# Vietnam implements taxation of digital transactions

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## Executive summary

Vietnam's National Assembly approved, in June 2019, a new Law on Tax Administration 38/2019/QH14 (the Law) which became effective on 1 July 2020. The Law introduces a new mechanism to collect tax from cross-border e-commerce traders and digital platform-based service providers.

This is not a new tax, but rather a new mechanism to collect digital taxes by the Government.

Specifically, foreign e-commerce traders and digital platform-based service providers without a permanent establishment (PE) in Vietnam are now required to register with the Vietnamese tax authority to enable declaration and payment of tax.

The Government is drafting detailed guidance for implementation of the Law, including setting up an online system for tax registration and declaration.

Deemed tax rates (both Corporate Income Tax (CIT) and Value-Added Tax (VAT) will be applied. The Government is considering what deemed tax rates would be appropriate.

These various changes may create challenges for taxpayers.

This Alert provides an overview of these topics.

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## Detailed discussion

### Tax declaration and payment obligations for foreign e-commerce suppliers and digital service providers without a PE in Vietnam

Under the Law, foreign entities or individuals performing e-commerce activities or doing business via digital platforms without a PE in Vietnam must directly register to file tax in Vietnam or authorize other parties to do so on their behalf. This is a new requirement as the Government sees the current withholding mechanism fails to capture the increasingly popular cross-border B2C (business to consumer) transactions.

### Set up an online system for tax registration and declaration

To implement direct filling, the Government is setting up an on-line registration and declaration system to allow easy access for foreign suppliers. Commercial banks through which payments are made will not be held responsible for withholding taxes on e-commerce or digital services in the first instance. The suppliers must declare tax on their own. However, if a foreign supplier fails to self-declare and pay taxes on their income earned from Vietnam, the tax authority will have the right to enforce tax collection via commercial banks.

### Methods to declare tax for B2B (business to business), B2C and third-party marketplace service providers under the draft Circular

- B2B service providers can choose to declare and pay tax directly. Alternatively, they can still use the current withholding tax mechanism, i.e., Vietnamese organization will withhold, declare and pay taxes on behalf of the foreign supplier.
- There will be a significant change for B2C service providers as they will be required to register and declare directly or authorize a party in Vietnam to do so on their behalf.
- Third-party market providers will not be required to declare on behalf of individual suppliers doing business on their platforms.
- Taxes (VAT & CIT) will be imposed on the basis of deemed tax rates multiplied by revenue sourced from Vietnam. The tax rate is yet to be announced. How to determine revenue sourced in Vietnam is also an open issue.
- Although the Law takes effect from 1 July 2020, the implementation of digital tax collection may be delayed as the online system is not yet ready.

### Challenges for businesses

Businesses may face many challenges, including being able to:

- Determine whether the activities they carry on fall within the scope of these taxes
- In the case of complex business arrangements it may be difficult to determine how to allocate different types of revenues for the purpose of these taxes
- Determine the amount of tax to be declared and paid
- Determine the paying entities and the admin process to be compliant (who should pay and how to be registered before the tax authorities)
- Compile the documents to substantiate the amount and nature of the declared revenue

### Actions for businesses

Businesses should work with their local tax professionals to:

- Assess the scope of the taxes applicable to the respective entity
- Model the financial impact of the taxes by analyzing accounts, assessing the implications/treatment, and identifying income derived from taxable services
- Register and periodically fulfill the tax filing requirements
- Respond to the tax authorities' queries

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