Please enjoy the 2nd quarter edition of the Newsletter.

Kind regards,
KPMG in Lithuania

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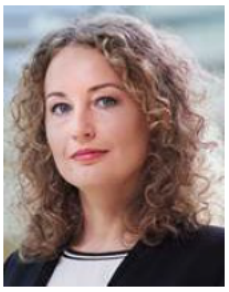

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Important COVID-19 related information

In relation to the outbreak of the COVID-19 virus, the Lithuanian Government and the tax authorities will apply certain measures to assist taxpayers with their ongoing obligations.

- Updated information on tax relief due to COVID-19 may be found here.
- Updated information on quarantine related measure may be found here.

An overview of government and institution measures around the world in response to COVID-19 may be found here.

Value Added Tax (VAT)

Provisional application of a reduced VAT rate of 9%

On 1 July 2021 an amendment to the Lithuanian Law on VAT came into force. The amendment temporarily lowers VAT rate on catering, cultural events, performance acts and sports, in order to help these sectors to recover from the negative economic impact of the pandemic and quarantine. A reduced 9% VAT rate is applicable to:

- Services of restaurants, cafes and similar establishments providing catering and takeout (reduced rate does not apply to supply of alcoholic beverages);
- Attendance of all types of art and cultural institutions, art and cultural events, sports events, sports clubs;
- Performance services provided by performers (singers, musicians, actors, etc.).

Reduced VAT rate is applied provisionally, i.e. until 31 December 2022.

EU wide VAT changes on cross-border e-commerce entered into force

On 1 July 2021 European Union (EU) wide VAT changes on cross-border e-commerce entered into force. Among other adjustments, the changes abolished import VAT exemption on small value goods, extended use of the One-Stop-Shop (OSS) system and established import scheme for goods of value up to EUR 150.

More information is available in the 4th Quarter 2020 KPMG Tax and Legal newsletter here.

Relevant VAT cases

Inclusion of transport costs incurred by the producer when determining the customs value

A Lithuanian company purchased and imported various quantities of technical sulphuric acid from an intermediary. A supplementary contract was concluded for each transaction in accordance to international trade conditions, under which all transport costs of the imported goods to the agreed place were borne by the manufacturer. However, during the inspection the customs authorities found that the declared customs value of the imported goods was lower than the costs incurred by the producer. As a result, they intended to correct the customs value declared by the importer by adding to it the costs of transporting the goods outside the customs territory of the EU.

The European Union Court of Justice (ECJ) has held that the relevant Articles of the Union Customs Code must be interpreted as meaning that, for the purpose of determining the customs value of imported goods, the aforementioned transport costs should not be added to the transaction value of the goods when, according to the agreed delivery terms, the obligation to cover those costs lies with the producer. This interpretation applies even though those transport costs exceed the price actually paid by the importer, provided that the price corresponds to the real value of the goods: C-75/20.

In response to this ruling by the ECJ, the Lithuanian customs authorities published an official statement. They state that the ruling is case-specific and does not change the essential principles and general provisions of customs valuation. Transport costs, if not included in the transaction value, must always be added to the person's declared actual price paid or payable for the imported goods. The statement is available in Lithuanian here.

The principles of VAT proportionality and neutrality must be interpreted as precluding Member States' national legislation which does not allow to adjust invoices improperly indicating VAT following the initiation of a tax investigation procedure, provided that the taxable person acted in good faith and would have been entitled to reimbursement of that VAT under normal circumstances: C-48/20.

The principle of VAT proportionality does not preclude provisions of national legislation that require the jointly and severally liable person to pay not only the unpaid amount of VAT due by the liable person, but also the interest on that amount, where it is proven that, in exercising its right of deduction, the jointly liable person knew or should have known that the person liable for payment would not pay that VAT: C-4/20.

