reports must be published within 12 months from the end of the financial year to which they relate. These reports must be accessible to the public, free of charge and in at least one official EU language on the undertaking's website. The report must remain accessible on the group's website for at least five consecutive years.

Moreover, for Maltese entities, the public CbC report must be submitted to the Malta Business Registrar within 14 days from its publication on the entity's website.

Responsibilities of management

Directors of ultimate parent entities, standalone undertakings, subsidiaries and individuals responsible for branch disclosures are collectively accountable for ensuring the accurate preparation, publication and accessibility of the public CbC report. This includes compliance with all relevant content requirements and ensuring timely filing of notifications to the Registrar within the specified 14-day timeframe. Failure to comply with these obligations may result in administrative penalties.

PKF Comment

If you believe the above measures may impact your business or personal situation or require any advice with respect to Maltese taxation, please contact George Mangion at **gmm@pkfmalta.com** or call **+356 21 484 373**.

BACK

Nepal

Various tax updates – Budget announcement for FY 2024-25 and major tax amnesties

Changes in tax law by Budget announcement for FY 2024-25

On 28 May 2024 the Finance Minister, the government of Nepal (GoN) presented the full Budget for the FY 2024-25. The major changes in the tax laws by the Budget are as follows:

Direct taxes

i. The definition of 'permanent establishment' under section 2(Ka da) has been updated with the inclusion of 'Having significant digital presence in Nepal from a place located outside Nepal, then such place outside Nepal or, where data and services are transacted within Nepal for at least 90 days during the last 12 months, from a server located outside Nepal, then the location where such server is located.'

ii. Section 10 clause (ta), which provides the exemption for income generated by drinking water supply and sanitation consumer organisations registered under the Water Resources Act 2049, has been withdrawn.

iii. 'Special Industry, Information Technology Industry' has been added in place of 'Special Industries' under section 11(3 Tha), which further clarifies that 'Information Technology Industry' includes technology parks, information technology parks, bio-tech parks, software development, data processing, business process outsourcing, digital mapping, data mining and cloud computing related industries.

iv. There has been an addition in section 21(1Nga) which implies that remuneration exceeding Rs 25,000 per month per person paid by a medium other than through a bank is not allowable for tax deduction.

v. New sub-section 3 has been added to section 33 providing authority to the Inland Revenue Department (IRD) to determine the valuation methodology for the determination of the price on transactions between related parties (transfer pricing).

vi. A proviso clause has been added to section 57(1), clarifying that 'this section will not be triggered by an increase in the number of shares and capital from new shareholders and partners, as long as there is no change in the existing shareholding and capital of the current shareholders and partners.'

vii. New section 81A has been introduced which prohibits the use of personal bank accounts for commercial transactions.

viii. The withholding tax rate on the payment of interest by banks and financial institutions on foreign currency loans availed from foreign banks and development finance institutions to invest in the areas as specified by Nepal Rastra Bank has been reduced from 10% to 5%.

ix. A proviso clause has been added to section 88A(2) wherein prize money greater than Rs 500,000 is taxable as windfall gains.

x. New subsection 2(K) has been added to section 94 clarifying that advance tax to be deposited under section 95A on the sale of non-business chargeable assets is not required to be deposited on an instalment basis.

xi. There has been a revision in the applicable advance tax rate of section 95A(7) that is to be collected at the customs point on the import of items for commercial purposes:

Categories of items	Applicable advance tax rate	
	Existing rate	For FY 2024-25 onwards
• Category 1 (live animals) • Category 3 (live fish, fresh fish and all fish products) • Category 6 (fresh flowers) • Category 7 (edible plants and certain roots and stems) • Category 8 (edible fruits and wood fruits)	5%	10% for non-VATable and 1.5% for VATable items
• Category 2 (meat)	2.5% for non-VATable and 1.5% for VATable items	10% for non-VATable and 1.5% for VATable items

xii. A new section 101A has been introduced, stipulating that if the IRD has been notified in writing for tax assessment on undisclosed income/assets of any person as per section 28 of the Money Laundering Prevention Act 2064, the IRD will investigate the correctness of such tax-related offence, and if not found to be guilty of offence, tax will be recovered from such person at the highest rate of applicable income tax of the year.

xiii. Subsection 8 has been added to section 113 clarifying that tax paid under section 95A(7) shall be settled with the tax liability of the same income year, any excess advance tax shall not be carried forward to the next year or be refunded.

xiv. There has been a revision to section 117(1ga) stating that a fine shall be imposed at the rate of Rs 1,200 per return and, if the period is less than one year, at the rate of Rs 100 per month.

xv. There has been a revision to section 119A which implies:

- If a taxpayer who has received approval for the issuance of electronic invoices or not, in accordance with section 81(4), is found to be using software that can delete or edit data, a fine of Rs 500,000 shall be charged.
- If a person who develops, installs or operates software or equipment for the issuance of electronic invoices, in accordance with section 81(4), does not follow the procedures issued by the IRD, a fee of Rs 500,000 shall be charged.
- In case of violation of section 81A, a fee of Rs 5,000 for each monitoring visit and 2% of the total amount (whichever is higher) shall be charged.
- Except as otherwise provided in the Income Tax Act, a person who fails to comply with any provision shall be charged a fee ranging from Rs 5,000 to Rs 25,000.

