

Italy's Digital Services Tax enters into force as of 1 January 2020

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The Italian Budget Law 2020,¹ provides for the entry into force - as of 1 January 2020 - of a "new" Digital Services Tax (DST) replacing the "Web Tax" introduced by the Italian Budget Law 2019 (Law no.145/2018). No implementing Decree is required for the entry into force of the tax.

Taxable Persons

The DST shall be due by subjects carrying out business activities that, individually or at group level, jointly meet, in the previous fiscal year, the following thresholds:

- ▶ Total amount of revenues (wherever arising) equal to or exceeding €750,000,000
- ▶ An amount of revenues from digital services (arising in Italy) equal to or exceeding €5,500,000

Taxable base

The DST applies only to revenues derived from the following services:

- a. Provision of advertising on a digital interface targeted to users of the same interface
- b. Provision of a digital multilateral interface aimed at allowing users to interact (also in order to facilitate the direct exchange of good and services)
- c. Transmission of data collected from users and generated by the use of a digital interface

However, revenues that, although derived from the mentioned digital services, are considered “intercompany” (i.e., are rendered to subjects considered to be controlled, controlling or controlled by the same controlling entity) are excluded from the taxable base.

Moreover, according to the new legislation, the following services are not considered as digital services for the purposes of the DST:

- ▶ Direct supply of goods and services, as part of a digital intermediation service
- ▶ Supply of goods or services ordered through the website of the supplier, if the supplier does not perform intermediary functions
- ▶ Provision of a digital interface whose exclusive or principal purpose is that of supplying the users of the interface, by the person who manages it, the interface of: digital content, communication services or payment services
- ▶ Provision of a digital interface used to manage specific trading platforms, interbank
- ▶ Transfer of data by the subjects indicated in the point above
- ▶ The performance of the activity of the organization and management of telematic platforms for the exchange of electricity, gas, environment certificates and fuels, as well as the transmission of the related data and any other related activity

Taxable revenues are assumed at gross of costs and net of value-added tax and other indirect taxes. The fees related to the provision of a digital multilateral interface that facilitates the sale of specific products subject to excise duties, having a direct and inseparable connection with the volume or value of such sales, are not considered.

Revenue is considered as taxable when invoiced and the tax is due if the user of a taxable service is located in Italy.

Tax rate and compliance obligations

The tax rate is equal to 3% and applies on the revenues from digital service generated on a calendar year basis, starting from 2020.

Taxable persons are required to pay the DST by 16 February of the calendar year subsequent to the one of reference and to file by 31 March of the same year, an annual return stating the amount of taxable revenues generated in the previous FY (i.e. for the year 2020, the payment is due by 16 February 2021 and the tax return is to be filed by 31 March 2021).

For groups of companies, a single group company is named for the fulfillment of the obligations derived from the DST for the whole group.

Nonresident subjects without a permanent establishment in Italy, subjects established in a State other than a European Union Member State or of the European Economic Area with which Italy has not concluded a mutual assistance agreement for the recovery of tax claims, shall appoint a Tax Representative for the fulfillment of the obligations and payment of the DST.

Endnote

1. Law no.160/2019, published on the *Official Gazette* no. 304 of 30 December 2019.

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