

Global VAT Newsletter

Members of the MGI Worldwide Global VAT Group set out some of the recent changes to VAT in their respective countries.

Czech Republic: VAT implications of transfer pricing adjustments

In early September 2025, the Court of Justice of the European Union (CJEU) issued its judgment in case C-726/23 (SC Arcomet Towercranes SRL), offering new insights into VAT treatment of transfer pricing adjustment invoices between related parties. This ruling has broader implications for management services VAT deductions (commonly provided between parent companies and subsidiaries), where proving the provision of actual services is essential for claiming input VAT deduction.

SC Arcomet Towercranes SRL case

Given the case's specific circumstances, a brief overview of the facts is helpful as context.

A 2010 transfer pricing study between Arcomet Belgium and its subsidiaries established that subsidiaries should maintain operating margins between -0.71% and 2.74% to comply with arm's length principles. To ensure compliance, a 2012 agreement between the parent and its subsidiary provided for annual adjustment invoices: Arcomet Belgium would invoice if subsidiary profits exceeded 2.74%, while Arcomet Romania would invoice if losses exceeded -0.71%.

The agreement obligated Arcomet Belgium to provide various management and commercial services to its subsidiary, including negotiating framework contracts with external suppliers and banks, centralized fleet management, and quality and safety oversight.

Arcomet Belgium also assumed the principal economic risks of Arcomet Romania's business. Conversely, Arcomet Romania was responsible for purchasing and owning all operating assets, and for selling, leasing, and servicing those products.

Given that Arcomet Romania achieved higher profits than the established range in the years 2011 to 2013, it received invoices from the parent company for services provided under this agreement, to which it applied the reverse charge mechanism.

During a tax audit, Arcomet Romania was assessed additional VAT due to unlawful input VAT deductions on these services for which the reverse charge was applied.

During subsequent court proceedings, the following questions were referred to the CJEU:

- whether the invoiced amount is subject to output VAT, and
- whether tax authorities may require supporting documentation (such as activity reports, work sheets, etc.) beyond the invoice itself, to evidence that the purchased services were used for taxable purposes.

The CJEU noted that according to established case law, services are subject to VAT only where a legal relationship exists between the provider and the recipient involving reciprocal performance, with the provider's remuneration constituting genuine consideration for a specific service supplied to the recipient. This requires a direct link between the service provided and the consideration received.

The CJEU considered both conditions to be met in this case, as the parent company contractually undertook to provide certain commercial services to its subsidiary, which in turn undertook to pay for these services at the end of each year an amount that, although variable, is neither random nor uncertain, because the conditions are set out in the agreement. Therefore, according to the CJEU, these services are subject to output VAT.

According to the CJEU, it cannot be argued against these conclusions that the remuneration due to the parent company is intended, in accordance with OECD guidance, merely to adjust the subsidiary's operating margin to comply with the arm's length principle, without any specific activity necessarily being provided as consideration.

However, according to the CJEU, proving that these services were actually provided by the parent company and actually used by the subsidiary for its own taxable supplies is nevertheless essential to establish the right to deduct input VAT. The tax authorities may therefore require submission of documents other than the invoice to prove these facts, if the submission of such evidence is necessary and proportionate for these purposes. However, the CJEU held that taxpayers need not prove the services were necessary or appropriate for their taxable activities—only that they were actually provided and used.

Practical implications

Given the specific circumstances of the case, the CJEU's conclusions cannot be generalized. It is important that in this case, it was possible to link the adjustment of the subsidiary's profitability to a specific service to which the parent company had contractually committed and to which it related the profitability adjustment of the subsidiary.

Unfortunately, the Court of Justice did not address the more general debate on transfer pricing mentioned in the Advocate General's Opinion.

The Advocate General repeatedly noted that the recommendation to exclude transfer pricing adjustments from VAT was not adopted by the VAT Committee, which is an advisory committee established at the European Commission. The CJEU's view on this question therefore remains unclear. The Court also did not address the Advocate General's assertion that it should not be forgotten that adjustments relating to the provision of services or supply of goods represent a change in the price of the invoiced service or invoiced goods.

The ruling's impact on tax practice remains limited for now. For broader guidance on transfer pricing adjustments and VAT, we must await the CJEU's decision in the pending case C-603/24 *Stellantis Portugal*.