Indirect taxes

Customs duty

A new customs duty ordinance has been enacted and some provisions of the Customs Act, 2064 have been inserted therein.

Customs Act, 2064

i. The period for post-clearance audit of goods has been reduced from four years to two years.

ii. The period of the public notice provided by the GoN for taking ownership of the goods not cleared has been increased from seven days to 15 days.

iii. It has been clarified that the container transported by the cargo rail will not be seized along with the parcel, packet or container utilised for the packing or conveyance of goods that is forfeited.

iv. The Ministry of Finance has been specified to be responsible for the formation of the valuation review committee and also has been given the right to remove the chairperson or member of the committee by giving an opportunity to submit an explanation.

Customs Duty Ordinance, 2081

i. To facilitate national and international trade and promote investment in the trade sector, the Customs Duty Ordinance, 2081 has been enacted. This ordinance primarily aims to amend and consolidate existing laws to determine customs duty rates and provide duty exemptions. Key provisions include:

- Customs duties are determined based on the harmonised system of classification and categorisation of goods, with customs tariffs, other duties (including the agriculture improvement fee) and charges set accordingly.
- The Act includes measures for exemptions and customs facilities under various circumstances and provisions for concessions in line with international treaties and agreements.

ii. Some provisions of the Customs Act, 2064 (sections 5, 6, 7, 8, 9, 11, 12, 72, 73, 74 and 75) have been repealed and updated in the Customs Duty Ordinance, 2081. The major new provisions introduced by the Custom Duty Ordinance, 2081 are as follows:

- Custom duty must be paid within seven days of determination. Interest at a rate of 0.042% per day will be charged for past due payments, with a maximum interest period of 30 days. If duties, interest or penalties are unpaid within 30 days, the customs officer may confiscate and auction the goods to recover the amount (section 20).

- Any shortfall in duty payment due to valuation differences, classification errors or other reasons must be paid within 15 days of the customs officer's order. Interest at 0.042% per day will be charged from the overdue date. If unpaid within 30 days, the customs officer may halt transactions and confiscate goods to recover the amount (section 23).
- Goods imported to and exported from Nepal will be classified according to the Harmonized Commodity Description and Coding System developed by the World Customs Organization (sections 4 and 5).
- For imported goods subject to ad valorem duties, the determination follows this procedure:
  - Transaction value: As determined by customs law.
  - Customs Duty: Transaction value * customs rate.
  - Excise Duty: (Transaction value + customs duty) * excise rate.
  - Other duties, taxes, fees and charges (excluding VAT).
  - VAT: (Transaction value + customs duty + excise duty + other duties) * VAT rate.
  - VAT does not apply to demurrage or fines under prevailing customs law.

iii. Importers eligible for the bank guarantee facility can arrange a single bank guarantee for multiple customs offices with customs officer approval.

iv. Industries in special economic zones (SEZs) purchasing vehicles under customs duty facilities must pay full customs duty if the vehicle is transferred, sold or has its title changed within 10 years.

v. SEZ industries must apply for the release of bank guarantees for raw material imports within one year, providing evidence that the produced goods were exported or sold domestically in convertible foreign currency.

vi. Procedures for paying duties on goods (e.g. petrol, diesel) imported through pipelines will be established.

vii. The Act does not address cash deposits or bank guarantees for importing auxiliary raw materials and packaging materials not produced in Nepal but used for exporting finished goods.

viii. Updated provisions cover cash deposits, bank guarantees and facilities for the temporary export of goods for processing, manufacturing, repairing or other purposes.

ix. Goods produced in and imported from India, as well as goods produced in China and imported from Tibet into Nepal under the letter of credit procedure, were previously granted a rebate of 5% on chargeable customs duty rates up to 30% and a rebate of 3% on chargeable customs duty rates above 30% on an ad valorem basis (excluding specific duty rates). This provision has been removed in the current Customs Duty Ordinance, 2081.

Changes in customs duty rates and charges

i. Customs duty on electric cars, jeeps and vans on the basis of motor pickup power has been set as follows:

Motor pickup power (kW)	Existing rate (%)	Revised rate (%)
Up to 50	10	15
51–100	15	20
101–200	20	30
201–300	40	60
More than 300	60	80

ii. Major customs duty rate changes of some other goods:

Description of goods	Existing rate (%)	Revised rate (%)
Potatoes (0710.10.00) (General)	10	15
Cashew nuts in shell (0801.31.00)	15	10
Lightweight coated paper (4810.22.00)	15	20
Tampons and menstrual cups (9619.00.40)	15	5
Brooms and brushes (9603.10.00)	10	15
Mixed spices (0910.91.00)	20	30
Medicaments (3003.31.00), (3003.39.00), (3003.60.00)	7.25	14
Urine bag (3926.90.31)	5	-
Rubber thread and cord, textile covered (5604.10.00)	15	5
Pot scourers (7323.92.00), (7323.99.00)	10	20
LED modules and lamps (8539.51.00), (8539.52.00)	15	20

iii. Customs duty for gold and gold jewellery brought by a returning traveller from abroad:

- For gold: first 50g as per prevailing rate, next 50g as per prevailing rate + 3%.
- For gold jewellery: for men, first 25g and for women, first 50g with no duty.
- For the next 50g, as per the prevailing rate. For the next 100g, as per prevailing rate + 3%.
- Gold above these limits will be confiscated and ordinary-shaped jewellery such as bangles, rings and necklaces made from unwrought gold will be classified as ordinary gold.

iv. Fees for unloading goods:

- LP gas: Rs 1,500 for unloading from the bullet-truck within 96 hours after inspection.
- Other goods: Rs 1,500 for unloading from trucks, trailers and tractors within 72 hours after inspection.
- No temporary import fee will apply to vehicles unloading or loading goods in the customs yard or warehouse for import/export purposes.

