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Going Digital: Trends in Taxation and Administration in Central and Eastern Europe



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Zoltán Lambert
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Dear Readers,

Digital tax, digitalisation and the supply of digital services all sound similar, but mean completely different things from a taxation perspective. In our fast-paced world, companies going global probably encounter these terms more frequently, and a lack of knowledge about these concepts in each and every country where they are present can result in major tax exposures. In the second issue of our 2019 WTS CEE Newsletter we show you what is happening now in CEE countries in this respect.

*digital tax on
online advertising*

The introduction of the digital tax in Austria on online advertising from 2020, or the planned Czech digital tax affecting large multinationals, which have no registered office or branch in the country but generate considerable profits from their services, are clear signs that something has started in our region. In Hungary, for example, the rate for advertising tax, a special tax applicable from 2015, fell temporarily to 0% from 1 July 2019.

In other countries we cannot see any development with the introduction of digital taxes at this stage. Nevertheless,

the introduction of special rules regarding the supply of digital services (e.g. in Belarus, Russia or Romania) is one of the hottest topics.

*rules regarding
the supply of digital
services*

We report on several novelties in the digitalisation of tax administration too. If we look at the Slovenian eDavki, which is a platform enabling taxpayers to enjoy paperless communication and essentially to fulfil tax obligations from anywhere in the world, or the Serbian E-Taxes portal, it is clear that the tax authorities are keeping up with the changes.

*digitalisation of
tax administration*

We also give you some hints on how to cope with the challenges of the Hungarian online invoicing system updates, and we share some information with you regarding the Polish monthly SAF-T (JPK) reporting.

*online invoicing
system updates*

We trust that this issue of our newsletter will give you a useful overview about the changes surrounding digitalisation in our region.

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Managing Director



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Tax on online advertising from 2020, e-commerce package from 2021

Authors: **Mag. Elisabeth Kendler, Dr. Jürgen Reinold**

On 4 April 2019 the Austrian Ministry of Finance announced a digital tax package including the introduction of a 5% tax on online advertising for large corporations, a data forwarding obligation for operators of electronic marketplaces and the e-commerce package which shall enter into force on 1 January 2021. After the Austrian government burst with a bang at the end of May ("Ibiza affair"), it was unclear whether current (tax) legislative plans would be still implemented this year. However, in an initiative proposal at the beginning of July, the parliamentary groups voted for the implementation of (planned) tax projects – including the Austrian digital tax package. The parliamentary resolution followed at the end of September.

5% Austrian digital tax on online advertising

Following the rejection of the Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services, the EU has failed to reach an agreement regarding the enforcement of a bloc-wide digital tax on tech "MNE giants" such as Google, Apple, Facebook and Amazon. Therefore, Austria introduces its own national digital tax on online advertising services, which will enter into force on 1 January 2020.

Currently, sales of traditional advertising space, such as in print media, broadcasting, posters and billboards, are subject to Austrian advertising tax. Online advertising is not taxed by the 5% Austrian advertising tax. Therefore, the digital services (advertising) tax will apply at a rate of 5% on digital advertising revenues for companies with worldwide revenues of more than EUR 750 million and Austrian digital advertising revenues of more than EUR 25 million. The new digital services tax covers digital advertising services in the domestic market. This means that the Austrian digital tax applies to revenues generated in Austria through sales of online advertising space, such as banner advertising and search engine advertising. One main prerequisite is that the online advertising targets Austrian internet users and is displayed on an Austrian user's device with a domestic Internet Protocol (IP) address.

The person liable for payment of the tax (tax debtor) is the online advertiser (i.e. the entity in receipt of the taxable revenues),

which must calculate the tax and pay by the 15th of the second month following the date on which the tax claim arises. The tax claim arises at the end of the month in which the taxable service is rendered. Moreover, three months after the end of the financial year, the tax debtor must submit a digital services tax return for the previous year. Furthermore, the online advertiser is obliged to keep records of the online advertising services taken over, any other companies commissioned by it in this regard, the clients and the basis for calculating the Austrian digital tax. For digital tax purposes, it is only necessary to store any personal data in anonymous form.

Implementation of the e-commerce package

Furthermore the Austrian legislator also implements the e-commerce package of EU Directive 2017/2455 into the Austrian Value Added Tax Act. The goal of the e-commerce package is to strengthen taxation in the destination state.

For example, one main change is that entrepreneurs – who facilitate distance sales of goods imported from third territories to a non-taxable person, where the individual value of the goods per supply does not exceed EUR 150, by using an electronic interface, such as a marketplace, a platform, a portal or something similar – shall be treated as if they had received and supplied those goods themselves. The interface will therefore owe the VAT for the distance sales themselves, whereas the deemed supply of the supplier to the interface shall be exempt from tax.

Furthermore, deliveries from third countries are currently exempt from VAT if the value of the goods does not exceed EUR 22. This tax exemption for the import of small value items will be abolished. Consequently, in future, all sales will be taxed from the very first cent. However, a new distance selling regime will be simultaneously introduced. That means the import of goods with a value of up to EUR 150 will be exempt if a VAT identification number is provided in the import declaration and the supply of goods is taxed under a special regime (Import One Stop Shop – IOSS). The IOSS will apply to all services provided by a non-EU business to non-taxable persons within the EU.