Given these uncertainties and the pending CJEU case, we recommend caution with respect to: risk identification, proper structuring of transfer pricing adjustment invoices, and VAT-related procedures. Additionally, in light of the CJEU's findings in this case and in *Weatherford Atlas Gip* (C-527/23), we advise maintaining robust documentation which proves that management services have indeed been provided.



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India: From Safari to Statute: How one word changed India's construction tax landscape

The construction paradox

Across VAT jurisdictions, construction businesses face a delicate balance between asset creation and value-added taxation. India's Goods and Services Tax (GST) takes that tension to its extreme — allowing input tax credit (ITC) on most business inputs yet **blocking it** almost entirely for construction of immovable property.

The rationale is fiscal: credit denial prevents revenue leakage and simplifies audit trails. But for developers and infrastructure companies, it means unrecoverable costs embedded in every brick and beam.

The legal framework

Under **Section 16 of the CGST Act, 2017**, taxpayers may claim ITC for goods and services used in the course of business. However, **Section 17(5)(c) and (d)** override this entitlement:

- Works-contract services for construction of immovable property are not creditable, except when further supplied as works-contract service.
- Goods or services used for such construction on one's own account are similarly blocked.

The only exception — “other than plant or machinery” — once offered interpretive scope.

The Safari Retreats breakthrough (Supreme Court, 2024)

In *Safari Retreats Pvt. Ltd. v. Union of India*, a developer built a shopping mall and leased units, charging GST on rent. It sought ITC on construction inputs, arguing that denial causes cascading tax.

The Supreme Court agreed that credit should not be denied when property is used for taxable leasing. Applying a functional test, it treated the mall as “plant or machinery” essential to business use. The decision briefly gave developers hope — recognizing substance over form.

The 2025 Amendment: Hope Cemented Shut

Just months later, the Finance Act 2025 amended Section 17(5)(d), substituting “plant or machinery” with “plant and machinery”, retrospectively from 1 July 2017.

This subtle shift reversed Safari Retreats' benefit. The amendment expressly states it will apply notwithstanding any judgment to the contrary and takes effect from 1 October 2025, with retrospective reach.

In essence, buildings and civil structures — even when used for taxable leasing — are once again outside the ITC net.

Practical fallout

- Higher Project Costs: GST on cement, steel, design, and EPC services is now an unrecoverable cost, inflating project budgets by 8–10 %.
- Retrospective Risk: Credits claimed relying on Safari Retreats may face reversal notices.
- Leasing Model Hit: Build-to-lease developers lose neutrality; working capital tightens.
- Foreign Investors: Must assess eligibility carefully — only movable “plant and machinery” qualify.

The policy contrast

Globally, many VAT systems — the EU, Australia, Singapore — allow credits for commercial construction intended for taxable use, adjusting later if used for exempt purposes. India's restriction, by contrast, prioritizes revenue certainty over neutrality, underscoring a developing economy's fiscal priorities.

The professional insight

India's case illustrates how one word in legislation can reshape billions in tax credits. For professionals advising global developers, it highlights the importance of anticipating policy reversals and building compliance agility.

As tax systems worldwide digitize and evolve, India's GST journey reminds us: Tax design, like construction, needs strong foundations — clarity, consistency, and balance.

India GST 2025: Key Takeaways for Global Advisors

India's GST 2025: What global businesses and advisors need to know

India's Goods and Services Tax (GST), launched in 2017, continues to evolve as one of the world's largest indirect tax systems. The 2025 reform marks a significant simplification and digital consolidation, particularly relevant for foreign investors and multinational service providers entering the Indian market.

Below is a practical snapshot of key GST considerations for international businesses—with updates effective through late-2025.

1 Is GST registration mandatory for foreign entities?

Yes. Any foreign company supplying goods or services to Indian customers must register for GST, even without a physical presence. This includes SaaS vendors, online marketplaces, and offshore consultancy or design services. Non-resident taxpayers can appoint an authorised representative in India for compliance.

2 What changed under the 2025 GST rate rationalisation?

From September 2025, India moved to a two-tier rate structure—

- 5 % for essentials and basic inputs, and

- 18 % for standard goods and services— with a 40 % rate retained for luxury or sin goods. This reform reduces classification disputes and brings GST closer to global VAT norms.

3 How are cross-border digital and service supplies treated?

Cross-border B2B services are taxed under the Reverse Charge Mechanism (RCM)—the Indian recipient pays IGST and claims credit. For B2C supplies, foreign providers (e.g., streaming, gaming, SaaS) must register in India and remit IGST directly, similar to the EU's OSS or Australia's GST on low-value imports.

