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.
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