Russian VAT rules for electronically supplied services
Tax & Legal
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Russian ESS rules in general

Federal Law # 244-FZ of 3 July 2016

- The law applies to foreign providers of electronically supplied services ("ESS" or "e-services") and foreign intermediaries involved in supplying e-services.

- The above entities may be required to apply for Russian tax registration (Note 1), account for and pay VAT by themselves with respect to e-services provided to private customers ("B2C") (Note 2).

ESS rules effective from 1 January 2017

- Tax registration will be available from 1 January 2017 and the first VAT return and payment is due for the 1st quarter of 2017 by 25 April 2017 (Note 3).

- The existing VAT payment mechanism will continue to apply to e-services supplied by foreign providers to business customers ("B2B") where VAT is payable by customers via the reverse charge mechanism.

- There are services included in the e-services list currently deemed to be supplied at the place of activity of the service provider that, from 1 January 2017, will be deemed to be supplied where received. Thus, the reverse charge mechanism will start applying to B2B supplies of the relevant services from the mentioned date.
Decision-making chart

Do the services fall into the list of e-services?
Yes

Is any intermediary involved in the supply chain?
Yes

Does the intermediary 1) act under agency arrangement and 2) collect payments from customers?
Yes to both

Are you 1) this intermediary and 2) foreign legal entity?
Yes to both

No to any or both

No ESS tax registration required

No to any or both

Apply for ESS tax registration

Can a double taxation provision apply?
No

Account for and pay Russian VAT

You may not account for VAT on relevant supplies

Yes

Russian ESS rules in general
Decision-making chart
E-service list
Intermediaries
Fixed establishment
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## E-services list

E-services are services delivered over the internet or similar electronic networks that are automated and rely on information technologies (Note 4)

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision of the right to use software (incl. online games) and databases through the internet, incl. updates to them and additional functions (Note 5)</td>
<td></td>
</tr>
<tr>
<td>Provision of rights to use e-books/other e-publications, information/educational materials, images, music with or without lyrics, and audio-visual content through the internet</td>
<td></td>
</tr>
<tr>
<td>Advertising services provided on the internet, incl. use of web-based software and databases, provision of advertising space on the internet</td>
<td></td>
</tr>
<tr>
<td>Services for placing offers for the acquisition (sale) of goods, work, services and property rights on the internet</td>
<td></td>
</tr>
<tr>
<td>Data storage and processing, where a person who provided data has access to the data through the internet</td>
<td></td>
</tr>
<tr>
<td>Provision of access to internet search engines</td>
<td></td>
</tr>
<tr>
<td>Provision of domain names and hosting services</td>
<td></td>
</tr>
<tr>
<td>Online provision of computing capacity to place information in an information system</td>
<td></td>
</tr>
<tr>
<td>Remote system administration and support of information systems and websites</td>
<td></td>
</tr>
<tr>
<td>Web-based statistics management</td>
<td></td>
</tr>
<tr>
<td>Provision of search services and/or information to the purchaser on potential customers</td>
<td></td>
</tr>
<tr>
<td>Provision of web-based platforms for establishing contacts and concluding transactions between buyers and sellers</td>
<td></td>
</tr>
<tr>
<td>Provision/maintenance of a commercial/personal presence on the internet; websites/web pages support, securing access to them and provision of read-write access</td>
<td></td>
</tr>
<tr>
<td>Services performed automatically through the internet once a purchaser inputs data; provision of automated data searches and the provision of sorted data through an information and telecommunications network</td>
<td></td>
</tr>
</tbody>
</table>
E-services list
The following supplies are NOT e-services

- Provision of internet access
- Provision of consulting services via e-mail
- Sale of goods and services ordered over the internet, where the supply is made without using the internet
- Sale or transfer of rights to use software (including online games) or databases on tangible media
Intermediaries

A foreign intermediary shall obtain tax registration and a foreign e-services provider can skip this requirement if this intermediary:

• Is involved directly in settlements (Note 6) with private customers (Note 7)

• Acts under a commission, an agency or any other similar arrangement (Note 8) with foreign entities rendering e-services deemed to be supplied in Russia (Note 9)

• Does not carry out business through a fixed establishment in Russia

A foreign e-services provider can also skip tax registration if supplies are made through a Russian intermediary or a fixed establishment of a foreign intermediary, if this intermediary:

• Is involved directly in settlements with private customers

• Acts under a commission, an agency or any other similar arrangement with foreign entities rendering e-services deemed to be supplied in Russia
Fixed establishment

Any territorially separated division of an entity equipped with fixed working places (a workplace shall be deemed permanent if it is created for more than one month) irrespective of whether the division’s set-up is reflected in the charter or other internal documents of the entity and irrespective of the authority handed to it.

Fixed establishment through which e-services are supplied shall report relevant VAT liabilities by itself using general tax compliance procedures, i.e. not through the taxpayer portal and not using special ESS VAT return form (Note 10).
B2C vs B2B

How to differentiate B2C vs B2B

01
Ask all customers to provide confirmation of whether they are private or business or use other means to identify potential business customers.

02
Obtain from business customers their Tax Identification Number ("TIN") and / or State Registration Number ("SRN") / State Registration Number of Private Entrepreneur ("SRNPE")

03
Verify TIN and/or SRN / SRNPE through the official website of the Federal Tax Service egrul.nalog.ru

04
Unless the data is provided by business customers / verified on the Federal Tax Service’s web site, treat supplies as B2C and account for VAT (Note 12)

For B2B supplies made by foreign providers VAT shall be self-assessed by business customers registered with the tax authorities (except for ESS tax registered entities) and paid via the reverse charge mechanism (Note 13)
E-services are deemed to be supplied at the place of the customer’s location: the existing rules apply for a business customer’s location while there are new rules for a private customer’s location.