4 How does GST impact exports and imports?

Exports remain zero-rated, allowing refund of input tax credits (ITC) or integrated GST paid on export supplies. Imports attract IGST at customs, which may be set off against output liability for registered businesses.

5 What are the key compliance expectations for foreign-owned subsidiaries?

- Timely filing of monthly and annual GST returns (GSTR-1, GSTR-3B, GSTR-9)
- Implementation of e-invoicing if turnover exceeds ₹5 crore
- Reconciliation of ITC with supplier data via the GST portal
- Maintaining cross-border documentation and tax payment proof

Increasingly, data mismatches in GSTR-2B or supplier defaults are leading to credit denials, so robust reconciliation systems are vital.

6 Can non-resident entities claim input tax credit?

Yes, where tax is paid on local procurements used for taxable output supplies. However, ITC is not refundable to non-resident taxable persons after cancellation of registration, so timely utilisation and compliance are crucial.

7 Are there special obligations for e-commerce operators?

Yes. Marketplaces must collect and remit Tax Collected at Source (TCS), maintain transaction-level data, and comply with real-time reporting norms—especially relevant for global digital intermediaries.

8 What are the penalty and dispute trends?

Penalties remain financial for most procedural lapses, but fraud-related offences invite prosecution. Recent court rulings (e.g., *Vidya Drolia v. Union of India*, 2024) clarified that bona fide buyers cannot be denied ITC solely due to supplier defaults—a major relief aligning India with OECD fairness principles.

9 What's new for investors under GST 2.0 (2025)?

- Simplified return filing and integrated data sharing with customs and direct tax systems
- Digital amnesty programme for legacy reconciliations (one-time closure window in 2025)
- AI-based risk-rating system for refund approvals
- Faster ITC validation via invoice-matching automation

Key takeaways

Advisors supporting multinational clients should focus on three critical shifts:

- Data discipline over documentation: Clean invoice trails and consistent vendor compliance now directly drive input tax credit eligibility and refund timelines.
- Predictive compliance analytics: The GST portal's AI dashboards and risk-rating models allow early detection of mismatches, enabling proactive correction before audits or disputes arise.

- Strategic tax positioning: Simplified slabs and harmonized cross-border reporting enable global tax teams to benchmark India's GST efficiency against other VAT regimes, optimizing supply chain and pricing models.



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New Zealand: Recent updates

On 11 September 2025, the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill advanced through its First Reading. This Bill introduces a range of GST changes aimed at both technical clarification and practical flexibility. We summarise the main developments below.

Revamped GST rules for Joint Ventures

New Zealand is set to modernise its Goods and Services Tax (GST) framework for unincorporated joint ventures, introducing a flexible new 'flow-through' model that aligns the law with common business practices. The proposed changes, expected to take effect from 1 April 2026, will offer legislative certainty and reduce compliance burdens for businesses operating through joint venture structures.

Under the current law, an unincorporated joint venture is generally treated as a single, separate entity for GST purposes, similar to a company. This requires the joint venture itself to register for and file GST returns.

However, in practice, many industries have adopted a different approach where each participant accounts for GST on their share of the venture's sales and expenses within their own individual GST returns. This practice, while commercially pragmatic, has operated in a grey area of the law.

The new Bill aims to formally recognise and regulate this participant-level reporting method, known as the 'flow-through' approach.

The proposal change introduces two distinct categories of joint ventures for GST purposes:

1. For output sharing joint ventures the standard approach is a flow through method where each participant accounts for their share of GST on sales and expenses in their own returns. This is the default position and does not require a formal election
2. For all other ordinary joint ventures the default position remains the traditional method of separate GST registration, where the joint venture is treated as a single legal entity for GST purposes.

The flow-through model will become the standard for "output-sharing" joint ventures, which are common in industries like construction, oil and gas, and bloodstock breeding.

For all other 'ordinary' joint ventures, the traditional method of separate GST registration will remain the default. However, these ventures will gain the flexibility to unanimously opt into the flow-through system if it better suits their commercial arrangements.

The new rules will be implemented from 1 April 2026 with transitional provisions to validate the historical positions of joint ventures already using a flow through method, protecting them from retrospective penalties. Joint ventures that are currently registered as a single entity will have until 1 April 2027 to change to the flow-through

Digital nomads: Optional GST relief

NZ is moving to attract 'digital nomads' through policy enhancements, including special visas and targeted GST relief. The proposed changes mean that digital nomads providing services from NZ to offshore clients will not be required to register for GST, even if such services are zero-rated and would otherwise contribute to registration thresholds under current law.