The implementation of the e-commerce package shall take effect on 1 January 2021.

continued on the next page



tax debtor must submit a digital services tax return

EU Directive 2017/2455

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effect on 1 January 2021

EU has failed to reach an agreement regarding the enforcement of a bloc-wide digital tax on tech "MNE giants"

online advertising is not taxed by the 5% Austrian advertising tax

applies to banner advertising and search engine advertising

Obligations for electronic marketplaces from January 2020

must record detailed information about individual traders using their site and forward the information to the Austrian tax authorities

Operators of online platforms or electronic marketplaces enabling supplies or other services over it must record detailed information about individual traders using their site and forward the information to the Austrian tax authorities (electronically on request). One main prerequisite is that the operator does not itself become the debtor of the VAT. The recorded information must include, for example, annual turnover, customer names as well as records concerning stocks, and aims to ensure that VAT has been correctly accounted for.

Value Added Tax Implementing Regulation

Details are regulated in the Value Added Tax Implementing Regulation ("Sorgfaltspflichten-Umsatzsteuerverordnung"). If the obligations are not fulfilled, the operator of the electronic marketplace or online platform will be held liable for the tax. This rule shall concern, for example, services within the framework of the "sharing economy" or distance sales within the EU. If the e-commerce package enters into force in 2021, operators who become the debtor of the VAT shall no longer be subject to this obligation. The new

regulations for electronic marketplaces are due to enter into effect on 1 January 2020 just like the new Austrian digital tax on online advertising.

The article is an updated version of the article published in WTS Global VAT Newsletter Q2/2019.

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effect on 1 January 2020

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Digital VAT introduced in 2018 but does not apply for free digital services

Author: **Alexey Fidek**

Since 1 January 2018, foreign companies supplying digital services to individual consumers on the territory of Belarus are obliged to register with the Belarusian tax authorities for payment of digital VAT in Belarus.

What are digital services according to the Belarusian Tax Code?

The Belarusian Tax Code contains an exhaustive list of digital services which, inter alia, include:

- licensing copyright items via the internet;
- advertising services on the internet;
- placing sales offers via the internet;
- searching and providing data on prospective customers;
- providing domain names and hosting services;
- providing access to search engines on the internet.

The Tax Code directly provides that the following services are not treated as digital services:

- sale of goods (works, services) ordered on the internet, but supplied without use of the internet;
- sale of computer programs, databases on material devices;
- consulting services via email;
- provision of access to the internet.

Which digital services are supplied in Belarus?

Digital services are deemed to be supplied in Belarus in any of the following cases:

- actual location (registration address) of the purchaser is in Belarus;
- account or digital wallet of the purchaser is opened at a Belarusian bank/operator;
- purchaser's IP address is registered in Belarus;
- international phone code of the purchaser is assigned to Belarus.

Foreign companies are obliged to determine whether their digital services are supplied in Belarus or not.

Which foreign companies must register for digital VAT in Belarus?

There are two types of foreign company which are obliged to register with the Belarusian tax authorities for payment of digital VAT in Belarus:

- a foreign company which supplies digital services to individual consumers directly (without agents) on the territory of Belarus;
- a foreign company that is an agent (intermediary) of a foreign company supplying digital services, if such agent (intermediary) participates in settlements with individual consumers on the territory of Belarus.

The registration is carried out by the Minsk City Tax Inspectorate and can be done electronically. The digital VAT registration of a foreign company does not trigger any corporate income tax obligations in Belarus.

How do you pay digital VAT in Belarus?

Digital VAT to be paid to the Belarusian budget is calculated as: $(\text{VAT base} * \text{VAT rate}) / 120$. The VAT base is the price of digital services with Belarusian VAT. The digital VAT rate in Belarus is 20%.

Foreign companies must report and pay digital VAT in Belarus on a quarterly basis. There is no obligation to pay digital VAT in respect of digital services supplied free of charge.



two types of foreign company which are obliged to register

registration does not trigger any corporate income tax obligations

calculated as: $(\text{VAT base} * \text{VAT rate}) / 120$

quarterly basis

exhaustive list of digital services

services not treated as digital services

foreign companies are obliged to determine whether their digital services are supplied in Belarus or not

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Digital taxation and digital transformation

Author: **Nika Miloloža**

Since efforts by the European Union to introduce a digital tax failed, individual Member States have started taking responsibility for taking the taxation of digital services to the next level, by proposing a tax on large internet and technology companies at national level. There are no official statements or announcements from the Croatian Ministry of Finance with regard to introducing a digital tax on advertising or similar digital services. One might argue that the cost of introducing a digital tax is greater than the benefit that might be gained from it when it comes to a small economy, such as Croatia. Due to the dramatic growth of the digital economy, national authorities hope that these tax challenges will be internationally coordinated.

Increased pace of digitalisation in Croatia

The Croatian tax authorities have stepped up their digitalisation efforts since 2013, in order to make communication with taxpayers more effective and transparent. The digital transformation in Croatia also included making changes to the way taxpayers communicate with the tax authorities. Tax returns must be submitted electronically by taxpayers online using an application called ePorezna (eTaxation). Information on taxable income earned in Croatia or abroad by natural persons, private entrepreneurs or sole proprietors can be reported to the tax authorities electronically. The tax authorities are able to communicate with legal or natural person taxpayers electronically, and starting from 2018 they are able to deliver tax resolutions or certain tax confirmations electronically upon request. Croatian taxpayers are able to access data electronically to check if they have any outstanding tax liabilities or have prepaid tax amounts.

E-invoicing

With regard to the objectives pursued by the strategy of the European Commission to create a Digital Single Market, the Croatian Ministry of Economy, Entrepreneurship and Crafts prescribed using electronically issued invoices (e-invoices) as the only way of invoicing for public procurement purposes, starting from 1 July 2019. Issuing paper invoices in public procurement processes is not permitted in line with European norms.

