

Article

NEW VAT LIABILITY ON NON-RESIDENTS ELECTRONIC SERVICE PROVIDERS



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On 28 November 2017, Article 9 the Turkish Value Added Tax (VAT) Law on the "Party Liable for Tax" was amended. New amendment stipulates that VAT arising from services provided electronically by those without a residence, workplace, headquarters, or business centre in Turkey to individuals in Turkey who are not VAT taxpayers must be declared and paid by the non-resident e-service providers.

A draft communiqué (Draft Communiqué) which regulates the implementation of new legislation was also announced by Turkish Tax Authorities. The main objective of the new legislation is to ensure the tax compliance of the foreign suppliers in terms of their VAT obligations and prevent the Turkey's VAT losses due to outbound payments of electronic services.

The scope of the new legislation covers only VAT liability arising from provision of e-services through the internet or an electronic network in B2C transactions and it is applicable as of 1 January 2018 without a revenue threshold.

In terms of inbound sale of e-services or physical goods sales in B2B transactions, existing VAT withholding mechanism is still applicable. Accordingly, in such transactions Turkish business consumers are still obliged to withhold, declare and remit the VAT to the Turkish Tax Authority on behalf of foreign supplier.

Who is within the scope of new legislation?

Under the new VAT legislation, foreign e-service providers falling within the scope of VAT Law are obliged to declare the VAT arising under "Special VAT Registration for Electronic Service Providers".

In addition, the Draft Communiqué states that when the electronic services are provided via a telecommunication web, interface or portal, if the name of e-service provider is not indicated in the agreement among the parties and the name of e-service provider is not stated in the invoices or similar documents, VAT in relation to e-services must be declared and remitted by the parties engaging telecommunication web, interface, or portal business.

How and when to declare the VAT Return?

For cross-border e-services to be provided to individuals in Turkey, VAT Return No.3 will be electronically submitted via the internet tax office.

In this regard, before submitting the VAT return for the first-time foreign electronic service providers must fill out the form available on the Revenue Administration's website.

In the Draft Communiqué, it is stated that filing deadline is by the 24th day of the month following the taxation period (which is monthly according to the Draft Communiqué). There is no requirement to submit a tax return for the periods where there is no service supplied electronically.

Our Observations

An intermediary VAT declaration mechanism, such as an interface declares actual merchants' VAT returns to the Tax Authorities, has not been recognized in the Draft Communiqué.

Also, we believe that the monthly VAT declaration obligation without a sales revenue threshold would likely result in undesirable administrative burdens for both foreign taxpayers and Turkish Tax Authorities.

In conclusion, we are informed that a revision of the Draft Communiqué by Turkish Tax Authorities is expected in the upcoming weeks. Therefore, it is highly advisable that foreign e-service



providers follow the developments and take the necessary actions to not to be subjected tax penalties.

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