A private customer is treated as located in Russia if **AT LEAST ONE** of the following 4 conditions is met:

1. Individual resides in Russia
2. Payment is made through bank/payment operator located in Russia
3. Russian IP address is used for purchasing ESS
4. Russian telephone country code is used for purchasing / paying for ESS

**Data on place of supply & service fees to be indicated in Transaction Registers**

**Double taxation provision**

If B2C supply of e-services is deemed to be made in Russia but under the legislation of a foreign country this supply is also deemed to be made in such foreign country, the foreign provider has the right to determine the place of supply at its own discretion **(Note 14)**.
Tax registration procedures

01 Submit an application form (Note 15) and relevant supporting documents either:
   a) through an authorized representative, or
   b) by registered mail, or
   c) in electronic form through the official website of the Federal Tax Service (www.nalog.ru)

As a result obtain:
   a) Tax Registration Notification within 30 days from submission of the application form, which will be sent to the e-mail indicated in this form
   b) Access to the taxpayer portal (Note 16) together with Tax Registration Notification within the same timeline

02 Open a bank account in Russia
   A RUB account as well as a foreign currency account if necessary (Note 17)

03 Obtain a non-qualified digital signature for signing VAT returns and other documents to be sent through the taxpayer portal (Note 18)

04 (optional) Enter into agreements with Russian e-document operator(s) to submit VAT returns during periods when the taxpayer portal cannot be used (Note 19)
VAT accounting and compliance

**Keep Transaction Registers**
- A table listing transactions deemed to be supplied in Russia for each calendar quarter (Note 20)
- Indicate the information on meeting conditions for recognizing Russia as the place of supply of services to private customers
- Indicate service fees in RUB (fees received in foreign currency to be converted into RUB)
- To be submitted only if requested by the tax authorities

*No requirements to keep other VAT registers/books and issue VAT invoices for ESS* (Note 21)

**Determine tax point**
- The last day of the quarter in which payment (Note 22) is received (Note 23)
- Foreign currency payments to be converted into RUB at the Central Bank of Russia’s FOREX rate effective on the above-mentioned last day of the quarter

**Calculate VAT liability**
- Multiply VAT-inclusive service fees in RUB by the 15.25% VAT rate (no reduced rate established) (Note 24)

**Prepare VAT return and submit to tax authorities**
- Special ESS VAT return form (Note 25)
- Submit on a quarterly basis by the 25th day of the month following reporting quarter
- No Russian input credit or refund

**Pay VAT liability**
- Pay in RUB by the 25th day of the month following reporting quarter (Note 17)
What’s next?
Recommended steps and how we can help

Risk assessment

- Assess whether a service falls within the ESS definition for Russian VAT purposes

We can:
- Review the nature of services being provided
- Quantify the risk exposure

Impact assessment, next steps planning

- Assess potential impact on existing operations and technology
- ESS rules will affect numerous areas of the business, including IT, finance, commercial and tax functions, e.g. pricing and margins, systems configuration, compliance and reporting obligations, customer take-on, and customer Terms & Conditions

We can:
- Facilitate workshops with key stakeholders
- Provide best practices
- Advise on risk mitigation
- Agree on the changes needed, and develop the roadmap for next steps

Preparation

- Adjust business processes and agreements as needed
- Prepare registration with the Russian tax authorities
- Ensure IT and other systems comply with local requirements

We can:
- Assist with contract reviews and advise on the changes needed
- Advise on IT and systems requirements needed to comply with local requirements
- Draft inquiries/ruling requests to the tax authorities

Registration and compliance

- Registration with the Russian tax authorities
- Ongoing compliance

We can:
- Assist with Russian VAT registration
- Assist in opening a bank account in a Russian bank
- Assist in obtaining a digital signature
- Assist with ongoing compliance (preparation of Transaction Registers, preparation and filing of quarterly VAT returns)

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Deloitte assistance in registration and compliance

<table>
<thead>
<tr>
<th>Option 1: Assistance in obtaining tax registration and access to the taxpayer portal:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Preparation of the application form for tax registration and its submission to the tax authorities</td>
</tr>
<tr>
<td>- Collection of tax registration notification</td>
</tr>
<tr>
<td>- Assistance in opening a bank account in a Russian bank</td>
</tr>
<tr>
<td>- Assistance in obtaining a digital signature certificate</td>
</tr>
</tbody>
</table>

After completion of these procedures, the client will have all facilities and tools to submit VAT returns and pay VAT in Russia on its own.

<table>
<thead>
<tr>
<th>Option 2: In addition to the procedures under Option 1, the following scope is included:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Preparation of VAT returns on the basis of Transaction Registers prepared by the client and submission of VAT returns approved by the client to the tax authorities through the taxpayer portal using the client’s digital signature</td>
</tr>
<tr>
<td>- Review / preparation of replies to the tax authorities to their requests for information and documents</td>
</tr>
<tr>
<td>- Dispute resolution and assistance during VAT audits by the tax authorities</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Option 3: Full scope support including:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Obtaining tax registration (procedures under Option 1), regular reminders from Deloitte to update information contained in the initial application form</td>
</tr>
<tr>
<td>- Preparation of Transaction Registers based on information provided in any form by the client or based on the data contained in the client’s ERP system</td>
</tr>
<tr>
<td>- Preparation and submission of VAT returns to the tax authorities</td>
</tr>
<tr>
<td>- Monitoring any requests received from the tax authorities through the taxpayer portal, communication with the tax authorities through the taxpayer portal based on information/documents received from the client</td>
</tr>
<tr>
<td>- Dispute resolution and assistance during VAT audits by the tax authorities</td>
</tr>
</tbody>
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