Their efforts have been recognised by the European Union and mentioned as a positive example for other Member States.

Taxation of e-services

According to the Croatian VAT Act, the services listed below are considered electronically supplied services:

- supply of websites, hosting of websites
- remote maintenance of programs and equipment, supply of computer software
- supply of music, films and games, broadcasting of political, cultural, sporting, scientific and entertainment programs and events, and distance or remote learning

General rules on the reverse charge mechanism are applicable when services are provided by a Croatian entity to a foreign entity.

MOSS scheme for B2C supplies

When e-services are provided to a non-taxable person (B2C supplies), the place of supply is considered to be the place where that person is resident.

When a taxable person supplying e-services to non-taxable persons in Croatia exceeds the threshold of HRK 77,000 (roughly EUR 10,400), from that point onwards foreign taxable persons must register for VAT in Croatia, and calculate and pay VAT at the rate of 25%. Alternatively, if this person applies the optional Mini One Stop Shop (MOSS) scheme, and accounts for VAT in a single country, they do not need to register for VAT in Croatia.



WTS in Croatia

general rules on the reverse charge mechanism

place of supply

optional Mini One Stop Shop (MOSS) scheme

tax returns must be submitted electronically by taxpayers

tax authorities are able to deliver tax resolutions electronically

the only way of invoicing for public procurement purposes

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Ministry of Finance reveals first draft of bill on digital tax

Author: **Dr. Roman Pecháček**

The possibility of introducing a "digital tax" has been discussed in the Czech Republic for several years now. This tax would be imposed on large multinationals such as Google, Facebook or Apple, which have no registered office or branch in the country but generate considerable profits from their services.

During the summer, the Czech Ministry of Finance introduced the first draft of a bill on certain digital services to the professional public. A number of amendments were submitted during the comment procedure, and the final wording of the law may therefore differ significantly.

basic parameters

Let us look now at the basic parameters of this brand-new tax, which should generate CZK 2.4 to 6.6 billion (roughly EUR 93 to 255 million) for the Czech state budget every year.

Who will be affected by the digital tax?

two criteria

Entities meeting the following two criteria should be subject to the tax:

- companies belonging to a group with consolidated turnover exceeding EUR 750 million a year, and which, at the same time,
- receive payments for taxable services provided on the territory of the Czech Republic exceeding CZK 50 million (roughly EUR 2 million) in total.

The CZK 750 million (roughly EUR 29 million) limit refers to the total turnover of the group, regardless of the source it is generated from. Thus, it does not have to apply solely to digital services.

What should the tax apply to?

The tax should apply to income from certain digital services provided for consideration on the territory of the Czech Republic. These digital services include:

- targeted advertising campaigns on the internet,

- use of a versatile digital interface (a web page or a mobile application), and
- sale of user data.

What will be the tax base and rate?

The tax rate should be 7%. The tax should be paid in the form of monthly advances amounting to one twelfth of the tax paid for the previous year.

The tax base will comprise the income from the mentioned digital services provided to Czech users. The domicile of the users will be determined according to the place of registration of the given IP address or mobile phone. Hence for taxation purposes, the domicile of a digital service receiver will not be relevant.

How will the digital tax be administered?

The taxation period will be a calendar year. The first taxation period should be the year 2020, and only services provided after the effective date of the law will be taxed. This is expected to occur in the first half of 2020.

The deadline for submitting tax returns will be the end of March of the following year. It will not be possible to extend the deadline for submitting a tax return.

The digital tax should be administered by the Specialised Tax Office, which is currently in charge of the largest taxpayers.



WTS in the
Czech Republic

the tax rate should
be 7%

provided to Czech
users

taxation period will
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deadline for tax
returns will be the
end of March

on the territory of
the Czech Republic

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Digitalisation and online invoicing: version 2.0

Author: **Tamás Gyányi**

Hungary introduced its online reporting system on 1 July 2018. More than a year has elapsed, and it is worthwhile looking at what the experiences with the system have been and what developments will follow next year based on the practical feedback from taxpayers and the Hungarian tax authority (NAV). In our article, we will focus on the main IT developments by the Hungarian tax authority aiming to decrease the VAT gap in Hungary and detect VAT fraud (needless to say, the 27% VAT rate is a temptation for fraudsters).

One step ahead in Europe with digitalisation

It was not just the introduction of online reporting of invoices that occurred in past years in Hungary. Besides the draft personal income tax return, which is a unique online tool to decrease the administrative burden of more than three million private individuals, there were other IT developments as well, mainly focusing on VAT matters. Taxpayers are now getting used to the "EKAER" system, which is a special road monitoring system. It includes data that can help the Hungarian tax authority detect VAT frauds parallel to the transport of goods, and this also serves risk analysis purposes.

Taxpayers and tax advisors initially had some concerns as to how online invoicing would work, but it started and the statistics show that millions of invoices have been uploaded to the Hungarian tax authority's system. Major discrepancies can trigger tax inspections, so taxpayers should check the system and sometimes reconcile the reported data with that in the VAT report.

Practical experiences – common errors in the systems

- Online invoicing: As mentioned above, we have found that the data uploaded without human intervention to the Hungarian tax authority's system and the list supporting monthly VAT returns can differ. Sometimes the reason for this is obvious, but it can happen that the online reporting is incorrect and this may trigger exposure to a serious penalty.

