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Tax

Withholding VAT on digital services

At 22th of August 2020 through Legal Resolution No. 1114 R.O No. NAC-DGERCGC20-00000053, it was published the Regulations for withholding VAT on generated on importation of digital services, when suppliers do not act as VAT collection agents, detailed as follows:

The **digital service suppliers list** will be published through the Internal Revenue Service web portal (www.sri.gob.ec) and updated up to the 15th of; January, April, July and October.

The suppliers list will differentiate non-resident suppliers registered in Ecuador and those domiciled in the country, from those whose credit/debit card will act as intermediary to withhold VAT.

Every update to the list will come into force since the first next-month working day, in the meantime, the withholding agent should act accordingly to the previous list.

A provisional supplier list will be populated on 10th of September with the list of suppliers registered in Ecuador for VAT. This list will come into force on 16th of September until 15th of January 2021.

Withholding VAT on the Importation of Digital Services.

When digital service supplier is not registered in Ecuador, the withholding VAT will be applied by:

Payment intermediaries, credit and debit card issuing companies that will withhold VAT in the importation of digital services, in accordance to the supplier list

Importer of digital services pays without intermediation, it will perform a 100% withholding of VAT generated by the importation through reverse charge-mechanism, even though the supplier is not in the supplier list.

Tax residents and permanent establishments in Ecuador must issue the correspondent **purchase settlement**, when digital service supplier is not registered in the Internal Revenue Service and the payment is made through an intermediary, the bank statement generated by the credit/debit card issuing company will be used as withholding receipt.



The **withholding tax base** will correspond to the total amount paid for a tax resident or permanent establishment in Ecuador to a non-Ecuadorian resident digital service supplier.

Payments for digital services correspondent to delivery of goods and services that origins a commission charge from the supplier will apply VAT on the commission charge not on the good or service price. If the supplier is not registered in the Internal Revenue Service, and the credit/debit card payment does not differ goods or service price from commission charge, the withholding VAT would be applicable on a basis of 10% of the total paid amount.

A **VAT withholding refund** performed at the importation of digital services to the taxpayer by credit/debit card issuing companies will only occur in the following circumstances:

- Credit/debit card payments were not processed successfully, as long as, the correspondent amount back to Ecuador causing the transaction reverse.
- Consumes non-recognized for the financial institution clients whose origin could be associated with malicious acts by third parties, which are recognized by the financial.

In mentioned circumstances the VAT was assumed by the withholding agent, they would be compensated within tax declaration the month following the refund.

Taxpayer is able to present the correspondent **request of excessive payment** in the following cases:

- The withholding VAT was apply on digital services subjected to 0%VAT.
- The withholding VAT was applied despite of it was already paid using a different method.