

## Legal News 169

### Tax

#### VAT on Digital Services

At 4th of August, 2020 through Second Supplement of the R.O No. 260 it was published the Regulation for the Application of the Tax Simplicity and Progressivity Law, which determines tax dispositions for VAT on digital services rendered by non-Ecuadorian residents.

This law came into force the 16<sup>th</sup> of September 2020.

The VAT **taxes the importation of digital services**, defined bylaw as those services contracted through internet, or any other adaptation or application to technologies used in internet or networks that offers similar services, which by nature are automatized and require minimum human intervention, unless it refers to download, visualization or usage devices, such as:

- Provision of web sites, web pages, as well as, any services destined to facilitate companies' online presence.
- Provision of digital products in general, included software, updates and changes, downloads of digital books, downloads of designs, reports, financial analysis, and market data.
- Preventive or corrective remote maintenance of devices or programs.
- Remote system administration and on-line technical support.
- Web services, including on-line or remote access to data storage, memory services and online advertising.
- Software services including those rendered online through cloud downloads.
- Streaming services and remote downloads of; images, music, videos, games, azar games, information, films.
- Access to data basis, and automatic services generated the users' information input.
- Online clubs, dating sites.
- Blogs, magazines, online newspapers.
- Online services.
- Online training, online; studies, tests and exercises automatically corrected.



- Online auction services, job (offer/demand) services, services offered through an online market place and others such as; transport, accommodation, products delivery.
- Electronic, online data manipulation and calculations.

The Internal Revenue Service (IRS) will publish every three months the digital services will generate VAT through its website.

#### **Withholding agents and withholding rates.**

- Ecuadorian resident entities and permanent establishments in Ecuador will act as VAT withholding agents for the importation of digital services, when digital service suppliers do not have a VAT registration in Ecuador and payment process does not include an intermediary. Agents must issue a purchase settlement detailing service price and VAT, and later withhold 100% of such VAT.
- If digital service suppliers do not have a VAT registration in Ecuador and the payment is made through an intermediary, it would act as a withholding VAT agent. Referring to credit or debit card issuing companies or others designed by the IRS.
- Payments made through credit or debit cards for the importation of digital services, when they refer to product delivery for which a commission is charged will apply 10%WHT of the total payment amount if it is not possible to differentiate product price and commission. To the contrary when the differentiation is possible VAT will be applicable on commission amount.

#### **VAT collection Agent (Principal)**

- Non-Ecuadorian resident suppliers of digital services registered in Ecuador for VAT purposes, in accordance to the regulations issued by controlling entity, will collect and present monthly VAT fillings in accordance to legal dispositions.

VAT registration of non-Ecuadorian resident suppliers of digital services will not trigger a permanent establishment in Ecuador.