Global Indirect Tax News
Your reference for value added tax and global trade matters

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Americas

Canada—Place of supply rules for harmonized sales tax in Ontario and British Columbia

On 25 February 2010, the Department of Finance (Finance) released the long anticipated proposed place of supply (POS) rules for the harmonized sales tax (HST) that will affect taxable supplies considered to be made in the harmonized provinces of New Brunswick, Nova Scotia, Newfoundland and Labrador and, effective for supplies made after 30 June 2010, British Columbia and Ontario. These rules specify whether, and at what rate, suppliers must charge the provincial component of the HST on their supplies of taxable property and services made in Canada. As well, the related rules that, in certain circumstances, require self-assessment or provide for rebates of the provincial component of the HST are proposed to be changed.

The following provides a high level summary of the proposals:

- Several changes are proposed to the existing HST POS rules contained in the Excise Tax Act (ETA) to ensure that the rules function properly with various provincial rates in harmonized provinces.

- The POS rules are being “modernized” to provide for proper tax treatment of interprovincial transactions involving services and intangible personal property (IPP).
These are the most significant of the changes. Many of the existing POS rules for property and services rely on the location of the supplier to determine whether the supply is subject to the provincial component of the HST. The POS rules for IPP and services are proposed to be changed so that there is less reliance on the supplier’s location and greater reliance on the location of the consumer of the IPP or service.

- Consequential changes are also proposed to the imported taxable supply rules to ensure that the provincial component of the HST applies consistently irrespective of whether a supply is made in Canada or outside Canada. These changes are aimed at ensuring that businesses in Canada are not placed at a disadvantage as compared to their competitors outside Canada.

- There are a number of proposed changes to rebate rules. The proposed changes to the POS rules would generally apply to taxable supplies made in Canada on or after 1 May 2010. The proposed rules may also apply to supplies made before 1 May 2010 under certain circumstances. This means that it may be necessary for GST/HST registrants to consider these proposals prior to the implementation of the HST in British Columbia and Ontario.

It is important to note that there are expected to be extensive changes to the rules on how certain financial institutions (i.e., “selected listed financial institutions” as currently defined in ETA section 225.2) will have to account for the provincial portion of the HST, which will “complement” the POS rules. It is our understanding that these proposals will be released later in March 2010 and will provide rules designed to ensure that national financial institutions will not be motivated to source property and services outside the harmonized provinces.

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Colombia—Increase to the consumption tax rate for cigars, tobacco, chewing tobacco and loose tobacco

In Colombia, the consumption rate tax rate for cigars, tobacco, chewing tobacco and loose tobacco, has been increased to 4.45 percent. This change has been effective since 1 January 2010.

Colombia—Official Prices and Value Differences for reference prices, indicatives and estimates prices have been eliminated

The Colombian Economy Ministry has recently issued a Decree that eliminates Official Prices and Value Differences for reference prices, indicatives and estimates prices that were used by the authorities to establish the customs value that must be declared on an import of goods into Colombia.

As a result, reasonable doubt of the authority about the customs value declared or any of the elements determining the price, will only be admitted if there are:

i) Prices classified as low according to the Risk Administration System of the Colombian Customs Authority,

ii) Prices ostensibly low which can involve any risk of fraud, according to numeral 2, Article 54 of Community Ruling adopted in Resolution 846 Andean Community, or

iii) Any doubt about the declared customs value arising from the documents presented or any other additional data (objective and quantifiable).

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Mexico — Tariff import provisions in Mexico

- In connection with the Sectorial Promotion Program (PROSEC), more than 5,000 tariff codes of goods to produce the merchandise authorized in each sector were eliminated. It is worth highlighting that the greatest part of the tariff codes was eliminated as it is exempted from the MFN Import Duty.

- On the other hand, as part of a surveillance strategy to control companies in the iron and steel sector launched by the Mexican Tax Authority, the MFN Import Duties were increased.

Mexico — Countervailing quota in Mexico

- An antidumping investigation procedure continues without the imposition of provisional countervailing duties to the import of steel nuts originating from China.

- The examination procedure on the use of definitive countervailing duties imposed on original import of cut bond paper from the United States has been concluded. The countervailing duty will continue for five years, from 29 October 2008. In some cases, the countervailing quota has been modified.