- There are companies where the bookkeeping system is not so simple, or is outsourced to non-Hungarian service providers. The fact the bookkeeping and the issuance of invoices take place outside Hungary cannot mean that the invoice details are not uploaded to the Hungarian tax authority.
- Some taxpayers have problems with cancellation or modification invoices since they cannot link them with the original invoice(s).

- EKAER: The product codes of the goods are also entered into this system, and the tax authority can easily compare the data in this system with the data in the environmental product fee return (so please check if your shipments are liable for the environmental product fee or not).

Common factor in the systems – the penalty

Failure to report can trigger major penalties. Failure to provide data can result in a default penalty of up to HUF 500,000 (roughly EUR 1,500) per missing or incorrect invoice. We kindly draw your attention to the fact that besides automatic reporting to the online invoice system of the NAV, there is another administrative liability with respect to invoices. A "data export" function has to be built into the invoicing software, and upon the request of the Hungarian tax authority, taxpayers have to hand over the xml file including all the invoice details for the period under review.

Increasing administration

The online invoicing system generates error and warning messages if there is any problem with the xml files submitted. It is vital to review these replies from the Hungarian tax authority, which creates more administration for the colleagues dealing with the online invoicing system. In our experience, the Hungarian tax authority's system still needs some development (asking for invoices submitted or issued to taxpayers could be refreshed and further developed).



WTS in Hungary

bookkeeping take place outside Hungary

problems with cancellation or modification invoices

product codes of the goods

default penalty of up to HUF 500,000

"data export" function has to be built into the invoicing software

tax authority's system still needs some development

introduction of online reporting of invoices

special road monitoring system

it can happen that the online reporting is incorrect

What is to come in 2020?

On the website of the Hungarian tax authority, developers and in-house IT experts of taxpayers can review the new development documentation. By checking this website (available in Hungarian, English and German) you can see that the developer's documentation of version 2.0 of the Online Invoicing System as well as scheme descriptors are available now and can be downloaded from the Documentation menu item. Test XMLs WADL and other auxiliary documents assisting with development will be gradually uploaded to the website later on.

*auxiliary documents
will be gradually
uploaded*

Version 2.0 of XML API will probably be available in the test environment with all of its functions by the middle of October, with the exception of the metrics query service. As a consequence, the deadline for the mandatory transition to the 2.0

interface shall be modified to the first quarter of 2020 to ensure the necessary time for preparation and testing in relation to the transition on the client side. The Hungarian tax authority shall publish specific information on the exact schedule later on.

*deadline shall be
modified to the first
quarter of 2020*

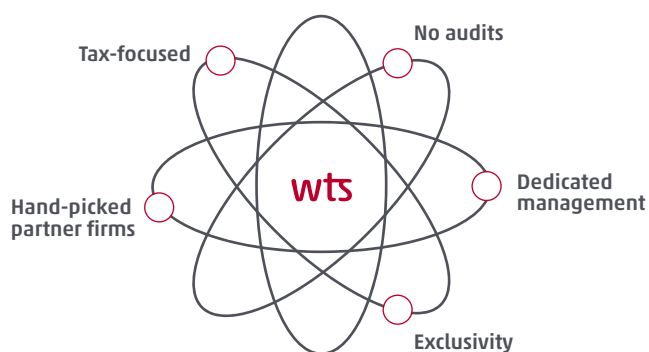
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Digital tax just a plan, but taxation is rapidly going digital

Authors: **Lidia Adamek-Baczyńska, Olga Palczewska**

Since the EU released a proposal on tax revenues from certain digital activities of multinational corporations last year, a digital tax has been discussed in Poland, but never fully presented or implemented.

No legal framework for digital tax so far

An official note on digital tax in Poland appeared in the long-term financial planning report published in April 2019, which mentioned that a digital service tax is to be introduced from January 2020. However, no legal framework for such a tax has been created thus far, nor has the Ministry of Finance issued any official statements in this respect.

Nevertheless, the discussion on implementing a digital tax in Poland is well under way. In April 2019 the Polish Prime Minister claimed in an interview that he supports this tax and confirmed that a special digital tax would be introduced in Poland. He was, however, silent about its structure and its date of introduction. In September 2019 media reports said that Poland was ready to introduce a digital service tax but is still waiting for agreements at the European level.

lack of official information

Due to the lack of official information on the digital tax, it is difficult at this stage to predict when, and even whether, such a tax will be introduced in Poland.

Digitalisation of taxes going forward

monthly SAF-T (JPK) reporting

Companies conducting a business activity in Poland share a substantial portion of their tax data via monthly SAF-T (JPK) reporting. The data is analysed by the tax authorities using specially designed IT tools. According to the Supreme Audit Office's report published in August 2019, in the first half of 2018 roughly 30% of verifications were conducted using SAF-Ts, and the number is increasing. Such a broad range of data available to the tax authorities offers them good analytical opportunities in reviewing VAT compliance. What is more, the tax authorities verify tax settlements without taxpayers even knowing. This requires an improvement of VAT compliance procedures.

Moreover, there is to be a change in respect of VAT returns. VAT returns (forms VAT-7 and VAT-7K) and JPK_VAT files are to be replaced with one single JPK document. Consequently, Polish VAT taxpayers will not submit VAT returns, instead, one single JPK file will be submitted electronically (so called JPK_VDEK) as of:

- 1 April 2020 – for large enterprises, and
- 1 July 2020 – for microenterprises and SMEs.