Transfer Pricing and BEPS

United Kingdom: Proposals for new transfer pricing documentation, new annual related-party transaction return

HM Revenue and Customs (HMRC) is consulting on requiring large groups with United Kingdom operations to maintain specific transfer pricing documentation and supporting evidence broadly in line with Organisation for Economic Cooperation and Development (OECD) recommendations. HMRC is also looking into requiring certain businesses to include details about related party transactions in their annual tax returns through some form of international dealings schedule.

Unlike many other countries that quickly mandated requirements under the recommendations of the OECD Base erosion and profit shifting (BEPS) Action 13 – Master file, Local file and country-by-country (CbyC) report – only the CbyC report is currently required in the UK.

The deadline for responding to the consultation is 1 June 2021.

For more information and KPMG observation read here.

An overview and comparison of Country by Country (CbyC) reporting

Trend of companies being scrutinized as to whether they are paying their 'fair share' of taxes continues to gain traction and has now moved to a global debate around transparency and how multi-national businesses are taxed. The landscape is changing and providing greater transparency around tax, either to tax authorities around the world and/or to the public is something companies are now preparing for. KPMG prepared a paper which sets out a high level summary of the various CbyC reporting initiatives (adopted and pending, including EU Public CbyC reporting) to assist international business in assessing how these will affect them.

In addition, KPMG regularly updates an overview of the CbyC notification requirements for all countries that have implemented final OECD CbyC reporting legislation.

Bulgaria: Mandatory transfer pricing documentation

Rules requiring transfer pricing documentation were approved by the national assembly in late July 2019. The first year for which the mandatory transfer pricing documentation, consisting of a Master file and a Local file, will be required is 2020. The deadline is 30 June 2021 for preparing a Local file regarding the transfer pricing documentation for 2020. Taxpayers which, do not exceed specified thresholds of net book value of assets, sales revenue and average number of personnel will not be required to prepare a Local file. Entities that are part of a multinational group of companies and that are required to prepare a Local file must also prepare a Master file. The deadline is 30 June 2022 for preparing a Master file for 2020.

For more information read here.

Malta: Update on expectations for transfer pricing rules

Malta has not yet formally adopted the OECD Transfer Pricing Guidelines, but there are indications that transfer pricing rules could be introduced in Maltese tax law in the very near future. Application of transfer pricing rules in Malta is believed to be only a matter of time. In this respect, businesses need to start evaluating the effect of the formal introduction of transfer pricing rules on their intra-group transactions and manage any associated risks by performing a company's functional analysis, covering functions performed, risks assumed, and assets used by associated companies in a transaction.

For more information and KPMG observation read here.

Changes to the regulations of transfer pricing in the European Union

European Union (EU)

The Council of the EU and the European Parliament on 1 June 2021 announced that they have reached a provisional political agreement on the EU public Country-by-Country (CbyC) reporting initiative. It is planned that the new rules could become applicable from 1 January 2024. More.

Poland

The Ministry of Finance, in response to a parliamentary inquiry, confirmed that "preliminary contracts" are not subject to the requirement for transfer pricing documentation if in the tax year for which such transfer pricing documentation ordinarily would be required, no final contracts are ultimately concluded. More.

Malta

Penalties for non-compliance of CbyC reporting were set in Malta. Failure of a Maltese taxpayer to inform the tax administration about the entity that will be filing the CbyC report or to advise that the taxpayer as a constituent entity is subject to the obligation to file the CbyC report in its own capacity, will be subject to penalties up to EUR 5,000. More.

G7 agreement on taxing multinationals

On 5 June 2021, a Communique was released following meetings of the finance ministers and central bank governors of the G7 countries. It presented reforms intended to address tax challenges from globalization and digitalization of the economy.

Agreement of the G7 was reached to award taxing rights to market jurisdictions of at least 20% of profit exceeding a 10% margin for the largest and most profitable multinational enterprises. G7 finance ministers commit to a global minimum taxation rate of at least 15% determined on a country-by-country basis. This deal paves way for a global accord at G20 meeting in July. For KPMG analysis and observations about tax measures in G7 communique read here.