B2B zero-rating: Expanded election options

Financial service providers will benefit from simplified rules for B2B zero-rating. Approval from Inland Revenue is no longer required; providers may elect zero-rating by making the relevant declaration in their GST return. Any financial service provider can now opt in by notifying Inland Revenue, broadening access to GST credit claims for eligible services.

Land sales: Separate supply treatment extended

The Bill clarifies the GST treatment for land sales involving partially exempt purposes. Currently, commercial land sold with a dwelling is split into separate supplies—dwelling sales are typically GST exempt. The new proposal extends separate supply treatment to any land used partly for exempt activities, simplifying compliance and reducing the need for complex adjustments. For example, this could apply to a church property with a shop selling donated goods (exempt from GST).

Other remedial GST measures

- Clarification on the use of 'shared tax invoices' among non-associated groups.
- Administrative relief for new GST registrants who inadvertently select an unintended filing frequency.
- GST exemption for inherited imported goods.
- Updated record-keeping requirements for zero-rated land transactions.
- Tax invoices for amounts of NZ\$1,000 or more issued to non-GST registered customers, are longer required to included recipient details.
- Confirmation that GST credits for second-hand goods are available to purchasers who register for GST post-acquisition.

Looking ahead

The proposed GST changes are broadly welcome; however several areas remain in need of further clarification and reform. The Bill is expected to receive royal assent before the end of March 2026, with most GST measures coming into force on 1 April 2026.



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Poland: Recent VAT Developments and Court Rulings

The end of a “complex supply”: Supreme Administrative Court forces manufacturers to invoice production tools (molds) separately from the goods

In a landmark case constituting a vital victory for the Polish tax authorities, the Supreme Administrative Court ruled that selling finished goods and selling the tool for the production of these goods are two completely separate and independent transactions for VAT purposes. The ruling will have major implications for manufacturers.

Background of the case

The case concerned a packaging manufacturer that supplied finished products, such as bottles and caps, to its contractors. To produce these items, the company utilized specialized production tools (molds). Under the contractual agreement, the cost of these tools was not charged upfront but was charged gradually by including a specific surcharge in the unit price of each finished product delivered. The ownership of the tools was to be transferred to the contractor once a pre-defined sales volume was reached.

The contract also stipulated an early buy-out option and a penalty clause requiring an additional payment if the contractor failed to collect the agreed-upon minimum volume of goods within three years. The company contended that the sale of the tools was an ancillary operation to the main supply of finished goods and thus formed a single, complex VAT service, requiring only one invoice (with the exception of an early buy-out).

The tax authorities and the court of the first instance both challenged this approach and stated that there are two separate transactions for VAT purposes: (i) transfer of finished products (goods) and (ii) transfer of tools / molds.

The ruling of Supreme Administrative Court

The Supreme Administrative Court in its judgment of September 26, 2025 (I FSK 1233/22), upheld the position of the tax authority, confirming the lower court's decision. The Supreme Court ruled that the supply of finished packaging and the subsequent transfer of the specialized production tools constitute two separate and independent supplies of goods for VAT purposes. The Court dismissed the company's argument regarding a single complex service, stating that there was no strict connection between the two elements that would prevent their independent existence. Since the supplies were not artificially separated, they must be separately documented with their own VAT invoices and taxed accordingly. Furthermore, the Court stated that any additional payment collected when the client failed to meet the minimum purchase threshold within three years must be treated as payment for the tool itself, not as an adjustment to the price of the last batch of finished goods.

Our view

This ruling has critical implications for all manufacturing companies that transfer the ownership of specialized tooling (such as tools, molds or dies) to their customers by embedding the cost into the price of the final product. The judgment effectively dismantles the concept of a single complex supply in this context.

The Court confirmed that the transfer of the tools' ownership is a separate supply of goods and cannot be considered a merely ancillary cost, like packaging or transport. Consequently, the "amortization" model of passing on mold costs is now inherently risky under VAT law, demanding an immediate audit of existing invoicing procedures.

As with every tax case, the tax position very much depends on the specific circumstances of each case. Accordingly, if a company uses tools / molds in the production of goods, what we would advise is to carefully examine the business model and check if any action is needed after the Supreme Court's judgement.