Paper-based administration is less and less common in Poland. It is worthy of note that as from 18 April 2019 new electronic invoicing (e-invoicing) rules apply in Poland to B2G transactions related to public procurements. For the purpose of the new rules, the Polish Ministry of Entrepreneurship and Technology has developed and launched a platform for processing and exchanging e-invoices (PEF platform). Through this platform it is possible to receive and send e-invoices from businesses to public institutions. Under the new regulations, all government institutions must be ready to receive e-invoices in public procurements in the structured format (XML structure) via the PEF platform.

For now, though, electronic invoicing is not required in either B2B or B2C transactions, but it is really common in Poland.



one single JPK file will be submitted electronically

from 18 April 2019 new electronic invoicing rules to B2G transactions

PEF platform

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Florin Gherghel
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Aspects regarding electronically supplied services

Author: **Florin Gherghel**

VAT registration for supply of electronic services

Romania has implemented the EU provisions regarding electronically supplied services, namely services delivered over the internet or via an electronic network and rendered in an essentially automated fashion involving minimal human intervention.

As a general rule, in the case of electronically supplied services by EU companies to Romanian non-taxable persons (e.g. individuals), the place of supply is the place where the customer is established and the supplier could be required to register for VAT in Romania.

*where the customer
is established*

*where the supplier
is established*

Nevertheless, the services will be considered rendered from the country where the supplier is established (no VAT registration is required in Romania), if the following conditions are fulfilled cumulatively:

- the supplier is established in a single EU Member State;
- the services are rendered to non-taxable persons established in any other EU Member State, except the state of the supplier;
- the total value of the rendered services, without VAT, does not exceed EUR 10,000 (RON 46,337) in the calendar year and did not exceed EUR 10,000 in the previous calendar year either.

EUR 10,000 threshold

If the value of the supplied services exceeds the EUR 10,000 threshold, the place of supply of these services will become the country where the customer is established from the moment the threshold is exceeded, and the supplier could be required to register for VAT in Romania.

*registered as
a supplier of
electronically
supplied services
in its country*

Irrespective of the above, if the EU supplier is registered as a supplier of electronically supplied services in its country, the EU supplier is no longer required to register for VAT purposes in Romania for the supply of such services to Romanian non-taxable persons.

Supply of e-books – VAT implications

The supply of the digitalised content of books is considered an electronically supplied service and, consequently,

such supply represents a service and not a delivery of goods from a Romanian point of view.

Consequently, the reduced VAT rate of 5% (applicable in general to the supply of books) is not applicable and, therefore, the regular 19% VAT rate is applicable to the supply of e-books by Romanian suppliers to Romanian entities.

Online communication with tax authorities

Almost all tax returns (submitted monthly / quarterly / yearly) must be submitted online, and an electronic signature must be obtained for this.

A company can also have access to its private virtual space in order to check the status of submitted tax returns and paid taxes. Thus, a company can obtain online certificates attesting that it does not have outstanding tax liabilities (such certificates are useful, for example, when a company takes part in a bidding process).

Financial statements can also be submitted online using the same electronic signature.

Besides the online submission of tax returns, official communication with the tax authorities can only be performed by submitting various requests directly to the registration office of the tax authorities or by post.

The tax authorities do not have access to the accounting systems of the companies or to the invoices issued by the companies.



*19% VAT rate is
applicable to the
supply of e-books*

electronic signature

online certificates

financial statements

*tax authorities do not
have access to the
accounting systems
of the companies*

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Latest changes regarding VAT on e-services

Author: **Ekaterina Kurochkina**

The concept of VAT on e-services was introduced into Russian tax law in 2017 by Federal Law № 244-FZ (hereinafter: Law). It introduced VAT for electronic services alongside defining electronic services for Russian tax purposes. These rules came into force from 1 January 2017.

Obligations for foreign providers from 2017

According to the Law, foreign providers of e-services were obliged to pay VAT from sales of e-services to Russian individuals. Sales of e-services to legal entities and individual entrepreneurs before 1 January 2019 were under general rules, stating that such persons are obliged to pay VAT as tax agents.

If a foreign entity provides electronic services to Russian customers through a foreign entity engaged under commission agreements, agency agreements or other similar agreements, and this foreign entity participates in settlements directly with Russian customers (foreign intermediaries), such foreign intermediaries shall pay the VAT instead of the digital service provider.

The Law established an obligation for the foreign providers of e-services and foreign intermediaries to be registered with the Russian tax authorities through a special internet portal (<https://lkireg.nalog.ru/en>). If a foreign provider of e-services acts through a foreign intermediary, only such foreign intermediary should be registered.

Description of digital services

According to the Law, digital services are determined as services provided over the internet or other similar electronic networks. There is an extensive list of digital services covered by the Law, including, inter alia:

- provision of rights for use of software, databases
- sales of electronic content
- provision of trading platforms
- provision of domain names, web hosting services
- broadcasting of TV or radio channels
- provision of advertising services on the internet
- data storage and processing, etc.

It is important for foreign legal entities to organise sales of electronic services to Russian consumers accordingly. It is important to understand the role of the foreign legal entity in the sales chain (a service provider or an intermediary involved in the payment, for example an agent, commission agent, attorney, etc.). These circumstances influence their obligation to be registered for Russian VAT purposes.

Latest changes in legal regulation of electronic VAT

Currently, from 1 January 2019, foreign electronic service providers as well as foreign intermediary legal entities providing electronic services to Russian legal entities and individual entrepreneurs are obliged to have an Online Personal Account on the special internet portal and pay VAT in respect of B2B and B2C.

Registration claims should be submitted to the Russian tax authorities via the mentioned internet portal no later than 30 days after the service provision commences. In the case of such electronic registration, it should be mentioned that the company shall be fully liable for Russian VAT on the sale of goods and services on the territory of the Russian Federation since it must have a Russian tax ID (for example consulting services for Russian companies or the sale of goods in Russia).