- With regards to the imports of boneless, fresh, frozen and refrigerated bovine meat from the United States, the administrative review process continues and the countervailing quota remain in place.

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Peru—Input VAT on pharmaceutical companies expenses

On 10 March 2010, Law project No. 3884 was submitted for the Peruvian Congress’ evaluation. The project is related to the deduction of expenses normally incurred by pharmaceutical companies, such as travel expenses for the training of doctors, the exchange of expired medicines and free deductibility of medical samples, which deductibility is usually challenged by the Tax Authority. Pursuant to this project, Income Tax Law will expressly establish that these expenses are tax deductible. The said project is also important for VAT purposes. Indeed, VAT Law establishes that in order to offset input against VAT liability, the expense shall be deductible for Income Tax purposes.

Thus, if these expenses are allowed as deductible for Income Tax purposes, VAT paid on said acquisitions may also be offset as input VAT against the VAT liability.

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Uruguay—Indirect Tax changes

The most relevant changes during the last month are the following ones:

New adjustment in Specific Consumption Tax (IMESI) taxable amount for cigarettes and tobacco
Having proved that increasing taxes on tobacco is an effective way of decreasing its consumption, the notional price over which the cigarettes’ Specific Consumption Tax is calculated has been increased again.

According to that, the average price of a box of cigarettes has increased since 1 March from approximately USD 2.75 to USD 3.25 (18%).

Extension of the period of deduction of VAT in gasoil purchases
In May 2009, the Government issued a Decree allowing companies carrying out industrial manufacturing activities to deduct VAT derived from purchasing gasoil directly affected to its productive cycle in order to improve competitive conditions in the current economic environment.

This deduction was subject to the acquisition being intended to be part of the costs of taxable operations or exports and, in order to be applicable, certain additional requirements should be met.
Now, considering that the international economic context has not changed from when the Decree was issued, the period of application of the Decree has been extended until 30 April 2010.

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**Asia Pacific**

**Australia—Proposed changes to GST treatment of cross-border transport**

The Australian government has released for public comment draft legislation that is aimed at amending the GST rules applying to certain cross-border transport services. The changes are intended to provide certainty for entities involved in the domestic transportation of goods exported from or imported into Australia. The changes are also intended to reduce the number of non-resident entities without an Australian presence that are liable for GST or incur GST on their acquisitions that could cascade through the supply of goods or services they might make.

In summary, the proposed changes will mean that:

- The transport of goods by a subcontractor within Australia that forms part of the international transport of those goods by another entity from Australia will be taxable. However, the supply of those transport services will be GST-free if the supply is made to a non-resident that is not in Australia.

- The transport of goods by a subcontractor within Australia that forms part of the international transport of those goods by another entity to Australia will be taxable. However, the supply of those transport services will be GST-free if the supply is made to a non-resident that is not in Australia.
The liability for paying GST on the domestic transport of imported goods will shift from transport suppliers to the importer of the goods. This will be achieved by including the cost of domestic transport in the ‘value of the taxable importation’ calculation that is used to work out the GST liability on the imported goods, while also removing the GST liability on the supply of domestic transport services made to, and services provided by, a non-resident entity that is not in Australia.

- For suppliers who transport goods to or from Australia, the scope of GST-free international transport supplies will be extended to the point of collection prior to containerisation for exports and the place of delivery for imports.

Once enacted, these changes will apply from 1 July 2010.

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**India—Some of the important highlights of Budget 2010 presented by the Government are listed below:**

*Introduction of Goods and Service Tax (‘GST’) from April 2011*
The introduction of GST has been postponed to April 2011.

*Rate of Excise duty increased to 10%*
The Central Government has increased the rate of Excise duty for non-petroleum goods from 8% to 10%.

*Refund of credit to exporters of services*
One of the essential conditions for claiming refunds of input taxes under the Export of Services Rules, 2005 (‘Export Rules’) was that “such service is provided from India and used outside India”. The said condition has been omitted from the Export Rules with effect from 27 February, 2010 making the process for refund of accumulated credit easier.

*Customs duty exemption to import of motion pictures, music or gaming software on digital medium*
The import of motion pictures, music or gaming software on cinematographic films was subject to customs duty only on the aggregate of the cost of the print and freight and insurance.
This had led to a differential duty structure vis-a-vis the import of digital masters of films located on electronic medium.