To mitigate future risk, companies may need to revise their business model by either invoicing the tool sale immediately and separately or by retaining ownership of the tool and charging a distinct fee for their usage, maintenance, or licensing, thereby avoiding the two-separate-supplies trap.

The judgement of the Supreme Administrative Court of September 26, 2025 (I FSK 1233/22)

Bite-size VAT updates

KSeF: Transition to Version 2.0 Confirmed

Poland's Ministry of Finance officially confirmed the final transition roadmap for the National e-Invoicing System (KSeF) to version 2.0, with the mandatory start date remaining February 1, 2026 for large taxpayers and April 1, 2026 for all other taxpayers. In September 2025, the older KSeF 1.0 test environment was shut down, and new KSeF 2.0 test environment was launched in October 2025. This critical phase gives businesses and software providers a short window to test their compliance and integration with the updated platform ahead of the mandatory deadline.

VAT Rules Clarified for Poland's Deposit Refund System

Ahead of the new Deposit Refund System launch on October 1, 2025, the Ministry of Finance clarified key VAT rules for the system. It was confirmed that the deposit amount itself is VAT neutral during current transactions and is not part of the taxable base for the beverage. VAT will only apply to the deposit if the packaging is not returned by the consumer, at which point the deposit becomes part of the sales price and is taxed at the same rate as the product.

VAT Exemption Threshold Increased

In a move aimed at supporting small businesses, the Polish Parliament approved an increase to the subjective VAT exemption threshold. Effective from October 1, 2025, the annual turnover limit for VAT exemption has been raised from PLN 200,000 to PLN 240,000. This change allows a broader group of small entrepreneurs to remain outside the scope of VAT obligations, reducing their administrative burden.



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Kenya: The VAT regime in Kenya

This feature aims to demystify Kenya's Value Added Tax (VAT) regime by highlighting key compliance obligations, digital reforms and practical insights. With the rollout of the Electronic Tax Invoice Management System (eTIMS) and evolving tax legislation, understanding VAT is essential for sustainable business operations and compliance.

Overview of the VAT regime in Kenya

Value Added Tax (VAT) is a consumption-based levy charged on the value added at each stage of production and distribution of goods and services. It is governed by the Value Added Tax Act, 2013 (as amended) and administered by the Kenya Revenue Authority (KRA). VAT remains a key pillar in Kenya's fiscal framework, supporting infrastructure, social programs, and economic growth.

VAT registration

Section 34(1) of VAT Act, 2013 requires that any person in the course of business making or expecting to make taxable supplies worth KSh.5 million or more in a 12-month period is required to register for VAT. Voluntary registration is allowed for smaller entities that meet compliance requirements. Registration is done online via the KRA iTax portal, after which a VAT Registration Certificate is issued, authorizing the taxpayer to charge VAT.

VAT rates in Kenya

VAT rates are applied at different rates depending on the nature of goods or services that a person deals in. The general rate of VAT is 16% on taxable goods or services. However, some goods and services are either exempt or zero rated. The list of goods and services that are either zero rated or exempted are contained in both First and Second Schedule of the VAT Act, 2013. Some of the examples of those goods or services are as shown below:

VAT Rate	Nature	Examples
16% standard rate	Applies to most taxable goods and services	Electronics, professional services, clothing.
Zero-rated [0%]	Taxed at 0%; input VAT claimable	Exports, agricultural inputs.
Exempt	No VAT; input VAT not claimable	Education, healthcare, residential rent.

VAT returns and filing

A VAT return is a declaration detailing VAT charged on sales (output VAT) and VAT paid on purchases (input VAT) for a tax period. Tax payable is the difference between Output VAT and Input VAT. Where input VAT exceeds output VAT, the balance may be carried forward or refunded subject to KRA approval.

Returns must be filed monthly via iTax by the 20th day of the following month, regardless of activity (nil returns apply).

Steps for filing VAT returns

1. Log in to iTax with your KRA PIN
2. Select 'File Return' under VAT
3. Complete the VAT3 Excel template
4. Upload, validate, and submit
5. Generate payment slip (PRN) and pay via approved channels

Penalties and compliance risks

Non-compliance attracts administrative penalties under the Tax Procedures Act, 2015. Late filing or payment incurs a fine of KSh 10,000 or 5% of the tax due, whichever is higher, plus 1% interest per month on outstanding amounts. Inaccurate returns or non-eTIMS invoicing may lead to audits or disallowed claims.