Excise duty

i. Electronic cigarettes (vapes) and hookah flavours have been added to the definition of 'tobacco product' in section 2(Ja1).

ii. If any diplomatic mission, project personnel or other governmental or non-governmental body intends to scrap and cancel the registration of a motor vehicle imported with tariff facilities, which is either more than 10 years old from the year of initial production or inoperable due to technical reasons or an accident while in use by the diplomatic body or person, excise duty on such vehicles will not be levied. Previously, the time period for scrapping the vehicle was 15 years. Additionally, the Finance Ordinance, 2081 has introduced a provision for scrapping and cancelling the registration of vehicles due to an accident.

iii. The word 'import' has been added after the word 'products' to the proviso clause of section 9(1) which implies that no excise duty licence is required to import, sell or store a product subject to excise duty by an industry under the self-release system.

iv. A penalty of 200% of the renewal fees shall be levied for the renewal of a licence within the same fiscal year if it is done more than six months from the due date of licence renewal.

v. A new provision has been added requiring the use of excise duty stamps on goods subject to excise duty, as specified by the IRD, whether produced domestically or imported. The format of the stamp has also been specified.

vi. A clarification clause has been added to section 10(Tta) to define 'Duplicate Excise Duty Stamp (Ticket)' as follows:

- a stamp differing in quality, feature or safety indication mark approved by the IRD;
- a stamp issued for one industry or establishment used by another industry or establishment;
- a stamp used for a different category of production than prescribed by the IRD;
- a stamp that has been re-used;
- torn, fragmented or a stamp with a fake QR code.

vii. A new section 10(Tha) regarding the destruction of excise duty stamps has been added. Under this section, a specified committee can destroy stamps that do not meet the specifications of the IRD, are not recorded, are mouldy, eaten by termites, torn, unsuitable due to a change in the GoN emblem, lack a serial number, are not the specified shape and size, are partially burned, damaged due to disruptive acts or are otherwise unusable. If the quantity of old tickets cannot be determined, the committee can destroy the stamps after preparing a written record.

viii. If excise duty is not recovered or less recovered on the sale of goods or services manufactured by the enterprise under the self-release system, then 100% of the excise duty not recovered or less recovered along with applicable excise duty is charged as a fine.

Major changes in excise duty rates

Alcohol

Description of goods	Existing rate	Revised rate
Alcohol quantity up to 15% ABV	Rs 1,800 per litre	Rs 1,860 per litre
Up to 25% ABV	Rs 1,345 per litre	Rs 1,390 per litre
Up to 30% ABV	Rs 1,250 per litre	Rs 1,290 per litre

Cigarettes

Description of goods	Existing rate	Revised rate
Without filter	Rs 730/m	Rs 755/m
Filter with a length of up to 70mm	Rs 1,690/m	Rs 1,740/m
Filter with a length of up to 75mm	Rs 2,300/m	Rs 2,370/m
Filter with a length of up to 85mm	Rs 2,970/m	Rs 3,060/m
Filter with a length of more than 85mm	Rs 4,080/m	Rs 4,200/m

Electric vehicles

Description of goods/ peak power (kW)	Existing rate	Revised rate
Up to 50	0%	5%
50–100	10%	15%
100–200	20%	20%
200–300	45%	35%
Above 300	60%	50%

Other Changes

Description of goods	Existing rate	Revised rate
Almond (including peel)	15%	10%
Molasses	Rs 105/quintal	Rs 110/quintal
Orange juice, pomelo juice, apple juice, pineapple juice, tomato juice, grape juice	Rs 13 per litre	Rs 13.50 per litre
Ice cream	20%	30%
Pan masala without tobacco	Rs 850/kg	Rs 875/kg
Scented areca nuts without tobacco	Rs 365/kg	Rs 375/kg
Non-alcoholic beer	Rs 35 per litre	Rs 45 per litre
Energy drinks	Rs 50 per litre	Rs 52 per litre
Beer made from malt	Rs 235 per litre	Rs 240 per litre
Wine from fresh grapes	Rs 444 per litre	Rs 460 per litre
Cigars, cheroots and cigarillos	Rs 30/stick	Rs 31/stick
Deodorants and antiperspirants	15%	20%

VAT

The VAT rate of 13% remains unchanged.

i. The previous provision under section 10(kha) (1) has been replaced with new provisions detailing the registration requirement of non-resident persons with the amendments set out below.

ii. The threshold for registration has been increased to Rs 3 million from Rs 2 million for businesses involving electronic services or 'offline airline services'.

iii. The threshold limit for the registration of a person conducting the business of both goods and services, and services only under section 11(1) (cha) has been increased from Rs 2 million to Rs 3 million.