To address this, the import of movies/ motion pictures recorded on cinematographic films or digital medium such as CD, DVD etc. would be charged duty only on the cost of the medium and freight and insurance. The same dispensation would apply to music and gaming software imported for duplication. In all such cases the value representing the transfer of intellectual property rights would be subjected to service tax.

**New Zealand —Managing time of supply**

Businesses must account for GST on a transaction when the time of supply is triggered. Typically the time of supply in respect of a transaction is triggered by the earlier of the receipt of any payment or the issue of a tax invoice. In certain circumstances this can create a cash flow problem for the business, as the GST liability due may be greater than the value of cash received at that time. GST time of supply issues are the most significant by value error that IRD audits detect. Deloitte New Zealand has recently advised a number of businesses of how it may be possible to eliminate these cash flow issues. Some common alternative approaches which may be beneficial for clients are:

- Changing the one supply into various separate supplies;
- Changing the client to the payments basis;
- Delaying time of supply and making use of the special periodic payment rules; and
- Making use of a trust account or stakeholder account.

It is crucial to note that whether these approaches are suitable for businesses will be driven by the fact pattern, their commercial position and system capabilities.
Belgium—Refund of special excise duties on gasoil for professional use

As of 1 January 2010, the Belgian government has re-introduced the so-called “Cliquet system,” but only with respect to gasoil. The effect of this system is that every price drop in fuel means a (limited) increase in “special excise duties” on gasoil, i.e. 50% of the price decrease, VAT excluded and vice versa. However, the federal government has announced that the special excise duties on gasoil can be raised by a maximum of EUR 40/m³ for 2010 and 2011.

With respect to gasoil for professional use, the existing refund system remains in place, so that professional users can continue to reclaim the excise duty increases related to the Cliquet system. The reference level of special excise duty amounts is currently EUR 116,8116/1000 L. The amount that can be refunded is the difference between the current special excise duty (i.e. EUR 134,6966 as from 28 January 2010) and the reference level. As such, the amount that can be reclaimed is EUR 17,8850/1000 L.

Certain EU-based professional users of gasoil are exempt from the special excise duty increase on gasoil.

Affected users are:

- Companies that transport goods by road using vehicles with a minimum MTM of 7.5 tons; and
- Taxi companies, certain transporters of disabled persons and coach companies.

These users can request a refund on a monthly basis to an amount equal to the increase of the special excise duties of the past month.
**Action steps**

To request a reimbursement, the above criteria must be fulfilled and a form must be filed (Professionele diesel – Vrijstelling van de verhoging van de bijzondere accijns na 1 januari 2004 – Aangifte / Gasoil professionnel - Exemption de l'augmentation du droit d'accise spécial intervenue après le 1er février 2004) with the authorities.

The form to use for a request with respect to gasoil purchased in January 2010 has been published on the website of the Belgian Ministry of Finance.

Affected users should ensure that they retain all invoices relating to gasoil purchases. These invoices can be used as evidence (to be submitted to customs if the user is not registered in Belgium) and a basis for determining the quantity of gasoil purchased.

In addition, professional users with a private storage tank for gasoil need to have a stock administration.

Deloitte can assist you in preparing and submitting a request with the customs authorities to obtain a refund or to apply for the special “end-user” or “filling station” license you will need to file the request.

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**EU/OECD - Recovery of VAT/GST incurred abroad**

An OECD survey conducted in 2009 (available at: [http://www.oecd.org/dataoecd/18/52/44560750.pdf](http://www.oecd.org/dataoecd/18/52/44560750.pdf)) has revealed that 72% of respondents found the procedures for recovering VAT/GST incurred in countries where businesses are not established or do not carry on taxable business activities to be “difficult”. Meanwhile 20% found that they were unable to recover any foreign VAT/GST. The survey report shows that whilst most OECD countries have processes allowing overseas businesses to claim VAT/GST relief, they are often complex.

The report suggests that businesses would like to see greater harmonisation and standardisation of the processes.
Whilst the EU hoped to simplify its procedure for EU businesses to reclaim VAT incurred in other Member States from 1 January 2010, the electronic system that has been introduced seems to be encountering some difficulties because the different software solutions adopted by the member states appear to be causing communication difficulties between them.