Merits of VAT compliance

- Minimizes audit exposure and penalties
- Builds business credibility and transparency
- Enables participation in tenders and access to refunds
- Enhances operational efficiency through automation

Recent changes on the VAT laws

There have been various changes in the VAT laws as envisaged in both the Tax Laws Amendment Act of 2024 and the Finance Act of 2025.

1. Significant Economic Presence Tax (SEPT)

The Tax Laws Amendment Act of 2024 introduced SEPT which brought to an end the Digital Service Tax. This tax requires that all revenue derived or accrued in Kenya by non-resident persons from provision of services through a business carried over the internet or electronic network including through a digital marketplace. The applicable rate of SEPT is 30% of the deemed income (10% of the gross turnover).

2. New VAT exemptions

The Finance Act of 2025 introduced VAT exemptions on certain products in order to support public health, agriculture, and eco-friendly transport:

- Mosquito Repellent: Now VAT-free, making it more affordable.
- Inputs for Mosquito Repellent: Raw materials, machinery, and services for manufacturers are exempt with approval.
- Electric Bicycles: Exempt to promote green transport.
- Animal Feed Inputs: Locally purchased or imported raw materials are VAT-free.
- Electric Buses (Tariff 87.02): Shifted from zero-rated to exempt, aligning with tax policy.

3. VAT charge on previously exempted items

The Finance Act of 2025 imposes VAT on the following goods previously exempted:

- Geothermal, Oil, Mining Goods: Taxable, but exemptions continue until June 30, 2026, for prior approvals.
- Woven Fabrics (HS Code 5407, 6309): Textile manufacturing inputs now face VAT.
- Discs/Smartcards (Tariff 85.23): Healthcare-related items are now taxable.
- Affordable Housing Goods: Construction materials now attract VAT.
- Specialized Hospital Inputs: Medical equipment inputs are taxable.
- Passenger Motor Vehicle Inputs: Manufacturing inputs now face VAT.
- Solar/Wind Energy Equipment: Renewable energy inputs are taxable.

4. Compliance and refund processes

The Finance Act of 2025 has also brought several changes in regard to VAT compliance and tax refund application guidelines. The following are some of the changes that have been made by the Act;

- Bad Debt Refunds: Claimable after 2 years, down from 3 years, speeding up cash flow.
- Tax Invoices for All Supplies: Required for all supplies, including exempt ones.
- No VAT Offset: Excess input VAT can no longer offset other liabilities.
- Refund Claim Period: Reduced from 24 months to 12 months.

Take aways on ETIMS

Kenya Revenue Authority has always endeavored to enhance tax compliance for ages. The recent compliance measure that was put in place to curb tax leakages and non-compliance is the introduction of Electronic Tax Invoicing Management System (eTIMS) which enhances VAT compliance through digital invoicing. It enables real-time generation, transmission, and validation of invoices directly to KRA. All VAT-registered taxpayers are required to onboard to eTIMS and issue compliant tax invoices.

Key features and benefits:

- Integration with accounting systems
- Automatic data transmission and validation
- Reduced errors and improved transparency
- Faster VAT reconciliation and refunds

Summary

Kenya's VAT regime continues to evolve with technological and legislative reforms. eTIMS represents a milestone in promoting transparency, accountability, and efficiency. Taxpayers are encouraged to stay informed, meet filing deadlines, and uphold voluntary compliance as part of responsible business conduct.



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Denmark: Denmark rolls out extended producer responsibility for packaging

As of 1 October 2025, Denmark introduces – as the last member of the EU - the Extended Producer Responsibility (EPR) system for packaging. This is a major shift that will affect almost all companies selling, importing, or producing goods with packaging that ends up as waste in Denmark.

In short terms, all companies are financially and practically responsible for the collection and recycling of the packaging they place on the Danish market.

Who's affected?

- Any company that first places packaging on the Danish market – including importers, producers and private label owners.

Foreign suppliers selling goods to Danish customers must also register regarding the transportation packaging

Key obligations include:

- Registration with Dansk Producentansvar (the national packaging register)
- Reporting the amount and type of packaging placed on the Danish market
- Paying fees based on the type of material and its recyclability (graded red, yellow, or green)

Companies exceeding 8 tonnes of packaging annually must classify their packaging by recyclability:

- Green – easily recyclable (up to 80% fee reduction)
- Yellow – standard recyclability (standard fee)
- Red – difficult or impossible to recycle (approx. 35% surcharge)

The packaging fee depends on the material of the packaging, such as plastic, cardboard, glass or paper etc, and in relation to its recyclability.