iv. A new provision has been introduced under sub-section 3 of section 18, granting tax officers the authority to impose restrictions on import/export transactions for those who fail to file their VAT returns within four months of the due date.

v. Arrangements have been made to provide discounts at the customs point itself on VAT instead of providing refunds at a later date on scooters imported by persons with disabilities.

vi. Minimum life for motor vehicles imported under duty facility by the diplomatic mission, project, person and other entities for VAT exempt disposal with approval of the Ministry of Finance has been reduced to 10 years from 15 years.

vii. Waiver of VAT has been announced on transactions of potatoes, onions, apples and related vegetables and fruits with the intent to ensure protection to domestic products.

viii. The Finance Bill, 2081 has introduced significant changes in Schedule 1 of the VAT Act, 2052 removing distinct items (goods and services) from the schedule to make them VATable. Some of the goods and services on which VAT shall now be applicable are:

- tracksuits, ski suits and swimwear, other garments;
- lungis, dhotis and women's or girls' other garments like saris;
- pearls, natural or cultured, whether or not worked or graded but not strung, mounted or set and pearls, natural or cultured, temporarily strung for convenience for transport;
- photographic plates and film in the flat, sensitised, unexposed, of any materials other than paper, paperboard or textiles, and instant print film in the flat, sensitised, unexposed, whether or not in packs; and
- fuel wood, logs, billets, twigs, sticks or similar forms or particles (sawdust and wood waste and scrap), whether or not agglomerated in logs, briquettes, pellets or similar forms.

"

PKF Comment

The GoN through the Finance Act 2024 has changed direct and indirect tax rates which may affect individuals and entities in Nepal. Taxpayers in Nepal and prospective taxpayers should be aware of the new tax rules effective for FY 2024-25.

Major tax amnesties announced through the Finance Act 2080

The GoN announced various tax amnesties through the Finance Act 2024 to provide relief to those taxpayers already registered and also unregistered to bring them into the ambit of taxation. The brief overview of major tax amnesties is as follows:

a) **Waiver for persons willing to come under the ambit of taxation**

If a person who has taxable income in the past but has not obtained a permanent account number (PAN) deposits the applicable tax on such income for FY 2021-22 and 2022-23 after obtaining a PAN by 13 March 2025 (29 Falgun 2081), then interest and fees on such taxes will be waived. Similarly, tax, interest and fees for the period before FY 2021-22 will be completely waived.

b) **Waiver for persons not filing income tax returns**

If a person with a PAN who has not filed any income tax returns in the past files their outstanding returns and deposits the applicable tax together with 25% of the interest due by 13 March 2025 (29 Falgun 2081), the remaining interest and fees will be waived.

c) **Waiver for persons not filing VAT returns**

If a person who has not filed VAT returns up to 16 July 2023 (31 Ashad 2080) files their outstanding returns and deposits the applicable VAT and 50% of the interest due by 13 March 2025 (29 Falgun 2081), the remaining interest, penalty and additional fees will be waived.

d) **Waiver of VAT for international air service providers**

In case an international air service provider (whether registered or not registered for VAT) has not collected or deposited VAT from 29 May 2023 (15 Jestha 2080) to 17 October 2023 (30 Ashoj 2080), the VAT along with applicable interest, additional fees and penalty shall be waived.

If any offline airlines register and deposit the VAT collected from 29 May 2023 (15 Jestha 2080) by 15 July 2024 (31 Ashad 2081), then interest, penalty and additional fees will be waived.

e) **Waiver of VAT for transport service operators**

If a transport service operator who is required to collect VAT has not collected VAT for the period from 29 May 2019 (15 Jestha 2076) to 29 May 2021 (14 Jestha 2078) (irrespective of them being registered or not for VAT) deposits 1% of turnover by 15 December 2024 (30 Mangsir 2081), then VAT, interest, penalty and additional fees will be waived.

If the above tax has already been assessed and remains to be paid or is under litigation, then waiver of such VAT, interest, penalty and additional fees can be obtained by paying 1% of turnover and withdrawing the cases by 15 December 2024 (30 Mangsir 2081).

f) **Waiver of VAT on the sale of potatoes, tomatoes and apples produced domestically**

If a person dealing in trading domestically produced potatoes, tomatoes and apples has not collected VAT on such items before 27 May 2024 (14 Jestha 2081), VAT, interest, penalty and additional fees on such items will be waived.

g) **Waiver of VAT for entity providing credit information**

If an entity established under section 88 of the Nepal Rastra Bank Act, 2058 for providing credit information to banks and financial institutions licensed by Nepal Rastra Bank is not registered for VAT registers itself by 15 July 2024 (31 Ashad 2081) and paid 50% of VAT by 17 October 2023 (30 Ashoj 2080), then the remaining VAT, interest, additional fees and penalty will be waived.

If the above tax is already assessed and remains to be paid or is under litigation, then waiver of such VAT, interest, penalty and additional fees can be obtained by paying 50% of VAT and withdrawing the cases by 17 October 2024 (30 Ashoj 2081).

"

PKF Comment

The amnesty helps save the additional burden on taxpayers by discharging their liabilities at a concessional rate.