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**Finland—Correction: minimum amount of penalty**

In the February 2010 edition of the Global Indirect Tax newsletter, for Finland it is incorrectly stated that the minimum amount of penalty imposed due to missing VAT return is EUR 5,000. The minimum penalty for late filing of a VAT return in Finland is in fact **EUR 5**.

**Finland—Bill regarding payment of taxes from abroad**

The Finnish Parliament has passed a bill regarding the date when taxes, e.g., IPT/VAT payments, from abroad are considered to have been paid to the Finnish tax authorities. The change applies also to payments of other taxes, e.g., employer obligations.

As of 1 May 2010, IPT/VAT is paid in time if the payments are received by the Finnish tax authorities by the due date. Alternatively, the payments are deemed to be made in time if the bank of the taxable person informs the payment date in connection with the payment to the recipient’s bank and the payment is made by the due date at the very latest. The President has not yet approved the bill.

**Finland—Bill regarding filing of periodic tax returns**

The Finnish Parliament has accepted an amendment of the Finnish Tax Account Act on 5 March. Based on the amendment, the Finnish tax administration is authorized to postpone the due date for filing the periodic tax return (including VAT / IPT return) in certain cases. The postponed due dates will apply to paper returns in cases where the time period for filing the return would, due to a weekend or national holiday, be less than four working days. The President has not yet approved the bill.
Greece—VAT Rate increase

The Parliament ratified on 5 March 2010 the recently communicated Bill, which included the tax measures adopted to combat the financial crisis.

Greek VAT rates are increased as follows:

- From 19% to 21%
- From 9% to 10% and
- From 4.5% to 5%.

The new reduced rates applicable in the Aegean islands, will amount to 4%, 7% and 15% accordingly.

The new rates will be applicable as of 15 March 2010, with the exception of industrial tobacco products, for which the increased rates apply as from 4 March 2010.

Therefore, for any tax record issued, according to the provisions of the Code of Books and Records, after 15 March 2010, the VAT due will be computed on the basis of the new rates, irrespective of whether the transactions took place before that date. For credit invoices issued as of 15 March 2010 and referring to transactions that took place before that date, the VAT will be computed on the basis of the new increased rates. On the other hand, the rates applied in the initial transaction will be used for the Special Annulment Record, provided in Article 23 para. 2 case e’ of the Code of Books and Records.
Israel—VAT rates reduced to 16%

As of 1 July 2009 the standard VAT rate in Israel was increased to 16.5%. The increase would be in place until 31 December 2010. However, the VAT rate was already reduced to 16% on 1 January 2010.

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Italy—Reverse charges on supply of goods

It has been confirmed that, for supplies of goods and services relevant for VAT purposes in Italy, carried out by a non-resident subject towards a taxable person established in Italy, the latter should be considered as the taxable person, applying the reverse charge mechanism.

This provision should be applied also when the non-resident subject is identified for VAT purposes in Italy (direct registration) or has appointed an Italian VAT representative.

During the transition period from 1 January to 19 February (the date of publication of Decree Law. no. 18), the non-resident supplier who applied VAT on invoices to an established entity under the previous regulation, shall not operate any rectification according to Article 26 of Presidential Decree no. 633/1972 and will not incur penalties under article 6, paragraph 9bis of the Law Decree No 471 of 1997.

It has been also confirmed that the customer keeps the right of VAT deduction under article 19 of DPR 633/1972 for the VAT applied by the non-resident supplier in the transition period (1 January – 19 February 2010).

Filing of the intra-EU operations lists (Intrastat)

Following the publication of the Decree of 22 February 2010 (on 5 March 2010), it has been confirmed that, with reference to the deadlines for the filing of Intrastat forms, they could be different (quarterly or monthly) for lists related to purchases of goods and services compared to lists for supplies of goods and services.
Furthermore, it has been clarified that if the threshold of EUR 50,000 is exceeded for a single category of operation (for example only for intra-EU supplies of goods or of services, or only for purchases of goods or services), there is an obligation for monthly reporting of the entire list (supply of goods and services or purchases of goods and services).

Finally, regarding the deadline for the submission of Intrastat, the provisions of the Decree shall be applied from 1 January 2010. However, considering that the decree was only published on 5 March 2010, the Revenue Agency has clarified that in accordance with the Statute of the taxpayer, taxpayers should file the Intrastat form for the month of January 2010 within 60 days of the date of publication of the decree (therefore, by 4 May 2010).