We assume that foreign companies providing or participating in the provision of electronic services should be prepared to meet the requirements of Russian VAT legislation. They should take into consideration the rules on the VAT taxation of electronic services and consider following the steps below:

- Analyse the foreign company's activities to identify operations which may be subject to VAT on electronic services;
- Assess the possibility or necessity of changing the business model to comply with the VAT rules and mitigation of tax risks;
- Consider modifying the mechanism for VAT payments in supply chains;
- Analysis and development methods for the separate accounting of input VAT for Russian companies purchasing electronic services from foreign customers.



*circumstances
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*Online Personal
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*30 days after the
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*meet the require-
ments of Russian
VAT legislation*

*sales of e-services
before 1 January
2019 were under
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*special
internet portal*

extensive list

Clarifications by the Russian tax authorities

*official
clarification letter*

On 24 April 2019 the Russian Federal Tax Service published an official clarification letter, which reveals an updated approach for VAT on sales of e-services, which is favourable for foreign companies.

*not liable to pay if its
Russian customer paid
the VAT as a tax agent*

According to the clarification letter of the Russian Federal Tax Service issued on 24 April 2019, № SD-4-3/7937@ a foreign company is not liable to pay VAT on VATable sales of e-services and non-e-services if its Russian customer paid the VAT acting as a tax agent. If such foreign company did not perform other VATable transactions during the reporting quarter, the VAT return should be submitted with zero indicators.

*does not contain any
comments regarding
the right to refund*

However, this clarification letter does not contain any comments regarding the right to refund such amounts of VAT paid by Russian customers as tax agents. Given that the Russian tax authorities did not publish any contrary position regarding this issue, we recommend applying the conservative position mentioned in the Russian Minfin's letter as of 24 October 2018, № 03-07-08/76139, according to which such amounts of VAT should not be refunded.

*letter contradicts
Russian tax law*

We assume that the latest letter from the Russian Federal Tax Service contradicts Russian tax law and previously published positions. Therefore, we expect that in the near future the Russian Minfin and Federal Tax Services will publish more detailed explanations because the current version of the comments may lead to additional disputes and uncertainty.

Nowadays, the Russian business community and the Russian tax authorities are discussing the possibility of amendments to the rules governing the payment of VAT on the sale of electronic services. These discussions concern the possibility of introducing the concept of qualified tax agent into the Russian Tax Code. A qualified tax agent will mean the Russian organisation receiving the right to act as a tax agent when purchasing e-services from a foreign organisation and reaching the amount of taxes payable in this foreign organisation. The value of taxes payable will subsequently be established by the Russian government.

*introducing the
concept of qualified
tax agent*

WTS Global VAT Newsletter Q4/2018 has information regarding the former Russian VAT regulations for electronic services but since its publication the rules regarding e-services have changed, and so some very important explanations were issued by the Russian tax authorities.

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The E-Taxes portal

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The Tax Administration, which operates within the Ministry of Finance of the Republic of Serbia, has enabled the electronic filing of certain tax returns through the "E-Taxes" portal since 2014. The cycle of translating paper tax returns into electronic ones was completed in 2018, which means that since then, all tax returns can be submitted electronically. The electronic filing of tax returns is regulated by the Rulebook on filing tax returns electronically.

High security standards

The E-Taxes portal is a collection of electronic services of the Tax Administration of the Republic of Serbia, which enables all taxpayers to submit online tax return forms with digital signatures, follow up on the status of sent returns and obtain insight into the tax card of a taxpayer, with the purpose of fulfilling obligations towards the Tax Administration more quickly and easily. This system meets high security standards, which enable safe and uncompromised electronic data transfers.

The portal enables taxpayers to fill in, sign and send tax return forms to the Tax Administration. Furthermore, taxpayers can adjust their accounting software to upload files automatically in an appropriate format (XSD schemes and XML samples available in Instructions and forms), sign them digitally and forward them to the Tax Administration through the E-Taxes portal.

Free of charge

The portal facilitates access to the tax cards of taxpayers and to the integrated

register of taxpayers, and enables the reviewing of tax returns already submitted online. It also provides taxpayers with a give/revoke authorisation service for e-business. All activities which the taxpayer undertakes via the E-Taxes portal are free of charge.

The submission of electronic tax returns is limited to revenues administered by the Tax Administration (e.g. VAT returns, salary tax returns, corporate income tax returns, personal income tax returns, property tax returns, excise duty tax returns, etc.). It is interesting to note that during 2018 an average of about 525,000 electronic tax returns were filed on a monthly basis.

In addition to electronic tax filing services, taxpayers also use the electronic filing and processing service to request balances on their tax accounts. Since this electronic service was established, more than seven million query requests regarding the balances of tax accounts have been filed and processed through the E-Taxes portal.



*limited to revenues
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*taxpayers can adjust
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*access to the tax
cards of taxpayers*

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Lukáš Mokoš
Tax Advisor

Taxation of and accounting for virtual currencies

Author: **Lukáš Mokoš**

To ensure a unified interpretation of legislative requirements in relation to taxing income from a sale of virtual currency, the Ministry of Finance of the Slovak Republic has issued Methodological Guideline No. MF/10386/2018-721.

According to this guideline, a virtual currency (or crypto-currency) means a digital carrier of value which is neither issued nor guaranteed by any central bank and/or public authority and is not necessarily linked to any legal tender, has no status of a currency or money, but is accepted by some natural or legal persons as a means of payment, and which may be transferred, stored and/or purchased/sold electronically.