Newly introduced fees and amendment to existing fees

i. Green tax (HARIT tax) shall be levied on goods imported at customs ports at various rates specified in Annex 1 of the Finance Bill. A summary of Annex 1 is set out below:

Description of goods	Green tax
Coal; briquettes, pellets and similar solid fuels produced from coal	Rs 0.50 per kg
Organised or unorganised coke and semi coke of coal, lignite or peat, retort carbon	Rs 0.50 per kg
Petroleum oils and oils obtained from bituminous minerals (other than crude) and oils not elsewhere specified or included, petroleum oils of 70% or more by weight or oils obtained from bituminous minerals, finished goods of which these oils are the main constituents, other than those containing biodiesel and other than waste oils	0.5% / 1% / Rs 1 per litre
Petroleum coke, petroleum bitumen and other residues of petroleum oil or bituminous mineral oil	0.5%

ii. Digital service tax shall be collected on digital services provided by a non-resident to Nepalese customers at 2% on the transaction value. However, such tax shall not be applicable on annual transactions up to Rs 3 million (previous year, Rs 2 million).

"

PKF Comment

For further information or advice concerning Nepalese tax laws or if you have any specific queries about a particular tax situation please contact Shashi Satyal at shashi.satyal@pkf.com.np or call **+977 01 441 0927**.

BACK

Spain

Digital transformation – Mandatory use of electronic invoicing

On 29 September 2022, Law 18/2022 on the Creation and Growth of Companies was published in the State Official Gazette. This legislation, which is closely related to tax regulations, imposes electronic invoicing as the only system that may be used in all commercial relations between entrepreneurs and professionals (B2B) in Spain.

The entering into force of the mandatory use of e-invoicing will depend on the annual turnover of the contributor. In the case of companies with an annual turnover of more than €8 million, it will enter into force 12 months after the regulatory development of Law 18/2022 has been approved and, for other entrepreneurs and professionals, it will become fully effective 24 months after this regulatory development.

In this regard, the expected draft of the regulatory development of Law 18/2022 – crucial as it will mark the beginning of the transition period for companies and professionals having to adapt to the system – was published on 15 June 2023, and submitted to the European Commission on 2 February 2024 while its final approval is still expected to be scheduled for later in 2024.

This new obligation represents a significant shift aimed at improving tax compliance, increasing efficiency and streamlining administrative processes. Set out below is a description of some of the salient features of the e-invoicing mandate.

Universal applicability: The new e-invoicing requirement applies to all businesses and professionals operating within Spain, regardless of size or sector. This includes both domestic transactions and those involving cross-border operations within the European Union.

Compliance with EU standards: E-invoices must adhere to European standard EN 16931, ensuring consistency and interoperability across the EU. This standardisation facilitates smoother transactions and greater integration within the European single market.

Tax administration oversight: The Spanish Tax Authority will oversee the implementation and enforcement of e-invoicing. The imposition of this measure will enable enhanced monitoring of economic transactions and will result in reduced tax evasion and better compliance with taxation policies.

Fight against commercial late payments: This measure, in addition to reducing the transaction costs and representing a step forward in the digitalisation of companies, will permit obtaining reliable, systematic and agile information on effective payment periods, an essential requirement for reducing commercial delinquency.

Increased efficiency: This measure will enhance the accuracy of financial records for companies, contribute to the implementation of a more agile and flexible legal framework and help to decrease bureaucratic hurdles.

PKF Comment

Spain's mandatory use of electronic invoicing is a significant forward-looking step, aligned with the trend not only in Europe, but also globally, to contribute to modernisation and to tax management digitisation.

While the move towards mandatory e-invoicing entails certain advantages, there are concerns regarding the readiness of smaller businesses and the initial costs involved. However, the long-term benefits in terms of efficiency, as well as cost savings and improved compliance with tax obligations, are more relevant.

As the deadline approaches, tax advisors and their clients must prioritise compliance to fully leverage the benefits of this regulatory change.

If you believe the above measures may impact your business or personal situation or require any advice with respect to Spanish taxation, please contact Alberto Rodriguez at arodriguez@pkf-attest.es or call **+34 945 137 426**.

BACK

Switzerland

Popular initiative for the introduction of a national inheritance tax

In March 2024, the popular initiative 'For a social climate policy – fairly financed through taxation (Initiative for a future)' – or 'The inheritance tax initiative' for short – was successfully launched. The initiative plans to introduce an inheritance and gift tax of 50% on decedents in Switzerland for inheritances above CHF 50 million. This is to be levied by the federal government in addition to the current cantonal or communal inheritance and gift taxes, whereas currently spouses and direct descendants are in most cantons and communes exempt from inheritance and gift taxes.

In case the initiative is accepted by the Swiss people, it would come into effect on the day of the vote.

Before the initiative is put to a popular vote, Parliament has the opportunity to draw up a counter-initiative. It is anticipated that the initiative will be subject to public vote in 2026.

Rarely has an initiative caused so much media attention after being successfully launched.

PKF Comment

The successful launch of the initiative has led to insecurity among high net worth individuals and in particular among family businesses. Based on recent studies, the majority of business owners would not have the liquidity to pay the inheritance tax, i.e. they would need to sell the business or at least part of it to finance the tax. The initiative may lead to a potential exit of high net worth individuals and therefore loss of tax revenue. If the initiative is accepted, Switzerland loses its attractiveness for entrepreneurs and high net worth individuals.