In conclusion, the deferred filing of intra-EU Lists operates only for the month of January, while the returns for subsequent months shall be filed within the deadlines established by the decree. In particular, the filing of Intrastat related to the month of February will follow the ordinary deadline of 20 or 25 March 2010 (if the filing is carried out respectively with electronic form or through electronic means).

In any case, there remains in force the opportunity to correct any mistakes or omissions in the terms foreseen by Circular no. 5 of 17 February 2010 (by 20 July 2010).

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Namibia—2010 draft Income Tax, Value-Added Tax, and Transfer Duty Amendment Bills

Overview of VAT zero-rated supplies

The following goods and services will be zero-rated:

- Basic food items
- Medical services
- Hospital services
Funeral undertaking services

**Agents**

A registered person importing goods as agent on behalf of a non-resident non-registered principal may recover the import VAT paid on behalf of the principal as input tax. This is a necessary provision, but in the absence of further provisions, residents who would not normally be entitled to relief could effectively avoid paying VAT on imported goods by routing the supply through a VAT-registered agent.

In the light of this it is proposed that where a VAT registered agent imports goods on behalf of a foreign principal, the agent will be deemed to make a supply of those goods to the Namibian recipient/customer. The supply will be deemed to take place at the time that the import VAT is paid by the agent and the value will be deemed to be the total amount of the value placed on the importation of the goods and the import VAT paid.

**Claiming of input VAT on debts written off**

A bad debt input tax deduction may currently only be made by the registered person who accounted for the original supply. Where a debt security is ceded and then written off as irrecoverable by the recipient, no relief is available. It is now proposed that where a registered person has declared output VAT in respect of a supply and has transferred the account receivable to another VAT registered person (recipient) on a non-recourse basis, and a portion of the account receivable is written off by such recipient, the recipient is entitled to an input VAT deduction in respect of the portion of the debts which became irrecoverable. An example would be where a registered person has sold an item on hire purchase and ceded the debt on a non-recourse basis to a bank and that debt or part of the debt becomes bad.

The bank will, in future, be entitled to an input tax deduction in respect of the debt or part of the debt so written off.

For the recipient to claim an input tax deduction, where the account receivable is transferred on:

- a non-recourse basis, the registered person may not make any deduction in respect of transfer of the account receivable; or
a recourse basis, the registered person may make a deduction when such account receivable is transferred back to the registered person and a portion thereof has become irrecoverable.

**Transitional measures for zero-rated services**

Where services (e.g. medical or paramedical services) are performed during a period beginning and ending before the date on which these services will became zero-rated, those services will deemed to be exempt from VAT.

However, where services (e.g. medical or paramedical services) are performed during a period beginning before and ending after the date on which the services will become zero-rated, the portion of the services performed before the effective date of the amendment will be exempt from VAT and the portion of the services performed after the effective date will be subject to VAT at the zero-rate. A reasonable apportionment should be used, where necessary.

This transactional rule will have an effect on the input tax that may be claimed in respect of goods and services used and or consumed in the making of the relevant supplies. For example, a medical practitioner will not be entitled to claim input tax in respect of the goods and services used and consumed to provide the portion of the medical services that will be supplied prior to the effective date of this amendment. However, the same medical practitioner will be entitled to an input tax deduction in respect of the goods and services used and consumed to provide the portion of the medical services provided after the effective date of this amendment.

**Timing**

All the VAT amendments mentioned above will come into operation on the first day of the month following the month in which the 2010 VAT Amendment Act is published in the Government Gazette.

Please note that the Act has not been gazetted as yet and we will keep you informed of the date of publication.
Netherlands—Supreme Court case on TOGC rules

Referring to Zita Modes Sàrl (ECJ 27 November 2003, case C-497/01) the Dutch Supreme Court has decided that the TOGC in the Netherlands only apply in the event that all goods and services are supplied by one seller to one buyer.

