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## Collection of VAT in The Digital Economy

### 1. OECD Recommendations

Historically, the place of taxation of Value Added Taxes (VAT), Goods and Services Tax (GST) and similar types of consumption taxes (collectively referred to as "VAT") have traditionally been based on the location of the supplier of the goods and/or services, as it was generally expected that the customer would be located in the same country as the supplier's location.

Given the advent of the digital economy, customers are able to shop online for digital goods, services and intangibles without the need for suppliers to be located physically in the customer's country. Accordingly, in these situations where the supplier is in a country different from the end customer, there may not be any VAT collected in the country where the digital goods, services and intangibles are being consumed.

To address this issue, some government authorities have implemented or are intending to implement the recommendations in OECD/G20 BEPS Action 1 2015 Report on *Addressing the Tax Challenges of the Digital Economy*, which in turn recommends applying the principles of the *OECD International VAT/GST Guidelines*.

The OECD's recommendation is to allocate the VAT taxing rights to the country in which the customer has its usual residence, such that VAT will be imposed in the country of consumption.

To encourage compliance by non-resident suppliers and to facilitate VAT collection, the OECD recommended a simplified VAT registration and compliance regime for the non-resident supplier of digital supplies made to end consumers (ie "B2C supplies").

For digital supplies made by non-residents to businesses (ie "B2B supplies"), the OECD recommended that the business customer account for the VAT compliance through the "reverse charge mechanism" wherein the business customer will declare the VAT on behalf of the non-resident supplier and at the same time claim a credit for the VAT. The non-resident supplier would therefore not be required to register and account for VAT in the customer's jurisdiction for B2B supplies.

The OECD also highlights that the simplified VAT registration and collection of VAT from the non-resident supplier should relate to indirect tax only, and be independent from the determination of whether the non-resident supplier should be subject direct or income taxes.

### 2. Key Features Of Simplified Registration and Compliance Regime for B2C Supplies By Non-Resident Suppliers As Recommended By OECD

The main features recommended by the OECD for a simplified VAT registration and compliance regime for B2C supplies by non-residents include:

- Simple registration procedure, e.g. enabling registration via electronic means and simple VAT number.

- Eliminate requirement for suppliers to issue tax invoices.
- Limit the scope of a simplified registration and compliance regime to the collection of VAT on B2C supplies of the non-resident supplier only. The non-resident supplier would not be able to recover any VAT input tax on their purchases.
- Simplified return procedure, e.g. basic information on sales and VAT output tax only.
- Simplify record keeping requirements, for example, by allowing use of electronic record keeping systems and limiting the data that need to be recorded.

### 3. VAT Features Implemented By Asia Pacific Countries For Digital Supplies Made By Non-Resident Suppliers

To date, countries in APAC which have implemented the OECD recommendation to impose VAT on digital supplies made by non-resident suppliers based on location of the customers

| Customer's Country of Residence                                                                                                                                                                                 | Korea       | Japan                         | New Zealand                       | Australia                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-------------------------------|-----------------------------------|-----------------------------------|
| Date of effect                                                                                                                                                                                                  | 1 July 2015 | 1 October 2015                | 1 October 2016                    | 1 July 2017                       |
| Does the VAT registration for provision of remote services by the non-resident supplier automatically trigger any income tax obligations?                                                                       | No          | No                            | No                                | No                                |
| Are there simplified registration requirements?                                                                                                                                                                 | Yes         | No                            | Yes                               | Yes                               |
| Is non-resident supplier required to charge VAT made to resident consumers (B2C supplies)?                                                                                                                      | Yes         | Yes                           | Yes                               | Yes                               |
| Is non-resident supplier required to charge VAT made to resident businesses (B2B supplies)?                                                                                                                     | No          | No                            | No                                | No                                |
| Can the non-resident lodge simplified returns?                                                                                                                                                                  | Yes         | No                            | Yes                               | Yes                               |
| Where the digital supplies are provided through an electronic platform operator (eg iTunes), is the electronic platform operator required to register and pay VAT in place of underlying non-resident supplier? | Yes         | No                            | Yes                               | Yes                               |
| Can the non-resident supplier claim any input tax credits?                                                                                                                                                      | No          | Yes                           | No, if lodging simplified returns | No, if lodging simplified returns |
| Is the non-resident required to issue tax invoices?                                                                                                                                                             | No          | Yes, upon request by customer | No                                | No                                |

include Korea, Japan, New Zealand and Australia. A summary of the VAT features in respect of the digital supplies made by non-resident suppliers to customers in New Zealand, Australia, Japan and Korea are listed below.