Developments regarding home office

Switzerland and Italy have signed permanent tax rules for home working. Effective from 1 January 2024, all cross-border commuters have the option of working from home for up to 25% of their working time. Working from home has no impact on the jurisdiction taxing income from employment or on the status of cross-border commuters.

The taxation rules are based on the mutual agreement between Switzerland and Italy of November 2023, which will be replaced by the amending protocol that has now been signed. The amending protocol will come into force once the corresponding approval processes have been completed in both countries. It will apply with effect from 1 January 2024, without changing the key elements of the existing rules.

PKF Comment

The rules already in place have been formalised and confirmed for the future.

International developments

The Federal Council has adopted the dispatch on the amendments to the double tax treaties with Germany and Serbia, implementing amongst others the minimum standards for BEPS, and Hungary, implementing minimum standards for tax treaties. Further, it has adopted the dispatch on the new double tax treaty with Angola.

PKF Comment

Switzerland continues to expand its double tax treaty network and to update double tax treaties in accordance with the latest standards.

Last but not least, the Swiss federal tax authorities are turning more and more digital – effective immediately, registration for Swiss VAT can only be done online.

PKF Comment

For further information or advice concerning Swiss unilateral and international taxation, please contact Dominique Kipfer at dominique.kipfer@pkf.ch or Rilana Wolf-Bayard at rilana.wolf@pkf.ch or call **+41 44 285 75 00**.

BACK

Ukraine

Excise tax rates will be aligned with the EU minimum level

On 18 July 2024, the Ukrainian Parliament adopted a new law amending the Tax Code of Ukraine, which affects excise tax regulations and implements provisions of European Union acts.

The purpose of these amendments is to align Ukrainian excise tax provisions with EU rules, as part of the EU–Ukraine Association Agreement fulfilment.

The law introduces new excise tax rates on fuel, in accordance with their minimum levels set by the Energy Tax Directive 2003/96/EC. These rates will increase gradually over four years, from 1 July 2024 to 31 December 2027, with the final rates taking effect on 1 January 2028.

The schedule for increasing excise tax rates on fuel is as follows (in euros per 1,000 litres):

Fuel	First half of 2024	Second half of 2024	2025	2026	2027	2028
Petrol	213.50	242.60	271.70	300.80	329.90	359.00
Gas oil	139.50	177.60	215.70	253.80	291.90	330.00
LPG	52.00	148.00	173.00	198.00	223.00	250.00
Alternative motor fuels	162.00	184.08	206.16	228.24	250.32	272.40

In addition, the new legislation introduces a category of 'intermediate products' in the national classification of alcoholic beverages. This new category includes wine (still and sparkling), vermouth, cider, perry, sake and others. The excise tax rate for intermediate products is set at UAH 12.23 per litre (approximately €0.27).

"

PKF Comment

Despite the ongoing active phase of the war, Ukraine continues to fulfil its obligations to the EU. Implementing the aforementioned amendments to the Tax Code not only contributes to meeting our country's European integration commitments but also allows for an increase in revenue to the state budget from fuel sales, estimated at approximately UAH 2.5 billion per month. Furthermore, authorities note that the increase in fuel prices per litre will range from 2% to 3%, which is expected to be barely noticeable to end consumers. Raising taxes is a necessary measure, essential for supporting the country's security, as domestic revenues are directed towards the security and defence sector.

If you believe any of the above measures may impact your business or personal situation or require any advice with respect to Ukrainian taxation, please contact Sviatoslav Biloblovskiy at s.biloblovskiy@pkf.kiev.ua or Yuliia Yaniv at y.yaniv@pkf.kiev.ua or call **+380 44 501 25 31**.

BACK

United Arab Emirates

UAE tax updates

Corporate tax

The Federal Tax Authority (FTA) of the United Arab Emirates (UAE) has released the Corporate Tax Decree-Law, i.e. 'Federal Decree-Law No. 47 of 2022 – Taxation of Corporations and Businesses' ('Corporate Tax Decree-Law'/'CT Decree-Law') effective for financial years starting on or after 1 June 2023.

The Ministry of Finance (MoF)/FTA have also released several cabinet decisions, ministerial decisions and FTA decisions which provide further guidance on CT Decree-Law provisions. In addition to such decisions, the MoF has also released FAQs for additional clarification and guidance in this regard. The MoF has also recently released a 'Public Consolidation Document on Global Minimum Tax' ('PCD – GMT') seeking comments from the public. The MoF has also recently released the much-awaited guide on free zone persons (CTGFZP1), public clarifications and business bulletins.

Recently issued cabinet, ministerial and FTA decisions can be summarised as follows:

<table>
<tr><th>Sr. no</th><th>List of cabinet/ministerial/FTA decisions and explanation</th></tr>
<tr><td>1</td><td>
There are certain guides, public clarifications and business bulletins that have been issued recently with regard to UAE CT law, as set out below:

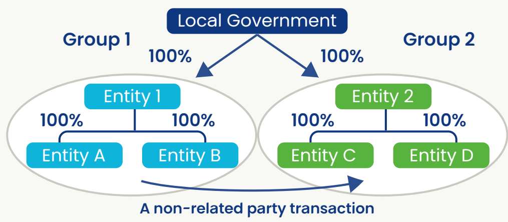
Taxation of Free Zone Persons under the Corporate Tax Law | CTGFZP1 – the guide provides general guidance on the application of the CT law to free zones and free zone persons. It broadly covers the following:

the conditions required to be met for a free zone person to be a qualifying free zone person (QFZP) and benefit from the 0% corporate tax rate; and
the activities that are considered qualifying activities and excluded activities for a QFZP.