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Portugal—VAT items in Budget Law Proposal for 2010

Budget Law Proposal for 2010 (still being discussed in the Parliament, but these changes are expected to enter into force in the coming weeks):

- The new possibility of VAT recovery in bad debt situations: credits that are recognized as bad debts in a special conciliation process between the parties;
- The reverse charge mechanism will apply to the acquisition of services related to CO₂ licenses;
- The time limit is extended from 60 to 90 days for the supplier of national exporters to obtain the certificate that proves the exports (which allows the application of a VAT exemption);
- Legislative authorizations granted to the Government to:
  - Exclude the Car Tax amount from the tax basis for VAT purposes (replaced by an equivalent increase in the Car Tax amount);
  - Change the rules applicable to the place of supply of services of a cultural, artistic, sporting, scientific, educational, recreational and similar nature, under the VAT Package (with effect from the beginning of 2011);
  - Introduce a rule to ensure that the exemption from VAT on imported goods that are followed by a subsequent intra-EU transfer can only be applied if supported by additional documents, provided by the importers;
Implement rules for taxpayers to deduct VAT incurred in respect of properties used in economic activities and other purposes only in the proportion of the first.

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**Romania—VAT simplifications related to international traffic of goods**

The Ministry of Finance published an amended version of the order detailing the requirements for applying simplification measures for work on movable goods.

This is an act particularly useful for foreign non-established persons that benefit from or conduct services such as works on movable goods carried out in more than one Member State (including repairs and returns of goods). The provisions of this order may provide local VAT registration relief for such entities, provided that their activities fit into the scenarios detailed by the legislator.

**Norms for the application of VAT exemptions for the international traffic of goods**

Another recently issued set of acts itemizes the documents on which VAT exemption should be justified for transport services, services ancillary to transport and other types of services related to the supply of goods which are placed under suspensive customs regimes.

**Amendments to the VAT refund procedure**

A recent order of the Minister of Public Finance (OMPF no. 131/2010) introduces several amendments to the VAT refund claims settlement procedure. Under the new provisions, VAT registered taxable persons that apply for refund of amounts less than or equal to RON 10,000 will qualify for reimbursement without prior fiscal inspection.

Another category of taxpayers who will be eligible for VAT refund without prior fiscal inspection are exporters. To become eligible they must have undertaken in the previous year export activities or intra-community supplies in the amount of at least 75% of the debtor turnover of the customer’s account. Another condition to be satisfied is that the value of exports and intra-community supply exceeds the RON equivalent of EUR
1,000,000.

The order also details the procedure for approving the special regime for exporters. Before requesting VAT reimbursement exporters must submit a special form to the competent tax body.

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South Africa—Budget Speech

We bring to your attention the possible amendments to the VAT Act discussed in the Budget tax proposals.

Residential property developers and financial institutions
Currently, the temporary leasing of residential units intended for sale requires a full claw-back of the VAT input tax claimed on those leased units. The claw-back is due to the leasing of these units being exempt from VAT. The current value of the adjustment is evidently significantly disproportionate to the temporary exempt rental income. Options will be investigated to determine an equitable value and rate of claw-back for developers.

In VATNEWS14 SARS ruled that in such case there had been a change of use and that because the property was being used to make exempt supplies (the letting of residential property) the developer was obliged to declare output tax on the market value of the property. It is our view that it is questionable whether it was correct in that a change in use adjustment applies. Rather, the temporary letting of a property prior to sale does not constitute the property being wholly used for the purpose of making exempt supplies.

The proposal only refers to residential property developers but financial institutions which rent out repossessed properties pending sale would be affected as well.
**Intra-group supplies on loan account**

In terms of current legislation, where a vendor acquires goods or services and has not paid the full price for such goods or services within 12 months, the vendor is obliged to account for VAT on the unpaid portion of the supply. This represents a claw-back of the VAT which the vendor claimed when it acquired the goods or services. Many group companies make supplies to one another on loan account for commercial reasons and often do not clear these loan accounts within the required 12 month period.

This specific provision was aimed at outstanding debts which had been written off by the seller who could then claim an input tax deduction leaving SARS out of pocket since the purchaser has also claimed an input tax deduction on the same supply.

Anomalies are however created where these provisions are applied to supplies between companies in the same group and such loans (as is often the case) are not cleared within 12 months. In such case the group is compromised as the original debt would not be written off. Therefore, relaxation in this area will be considered to prevent unintended anomalies.

Further linked to the proposal mentioned above, is the double charge on deregistration. As stated above, a VAT payback provision exists for supplies on which the vendor has claimed input tax but that remain unpaid after a 12 month period. Additionally, if a vendor deregisters from the VAT system, the vendor is deemed to make a supply of all assets or rights associated with the vendor's enterprise at the time of deregistration. As a result, the vendor may be liable for VAT under two separate provisions of the Act on the same amount. It is therefore proposed that this potential double charge be removed.

