

3 June 2020

Indirect Tax Alert

News from EY Americas Tax

Chile: VAT on digital services enters into force

EY Tax News Update: Global Edition

EY's Tax News Update: Global Edition is a free, personalized email subscription service that allows you to receive EY Global Tax Alerts, newsletters, events, and thought leadership published across all areas of tax. Access information about the tool and registration [here](#).

EY Americas Tax

EY Americas Tax brings together the experience and perspectives of over 10,000 tax professionals across the region to help clients address administrative, legislative and regulatory opportunities and challenges in the 33 countries that comprise the Americas region of the global EY organization. Access more information [here](#).

On 1 June 2020, the new 19% Value-Added Tax (VAT) on digital services rendered by foreign digital service providers went into effect in Chile. Foreign digital service providers that provide services to individuals in Chile must register for VAT purposes and report the relevant VAT.

Background

The 19% VAT on digital services rendered in Chile by foreign service providers was enacted as part of the tax reform on 24 February 2020. The legislation also establishes a simplified VAT regime for foreign service providers to report and pay the VAT collected to the tax authorities (IRS). This regime applies to foreign service providers that render digital services to individuals located in Chile that are not VAT taxpayers themselves.

The legislation requires foreign digital service providers to register for VAT purposes with the IRS. The legislation does not provide a threshold under which foreign service providers would not have to register for VAT purposes.

The following digital services provided by foreign service providers will be subject to the VAT:

- ▶ Intermediation for services provided in Chile, whatever their nature, or intermediation of sales made in Chile or abroad, provided the sales made abroad trigger an import into Chile
- ▶ The supply or delivery of digital entertainment content, such as videos, music, games or other analogous content, by means of downloading, streaming or other technology, including for these purposes, texts, magazines, newspapers and books
- ▶ The provision of software, storage, computing platforms or infrastructure
- ▶ Advertising, regardless of the mechanism through which it is delivered or created

The IRS's draft interpretation also establishes that the provision of software includes cloud computing, such as software as a service (SaaS), infrastructure as a service (IaaS) and platform as a service (PaaS). If services are rendered or items are sold through a marketplace or platform that collects the payment on behalf of the foreign service provider/seller, the IRS's draft interpretation leaves the VAT withholding on the payments for the underlying service/goods to the marketplace on behalf of the service provider/seller.

The legislation includes a number of presumptions to cover situations involving services used in Chile and subject to VAT (e.g., the use of a credit card registered in Chile, a Chilean IP address or billing address, and the country code of the phone utilized for the purchase).

Digital services provided to entities

Although the legislation only covers foreign service providers rendering services to individuals, the IRS's draft interpretation extends the availability of the simplified VAT regime to foreign service providers that render digital services to companies that are non-VAT taxpayers. Under the IRS's draft interpretation, foreign digital service providers that render digital services to non-VAT taxpayers may register for the simplified VAT regime.

If foreign digital service providers render services to entities registered as local VAT taxpayers, they should apply the 19% VAT under an alternative collection mechanism for foreign entities that are not registered under the IRS's simplified VAT regime. The alternative collection mechanism involves having the local beneficiary issue the purchase invoice.

The legislation also includes another alternative collection mechanism in which the IRS Director may assign the VAT withholding obligation to the credit card company in Chile paying amounts abroad. The IRS's draft interpretation establishes that this mechanism should apply as a last resource.

The following digital services are not subject to the VAT: (i) business-to-business transactions subject to withholding tax; and (ii) certain commissions charged by a non-Chilean resident platform to foreign service/sales providers.

Reporting and registration

On 20 May 2020, the IRS issued Resolution No. 55, establishing the procedure for foreign entities to register for VAT purposes. To register for the simplified VAT regime, foreign service providers must use the online "Digital Services Portal" (<http://www.sii.cl/vat/index.html>) (available in English) created by the IRS.

Foreign service providers will be given a user number and password when filing the "Registry Form." They will have to choose the period (every month or every three months) in which they will pay the VAT and the currency in which the VAT will be reported and paid.

Additionally, they will have to file Form No. 129 to declare VAT. Failure to comply with the VAT obligations could result in interest of 1.5% for each month the VAT is not reported and paid and fines of up to 60% of the tax owed.

The Government is expected to issue further regulations on this new regime.

For additional information with respect to this Alert, please contact the following:

EY Chile, Santiago

- ▶ Felipe Espina felipe.espina@cl.ey.com
- ▶ Juan Pablo Navarrete juan.navarrete@cl.ey.com
- ▶ Victor Fenner victor.fenner@cl.ey.com
- ▶ Maria Javiera maria.javiera.contreras@cl.ey.com

Ernst & Young LLP (United States), Latin American Business Center, New York

- ▶ Pablo Wejcman pablo.wejcman@ey.com
- ▶ Mariela Gonzalez mariela.gonzalez@ey.com

Ernst & Young LLP (United Kingdom), Latin American Business Center, London

- ▶ Ignacio Perez ignacio.perez@uk.ey.com
- ▶ Lourdes Libreros lourdes.libreros@uk.ey.com

Ernst & Young Abogados, Latin American Business Center, Madrid

- ▶ Jaime Vargas jaime.vargas.c@es.ey.com

Ernst & Young Tax Co., Latin America Business Center, Japan & Asia Pacific

- ▶ Raul Moreno, *Tokyo* raul.moreno@jp.ey.com
- ▶ Luis Coronado, *Singapore* luis.coronado@sg.ey.com

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

Indirect Tax

© 2020 EYGM Limited.
All Rights Reserved.

EYG no. 003749-20GbI

1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com