Also, it has been cleared by the free zone person guide that high sea sales or third port shipment will be considered as a qualifying activity of distribution of goods or material, if all other conditions are satisfied.

Corporate Tax Public Clarification on Registration Timelines for Taxable Persons for Corporate Tax | CTP001 – the clarification provides guidance on the registration timelines for all taxable persons including the following important points:

The timelines apply equally to juridical persons whose first tax period has already begun, irrespective of the person intending to or having ceased business or business activities or liquidating after the start of their first tax period. It will also apply to juridical persons that have an expired licence but have not cancelled the licence.
Offshore companies incorporated, established or recognised under UAE legislation will be considered resident juridical persons without trade licence and the relevant timelines for resident juridical persons without trade licence will apply (i.e. three months from the FTA decision issued on 1 March 2024).

Corporate Tax Public Clarification on Definition of Related Party where there is a Common Ownership and/or Control through a Government Entity | CTP002
The clarification provides guidance on the definition of 'related party' where there is a common ownership and/or control through a related party, wherein it has been clearly mentioned that entities in Group 1 are not considered to be related parties to entities in Group 2 where both the groups are held by the government entity (please see diagram). Consequently, the arm's-length requirement under article 34 of the CT law does not apply to transactions between Group 1 and 2.
Illustrative example:


Corporate Tax Public Clarification on First Tax Period of a Juridical Person | CTP003 – the clarification provides guidance on the first tax period of a juridical person including non-resident persons with a permanent establishment or place of effective management in the UAE. Also, it has been clearly mentioned that if the company is ceased before commencement of its first tax period, then it will not be required to register for corporate tax.

</td></tr>
</table>

Sr. no	List of cabinet/ministerial/FTA decisions and explanation
	▪ **Basic Tax Information Bulletin related to Free Zone Persons** – it provides guidance on the provisions related to free zone persons under the UAE CT law in the form of FAQs. ▪ **Basic Tax Information Bulletin related to Natural Persons** – it provides guidance on the provisions related to natural persons under the UAE CT law in the form of FAQs.

Economic Substance Regulations

The government of the UAE introduced the Economic Substance Regulations (the 'Regulations'/ ESR) on 30 April 2019 vide Cabinet Resolution No. 31 of 2019. These Regulations were amended retrospectively vide Cabinet Resolution No. 57 of 2020.

The Regulations (as amended), inter alia, prescribe two types of annual compliances:

i. Submission of the 'Information Notification' within six months from the end of the accounting year; and

ii. Submission of the 'Substance Report' within 12 months from the end of the accounting year.

Accordingly, licensees with a financial year ending 31 March 2024 are required to file their Economic Substance Notification on or before 30 September 2024. Similarly, licensees with a financial year ending 31 December 2023 are required to file their Economic Substance Report on or before 31 December 2024.

VAT and customs duties update

With respect to VAT and excise tax, the UAE FTA has recently released certain amendments/updates which are given below:

Date	Tax	Type of update	Particulars of update
May 2024	VAT	Public clarification	VAT public clarification VATP038 – Manpower vs Visa Facilitation Services
June 2024	Customs	Customs policy	Update on Customs Policy No. (58/2024) on Voluntary Disclosure System

The updates may be summarised as follows:

- **VAT public clarification VATP038 – Manpower vs Visa Facilitation Services**

The FTA has recently issued VAT public clarification VATP038 – Manpower vs Visa Facilitation Services. The key areas covered in this public clarification are:

A. Supplies qualifying as manpower services:

- The identification/recruitment/hire of candidates and making such employees available to any customer would, generally, be regarded as a taxable supply of manpower services.
- Under manpower services, the supplier is generally responsible for all the employment obligations, including payment of salaries and other benefits.
- The supplier would also be generally responsible for supervision and control of such an employee.

B. Value of supply – manpower services:
The consideration for the supply of manpower includes the full amount received or expected to be received from the customer that is either:

- recharged to the customer by the supplier (i.e. additional costs relating to the provision of manpower services); or
- directly paid to the employees by the customer (i.e. salaries, wages and employee benefits)

C. Supplies qualifying as visa facilitation services:
A supply would qualify as a supply of visa facilitation services if all the requirements mentioned below are met:

Condition	Explanation
Corporate group requirement	▪ The facilitator and customer must be part of the same corporate group, but not part of the same tax group. Supplies are disregarded where the facilitator and customer are part of the same tax group.

Condition	Explanation
	▪ 'Corporate group' refers to companies operating within the same corporate structure, which includes common ownership of the companies in line with article 9(2) of the Executive Regulation of UAE VAT law which outlines relationships from economic, financial and regulatory aspects.
General business activity should not be supply of manpower services	▪ The facilitator's business activities should not include the supply of manpower. ▪ The term 'business activities' is not limited to the activities stated on the facilitator's commercial or trade licence, those listed as part of its VAT registration or any internal documentation. ▪ If the facilitator supplies any manpower services to any person, this condition would not be met.
Employee obligations	▪ The facilitator should not be responsible for any of the obligations related to the employees, for example payment of employees' salary and other monetary benefits, provision of medical insurance and accommodation, etc. ▪ The facilitator's obligations should be limited to incurring the cost relating to obtaining the employment visa.
Employment, supervision and control by the customer	▪ The facilitator should sponsor these employees to exclusively work for, and under the supervision and control of, the customer. ▪ Where an employee performs his/her work duties for the customer in addition to other companies in the corporate group, this condition would not be met.