**Commercial accommodation**

The supply of commercial accommodation is taxable at the rate of 14 per cent, while the supply of residential accommodation is exempt. Commercial accommodation usually consists of lodging together with domestic goods or services. It is intended to review the definition of commercial accommodation within the context that certain entities that supply exempt residential accommodation have (as a result of definitional technicalities) crossed over into supplying commercial accommodation. An example would be where student accommodation is supplied with furniture and fittings without a lease agreement. This marginally pushes the supply into the ambit of commercial accommodation on which VAT must be charged.
It is proposed that the VAT treatment of commercial accommodation be reviewed.

**Other proposals**
Other proposals include:

- The extension of pooling arrangements from farming and rental arrangements to other industries such as betting, trucking and shipping industries.

- Providing vendors with the option to return VAT on imported services in their normal VAT 201 return instead of the prescribed VAT 215 form which requires separate payment within 30 days of the date of importation. This means that vendors in a refund position can avoid having to make separate payment to SARS.

- Currently proof of payment is not a requirement expected to substantiate a notional input tax deduction. A vendor can claim a notional input tax on second hand goods but only to the extent the vendor has paid for these goods. SARS therefore intends to insert a proof of payment requirement.

- Although a vendor does not require a tax invoice to claim input tax where the transaction does not exceed R50, it is proposed that some form of proof (such as till slip) will be required.

- The current zero rating for supplies (such as food) made by a local vendor to a locally stationed foreign-going ship or aircraft for consumption during transport, only applies if the transport is commercial. A number of foreign-going ships that are temporarily stationed at local ports are not covered by this zero rating. It is therefore intended that the zero rating be extended to cover this scenario.

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Spain—VAT rate increase

The Spanish legislation implementing the VAT package has been recently approved.

Furthermore, the Spanish government approved the Budget Law for 2010 including an increase in the VAT rates. These new VAT rates will be applicable to supplies of goods/services for which the tax point is on or after 1st July 2010.

The increase in rates will work as follows:

- Increase of standard VAT rate from 16% to 18%
- Increase of reduced VAT rate from 7% to 8%.

The changes in the VAT rates would not affect the super-reduced rate, which would remain at 4%.

Moreover, there are new cases for applying the reduced rates in services related to the rental of real estate for housing purposes exclusively.

These apply as of 2 October 2009 as follows:

- 4% for housing that is subsidized by the State.
- 7% (8% as of 1st July 2010) in other cases.

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Switzerland—Swiss VAT rate increase from 1 January 2011

The Swiss VAT rates will increase for a temporary period of seven years with effect from 1 January 2011 as follows:

- Standard VAT rate from 7.6 %, to 8.0 %
- Reduced VAT rate from 2.4 %, to 2.5 %
- Special VAT rate on accommodation services: from 3.6 % to 3.8 %.
This requires taxable persons to take immediate action in the following areas:

- Adjustment of internal accounting and reporting systems / ERP updates;
- Review of current contractual agreements spanning the 2010 / 2011 period;
- Amendment of calculations covering services which will be affected by the rate increase;
- Calculation of new price lists and consideration to be paid for services or goods;
- Review of invoicing procedures.

The applicable tax rate will follow the point of supply and not the date of invoicing or payment. In addition, the Swiss Federal Tax Administration prescribes the impact of the rate change on the following services: hotel and tourism, services relating to electricity, gas and water, rental and leasing arrangements, and commissionaire arrangements.

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**UK - Partial Exemption—more simplifications**

The VAT (Amendment) Regulations 2010 introduce, from 1 April 2010, some further simplifications to the partial exemption rules. Following the changes, some businesses will no longer need to undertake a full partial exemption calculation to show that their exempt input tax is de minimis and fully recoverable. There will also be an option to apply the de minimis test annually rather than quarterly. These two changes are among the outcomes from the partial exemption review announced in the 2007 Pre Budget Report. This has already resulted in simplification of the partial exemption standard method (introduced in 2009).
The review will now consider the scope for changes to the Capital Goods Scheme and the possibility of combining partial exemption and business/non-business calculations. HMRC (the UK revenue authority) has also published a Brief and detailed information sheet on the changes.

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