The Extended Producer Responsibility aims to encourage sustainable packaging design and align Denmark with the EU's broader environmental goals.

If you as a foreign supplier sells goods to customers in Denmark or if you have a subsidiary in Denmark, we recommend that you:

- Make an assessment of the potential liability to register in Denmark regarding the packaging
- Assess if you are the first to place packaging on the Danish market, including transportation packaging and the purchase of goods packaged under private label
- Assess your packaging types and volumes placed in Denmark including private label

If you have clients or operations in Denmark, now is the time to get ready.



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Italy: Italian legislation and case law updates

Entities that place securities in the market do not qualify as withholding agents in Italy

The Italian Supreme Court, with the decision no. 22419 of 4 August 2025, stated that, with respect to withholding taxes on interest and capital income referred to in Art. 26(3) of the Presidential Decree 600/73, the notion of “paying bank” in charge (in the case at stake) of placing shares of Luxembourg funds on the market does not necessarily coincide with that of resident entity that “intervenes” in the collection of interest.

According to the Italian Supreme Court, for the purposes of applying the withholding tax pursuant to Art. 26(3) of the Presidential Decree 600/73, a person needs actually to intervene in the interest collection, and such requirement is not met by mere marketing activities.

Partners of tax transparent trusts are treaty entitled if taxed on the income

According to the Italian Tax Authorities’ answer to ruling no. 203 of 6 August 2025:

- dividends received by a Japanese company through one or more transparent trusts may be eligible for tax treaty benefits, insofar as the dividends are attributed, for tax purposes, to the partners of the transparent entity in the partners’ country of residence; the trusts (which are not liable to tax), on the other hand, are not treaty entitled
- a cumulative certificate of residence issued by the foreign State is allowed, provided that the list of tax numbers of each beneficiary and the specification of the reference year of residence are attached to it (in this case at stake, all beneficiaries were Japanese residents)
- the request for reimbursement of the higher tax paid in Italy compared to the rate provided for by the relevant tax treaty cannot, however, be cumulative, but must on the contrary be submitted by each of the partners concerned.

Italy-Russia tax treaty still applies despite the suspension decree issued in Russia

The Italian Tax Authorities, with their ruling no. 206 of 7 August 2025, clarified that dividends paid by Italian companies to companies that are tax resident in the Russian Federation must be subject to the withholding tax provided for by the tax treaty.

The Italy-Russia treaty, in fact, must be applied despite the fact that the President of the Russian Federation has issued a decree of suspension. Indeed, pursuant to international tax law, the procedure to suspend the tax treaty has not been correctly carried out.

Even individuals, resident abroad may benefit from the “risparmio amministrato”

Ruling no. 208 of 14 clarifies that an individual transferring his/her tax residence outside of Italy may still benefit from the Italian “regime del risparmio amministrato”, pursuant to which an Italian appointed intermediary is in charge of withholding the taxation on interest and capital gain on the assets that the individual puts under the account.

Italian tax residence of foreign entities can only be claimed under the abuse of law doctrine

With its decision no. 23842 of 25 August 2025, the Italian Supreme Court has confirmed that the Italian tax residence of foreign based entities cannot be challenged where the foreign entity does not qualify as wholly artificial arrangement and such entity carries out a real economic activity abroad.

In the case brought to the attention of the Italian Supreme Court, the foreign company had offices in Madeira, where such company was registered, as well as non-Italian tugboats and employees; the meetings of the board of directors and the shareholders’ meetings had always been held abroad. In addition, emphasis is placed on the fact that the activity, being geographically carried out in places (the Atlantic Ocean) adjacent to Madeira, was presumed to have actually been carried out on site.

Therefore, the Italian Supreme Court rejected the Italian Tax Authorities challenge as they claimed that such company was to be considered as tax resident in Italy.

Simultaneous contributions of non-controlling interests are not tax neutral

In its ruling no. 217 of 19 August 2025, the Italian Tax Authorities ruled on the application of Art. 178 and 179 of the TUIR to a complex group reorganization operation, which provides for three separate contributions of participations.