Virtual currencies in relation to Income Tax Act

Any income (earnings) resulting from a sale of virtual currency is subject to tax, is not exempt from the tax, and is therefore considered taxable income pursuant to Act No. 595/2003 Coll., on Income Tax, as amended by the amendment effective from 1 September 2019 (hereinafter referred to as the "Income Tax Act"). For the purposes of taxation under this guideline, a sale of virtual currency means any exchange, e.g. an exchange of virtual currency for any assets or an exchange of virtual currency for a provision of service and/or for another virtual currency, as well as its transfer for consideration.

*considered
taxable income
from 1 September
2019*

For taxpayers who are natural persons and have not included the virtual currency in their business assets, any income from its sale is considered other income pursuant to Section 8 of the Income Tax Act. The taxable income earned can be decreased by any demonstrably incurred expenses related to earning the income; if the expenses are higher than the income earned, however, the difference is not taken into account.

*considered
other income*

For taxpayers who establish their tax base pursuant to Section 17(1) of the Income Tax Act, i.e. whose taxation is based on accounting, the income resulting from the sale of the virtual currency is taxable income and is reasonably viewed as income resulting from financial assets. When calculating their tax base or tax loss, such taxpayers determine their profit/loss based on accounting and/or the difference between income and expenses.

*reasonably viewed as
income resulting from
financial assets*

The resulting profit/loss or the difference between income and expenses shall then be transformed into the tax base using the provisions of Sections 17 through 29 of the Income Tax Act. Based on those provisions, taxable expenses may be deducted from the income earned from the sale of virtual currency in accordance with Section 19 of the Income Tax Act, up to the amount of income from the sale, on a reasonable basis in accordance with the provisions of Section 19(2)(f) of the Income Tax Act.

Virtual currencies in relation to VAT Act

Trading with virtual currencies is considered a financial transaction, and as such is exempt from value added tax in the EU, based on the judgement of the European Court of Justice. Notwithstanding the above statement, VAT may be applicable to virtual currencies if they are used to pay for purchased goods and services, since such transactions are subject to VAT as if the euro was used as the transaction currency.

*VAT may be applicable
to virtual currencies if
they are used to pay
for purchased goods
and services*

Virtual currencies in relation to Accounting Act

Virtual currencies are valued as follows:

- Acquisition price, if the currency was acquired by means of a purchase
- Fair value, if the currency was acquired by exchange for another virtual currency

For accounting purposes, virtual currencies acquired for consideration are viewed as other current financial assets. Any increase/decrease in a virtual currency is accounted for using the accounts of the Current Financial Assets group of accounts (25) created by the accounting entity, e.g. account 258 – Virtual Currency.

*virtual currencies
acquired for con-
sideration are
viewed as other
current financial
assets*

Sub-ledger accounts are created for individual virtual currencies. For the virtual currency acquired via mining, a dedicated sub-ledger account is created as at the day of its exchange for other assets or services. To account for any decrease in the virtual currency as expense, account 568 – Other Financial Expenses is debited. To account for any increase in the virtual currency as income, account 668 – Other Financial Income is credited.

*virtual currency
acquired via mining*



continued on the next page

**fair value of
a virtual currency**

When calculating the fair value of a virtual currency according to Section 27(13) of Act No. 431/2002 Coll., on Accounting, as amended by the amendment effective from 1 October 2018 (Accounting Act), nominated in foreign currency to euro, the procedure pursuant to Section 24(2)(a) of the Accounting Act shall be used. Any differences in value resulting from the valuation of the virtual currency and the conversion of the virtual currency to euros shall, based on their characteristics, either be debited to account 568 – Other Financial Expenses, or credited to account 668 – Other Financial Income.

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As at the date of the financial statements, virtual currencies are not valued at fair value and/or market value.

Mining

In relation to crypto-currencies, we often hear about their mining. Mining crypto-currency (virtual currency) is another way to acquire it, which differs from a direct purchase of crypto-currency. The mining of crypto-currency, e.g. bitcoin, may be described as the provision of computational capacity on high-end hardware for tasks related to the crypto-currency (e.g. to verify whether transactions associated with the crypto-currency are true), in return for consideration in the form of a fraction of crypto-currency (virtual currency). Crypto-currency may be mined by non-entrepreneurs as well as entrepreneurs. In the case of crypto-currency we may thus encounter a situation where, initially, a particular non-entrepreneur or entrepreneur owns no crypto-currency, and they acquire it through mining.

Have you read?**Registration of Ultimate Beneficial Owners in Central and Eastern Europe**

The 2019 summer issue of WTS CEE Tax Bridge focused on new developments with respect to the registration of UBOs in twelve Central and Eastern European countries: Austria, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Russia, Serbia, Slovenia and Ukraine.

If you are interested in the publication, please send us an email to the esther.lausek@wtsklient.hu email address!



Mateja Babič
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E-communication with tax authorities making progress

Author: **Mateja Babič**

E-communication with tax authorities in Slovenia dates back to 2006, when the "eDavki" platform (eTax in English) was introduced as the state's tax e-platform. Since then it has been the main communication platform between taxpayers and the state. It is free and easy to use.

Stages of introducing the eDavki platform

Initially, you could only submit the most common and simple tax forms, such as VAT reports. Over time the platform has developed significantly, and nowadays all communications with the tax authorities can be handled via this platform. Last year the mobile version of eDavki for natural persons was introduced, reminding them of their tax due. The eDavki platform is a secure online electronic service equivalent to a paper-based framework.