D. Value of supply – visa facilitation services:

- The following items are included/excluded in the consideration for the supply of visa facilitation services:

Inclusions	Exclusions
Recharge of expenses, such as: ▪ typing fees ▪ medical tests ▪ issuance of employee Emirates IDs	The following items are obligations of the customer: ▪ employee's salary ▪ annual flight allowance ▪ any other monetary benefits

- **Special valuation**
  - Value of supply – related parties:
    - If the facilitator charges a fee that is less than market value and the customer is not entitled to full input recovery, the value of supply is the market value of the supply.
    - If the facilitator charges the customer a fee that is equal to the market value of the supply, the fees charged would be regarded as consideration for the taxable supply of services.
  - Value of supply – no fee charged:
    - If the facilitator provides visa facilitation services to its customer for no charge, the supply would constitute a deemed supply, unless one of the relevant exceptions applies.
    - If the facilitator recovered any input VAT to supply the visa facilitation services, the facilitator will be required to account for the output VAT due based on the total cost incurred to make the supply, including direct and indirect costs.

- **Update on Customs Policy No. (58/2024) on Voluntary Disclosure System**

The Ports, Customs and Free Zone Corporation has issued a customs policy with respect to the voluntary disclosure (VD) system to disclose prior errors in customs declarations and arrange payment of resulting custom duties.

Key highlights are as follows:

Particulars	Comments
VD system	▪ It is a disclosure statement to be submitted by a client to duly inform Dubai Customs of any inadvertent errors and/or violations committed during: — customs clearance; — declaration of information related to customs declarations; and — customs data according to the conditions and regulations specified therein. ▪ If VD is submitted before violations are discovered by Dubai Customs, then custom fines may be fully or partially waived. ▪ The Customs Audit Department is responsible for implementing and interpreting the provisions of this policy. Note – Violations not disclosed in the VD request, if discovered by Dubai Customs, will be dealt with separately by Dubai Customs.
List of violations	The VD system applies to the following violations: ▪ import and export violations ▪ customs declaration violations ▪ transit violations ▪ warehouse violations ▪ violations in areas supervised by customs ▪ temporary import violations ▪ re-export violations ▪ any other customs violation.
Procedure	▪ Submission of VD — Electronic submission of VD form to the customs department through 'self-audit submission' service via the electronic customs systems, along with supporting documents and records. — VD details must be signed by the responsible person and stamped with the company seal, and must attach details of the violation, supporting documents and records. ▪ Payment of custom duties Due custom duties must be settled within 30 days from the date of receiving the financial claim notification. ▪ Failure to pay custom duties The VD request will be null and void and Dubai Customs reserve the right to take any further necessary actions.
Situation when VD will not be acceptable	▪ Companies targeted for post-clearance customs audits. ▪ Notification received from customs regarding referral or initiation of inspection, investigation or customs audit on the company.
Electronic channels for accessing VD request	▪ Dubai Customs https://www.dubaicustoms.gov.ae/en/eServices/ServicesForBusinesses/clearance/Pages/ReqSelfAuditFinding.aspx ▪ Dubai Trade https://www.dubaitrade.ae/en/dc-submit-self-auditing-new

Source: https://www.tax.gov.ae/en

BACK

PKF Comment

The CT Decree-Law is broadly in line with internationally accepted principles of corporate tax. Also, the release of cabinet decisions/further guidance/FAQs with regards to certain provisions of the CT Decree-Law is a welcome step and quite helpful in the interpretation of the law.

As CT law is applicable for financial years starting on or after 1 June 2023, by now, businesses should have carried out CT and transfer pricing impact assessments on their current/proposed businesses and should aim to be UAE CT compliant from the very first tax period. The FTA issued a timeline for obtaining CT registration that every business must comply with. Further, it is also expected that the FTA will release the tax return form soon.

Businesses in the UAE which have identified themselves as in scope for the purposes of the UAE ESR are required to continue to comply with the prescribed filing requirements within the timelines provided by the MoF.

Public clarification on manpower vs visa facilitation services provides clarity on the valuation mechanism and conditions for the transaction to qualify as visa facilitation services.

The VD system under Customs will allow taxpayers to identify and disclose violations or errors voluntarily.

Contact us

For further information or advice concerning taxes in the UAE, please contact Mr. Shailesh Kumar at skumar@pkfuae.com, Mr. Mradul Gupta at mgupta@pkfuae.com, Mr. Anurag Sodhani at asodhani@pkfuae.com, Ms. Megha Lohia at mlohia@pkfuae.com, Mr. Harsh Modi at hmodi@pkfuae.com or Mr. Konan Shahid at konan@pkfuae.com or call **+971 4 388 8900**.

PKF Global
15 Westferry Circus,
London, E14 4HD, United Kingdom

Tel: +44 20 3691 2500
pkf.com

TAXNQ32024