In the case analysed by the Italian Tax Authorities, two contributions are simultaneous, as in particular:

- a French company (Alfa) transfers to another French company (Alfa 2) its interest (equal to 53.96% of the capital) in an Italian company (Alfa Italia)
- another Italian company (Beta, another transferor) transfers its stake in Alfa Italia (equal to 26.05% of its capital) to Alfa 2

Once the simultaneous contributions have been completed, Alfa Italia would be wholly owned by Alfa 2.

According to the Italian Tax Authorities, Beta holds a minority stake in Alfa Italia, which, considered individually, would not lead Beta to integrate a controlling stake in Alfa 2, given the shareholding in Alfa Italia already held by the French company (19.99%). Furthermore, the contribution by Beta does not derive from the need to increase the percentage of control in Alfa Italia held by Alfa 2 by virtue of a legal or statutory obligation.

Therefore, the Italian Tax Authorities denied the application of the tax neutrality regime provided for by Arts. 178 and 179 of the TUIR to the simultaneous contribution.

The inbound workers regime may be applied through a refund request

With its decision no. 23526 of 19 August 2025 the Italian Supreme Court allowed the refund of the higher taxes paid by an individual who met the requirements to access the in-bound workers regime provide for by Art. 16 of Legislative Decree 147/2015, even in the absence of a specific request to the employer (in its quality of withholding agent) and absent the indication in the tax return of the reduced taxable amount.

The Court confirms that, in the presence of the legal requirements, the worker can benefit from the regime either:

- by submitting a specific request to the employer in order to obtain the application of the reduced withholding on his/her salary
- directly in the tax return, or
- by means of a refund application pursuant to Art. 38 of Presidential Decree 602/73 within the relevant statute of limitation

Long-term incentive plans are taxable in Italy when the residents cash them out

The Italian Tax Authorities, in response to ruling no. 199 of 4 August 2025, examines the tax treatment of long-term incentive plans, paid to individuals tax resident in Italy but relating to work activities carried out abroad.

According to the Administration, first of all, the bonuses paid to employees according to long-term incentive plans qualify as employment income (see Art. 51 of the TUIR) and, as such, are subject to taxation on a cash-basis.

For tax treaty purposes, Italy, as the State of residence, may tax the remuneration referred to the bonuses received during the periods of residence in Italy of the relevant employee; however, with respect to income derived from work activities carried out abroad, the Italian tax resident may benefit from the tax credit regime provided for by Art. 165 of the TUIR.

The VAT plafond cannot be transferred if not mentioned in the relevant contracts

According to the Italian Tax Authority (ruling no. 200 of 4 August 2025), the VAT plafond cannot be transferred to the transferee, if the transfer of such plafond is not mentioned in the contract for the sale of the going concern.

Furthermore, if the transferee is resident abroad, he must be identified for VAT purposes in Italy directly or through a tax representative.

The fact examined in the above-mentioned ruling concerns a corporate reorganization involving three persons: an Italian company that transfers a going concern to a legal entity set-up under English law which, in its turn, partially transfers it to a company established in Italy. Since the conditions for the transfer of the VAT plafond accrued by the Italian company to the English company were not met, the latter, in turn, cannot transfer this asset to the newly established Italian company.

TP adjustments are relevant for VAT purposes

According to the Italian Tax Authorities (ruling no. 214 of 19 August 2025), transfer pricing adjustments (due to the application of the TNMM method) are relevant for VAT purposes, as the parties in the contract agreed on a provisional price to be followed by periodic adjustments.

Such adjustments will trigger the issuance of VAT variation notes.

Transactions between PEs and head offices are VAT relevant if one joins a VAT group

With its ruling no. 216 of 19 August 2025, the Italian Tax Authorities clarified that when the head office belongs to a VAT Group in an EU Member State then the transactions occurring between such company and its permanent establishment are considered to be relevant for VAT purposes.

In the fact pattern analysed by the Italian Tax Authorities, since the head office joined a VAT Group in an EU Member State, its two permanent establishments must be considered as separate taxable persons for VAT purposes: as a consequence, the supplies of services provided by the English branch to the Italian branch (IT and backoffice services) will be relevant in Italy for VAT purposes pursuant to Art. 7-ter(1) a) of Presidential Decree 633/72.

Excess VAT charged on non-VAT persons should not be paid to the treasury

The European Court of Justice, in its decision relating to the case C-794/23 dated of 1 August 2025, ruled that the VAT in excess charged to a non-VAT person is not to be collected and paid by the supplier, since there is no risk of loss of tax revenue.



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