For corporate taxpayers, use of the eDavki platform is obligatory since many forms and reports can only be submitted electronically. The tax administration also only delivers tax decisions for corporate taxpayers online via the eDavki platform. Such tax decisions are deemed delivered to the taxpayer after 15 days when they are uploaded to the eDavki platform, if they were not signed and delivered before. Even if a corporate taxpayer, such as a company or entrepreneur, has no access to the eDavki platform, the deadlines for any appeals still run and this can result in significant problems.

Advantages of eDavki

The platform enables many taxpayers to enjoy paperless communication and essentially to fulfil tax obligations from anywhere in the world. The eDavki advantages are:

- Filling out tax forms is faster and easier (with built-in help and Contextual Checker tools;
- Ability to submit documents 24 hours a day, 7 days a week, without postal charges and regardless of your geographic location;

- Insight into your debit card;
- Data transfer directly from accounting systems to eDavki through online services;
- Easy authorisation between users and other taxpayers.

The only requirement for using the free e-Davki platform is a special e-certificate SIGEN-CA issued by the Ministry of Internal Affairs, or any other e-certificate issued by a Slovenian bank or the Slovenian post office.

Electronic commerce via eDavki does not create new liabilities for taxpayers, it enables existing tax liabilities (mainly submission of documents) to be fulfilled in an easier and more convenient way.

Possible national digital tax in September 2020?

The Finance Committee of the Slovenian Parliament made a proposal at their meeting in June to introduce a tax on digital services by autumn 2020. The Ministry of the Finance is obliged to prepare a draft of the Digital Tax Act by April 2020.

Foreign rules on invoicing for telecommunication services only above the threshold

To provide relief for companies with a small volume of cross-border telecommunication services, broadcasting and electronic services, a threshold of EUR 10,000 has been introduced as of 1 January 2019, under which a service provider with a registered office or residence in Slovenia can use rules on the place of taxation in accordance with the Slovene VAT Act to supply services to users.

If a taxpayer decides to apply the rules on the place of supply of services in accordance with the principle of the Member State of consumption, he must indicate in the registration form for the special arrangement (EU-M1SS-Reg form) that he has decided for voluntary inclusion.

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*special e-certificate
SIGEN-CA*

*introduce a tax on
digital services by
autumn 2020*

*threshold of
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*place of supply
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*all communications
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*enables to fulfil
tax obligations
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in the world*

*taxpayer must submit
a report on the total
value of the tele-
communication and
electronic services*

The taxpayer must submit to the tax authority a report on the total value of the telecommunication services, broadcasting and electronic services, including VAT, provided in the previous calendar year by each Member State. There must also be an electronic statement of eligibility for determining the place of taxation of those services by the provider by 31 January of the current year, in relation to the previous calendar year. The report and statement must be submitted electronically via eDavki (VAT-TBE form). Small taxpayers not registered for VAT purposes also have to submit the VAT-TBE form.

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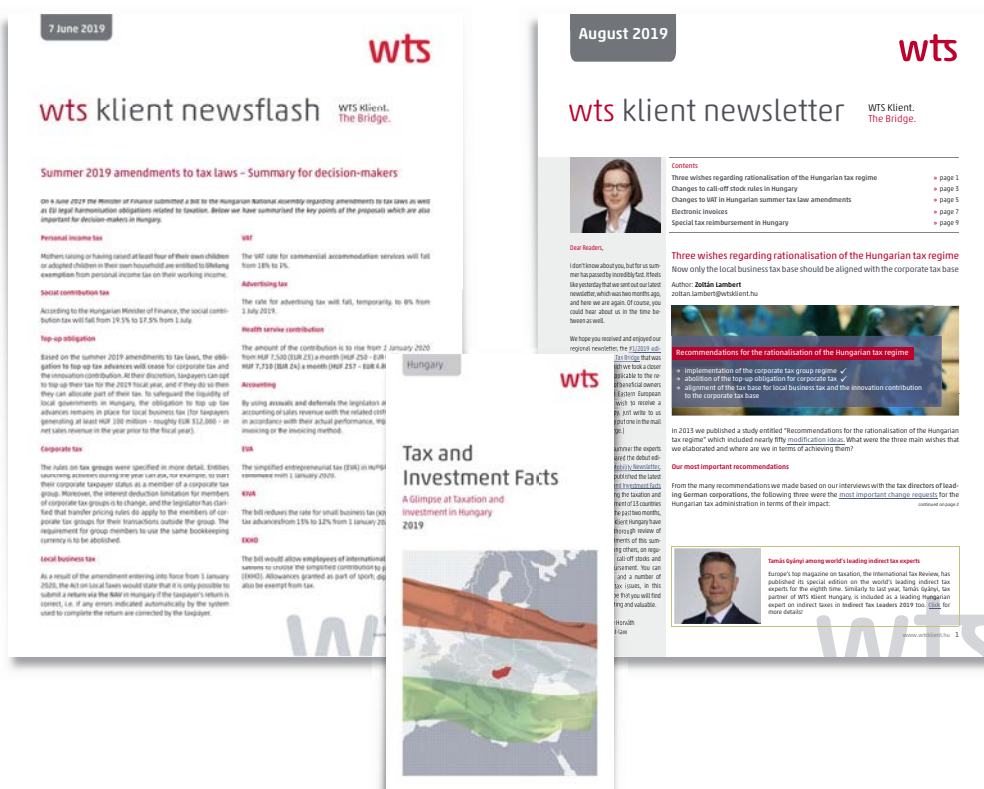
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