

## **VAT OBLIGATIONS OF LIMITED TAXPAYER ELECTRONIC SERVICE PROVIDERS**

With the Law No. 7061 published in 2017, an important step was taken in the Value Added Tax Law regarding the taxation of electronic commerce and with the arrangements, from the date 01.01.2018, services provided in electronic environment by natural or legal entities who do not have residence, workplace, legal center and business center in Turkey were subject to VAT **to natural entities who do not have VAT liability in Turkey.**

The subject is not about taxation of electronic service providers' income originating from Turkey, the regulation is an arrangement made in the Value Added Tax Law for the taxation of service delivery transactions.

Taxation of digital commerce and formation of digital workplace in this context are included in the action plan of BEPS (Base Erosion and Profit Shifting) within the scope of OECD regulations but no action was taken within the scope of primary legislation on the taxation of the income obtained under the mentioned trade.

From the point of Turkish Tax Laws, in order to tax commercial earning of limited taxpayers in Turkey, taxpayers need to have a workplace or permanent representative and earnings should be obtained through these workplaces or permanent representatives.

In the determination of the presence of the workplace, both the Turkish Tax Laws and the Avoidance of Double Taxation Treaty seek the existence of a settled place allocated to the commercial activity.

Other than the usual trade models, in the determination of the presence of the workplace within the scope of electronic commerce; it is specified that the earnings will be taxed in Turkey in case of sales via the Internet **by renting or purchasing a server in Turkey.**

Besides; in the section titled electronic commerce in the Model Agreement Regarding Taxes on Income and Wealth booklet (42.2.) in the Revenue Administration Website (OECD); "On the other hand, the server where the website is stored and accessible is a physical location, therefore, such a location may constitute a settled location of the enterprise operating the server regarding the commercial activity." it is described the existence of workplace for the taxation of income generated by electronic commerce.

**Our agenda includes the law and the scope of common practice communiqué attached to this law on the determination of Value Added Tax that limited taxpayers who provide electronic services in Turkey must declare through these remuneration.**

### ➤ **Which Services Need Declaration by Limited Taxpayers?**

Those; who don't have residence, workplace, legal center and business center in Turkey but provide electronic services for a price to **natural entities who do not have VAT liability** in Turkey, shall declare VAT regarding these services by establishing "**Special VAT Liability For Electronic Service Providers**" with **VAT return no 3** on electronic environment. Real entities and institutions who are legally obligated in Turkey and get services in electronic environment shall declare and pay the VAT related to these services by VAT return no. 2.

Within the scope of electronic service, those who have the obligation to demand compensation from the customer, determine the general conditions related to the service, or who have the obligation to perform the service shall be considered as an electronic service provider.

### ➤ **How Will Limited Taxpayers Declare Their Services?**

The service providers in this context should fill out the form on the website of the Revenue Administration at [www.digitalservice.gib.gov.tr](http://www.digitalservice.gib.gov.tr) before giving the VAT return no 3 for the first time. After the form has been completed and approved in electronic environment, at Large Taxpayer Office Administration, on behalf of the service provider, "Special VAT Liability For Electronic Service Providers" will be established.

The link will be accessible via the link below:

[www.digitalservice.gib.gov.tr](http://www.digitalservice.gib.gov.tr)

The service providers shall declare the VAT calculated in Turkish Lira and pay at the same day on the basis of the services they have provided as of the monthly taxation periods of the calendar year, until the twenty-sixth day of the month following the taxation period with the VAT return no 3, through the internet tax office. In the absence of a service provided in the electronic environment in the relevant month, there is no obligation to submit a declaration.

For those who have Special VAT Liability, there is no obligation to get signed their declarations to members of profession and bookkeeping requirements.

Electronic service providers are also required to install invoice lists which they organized (B2B) to the institutions in Turkey electronically via the website monthly as of January 1, 2019 as stated. The purpose of this reporting is to ensure whether taxpayers or institutions who purchase the service declare VAT over the cost of the services they received.

### ➤ **What is the VAT Rate to be Calculated over the Service Cost?**

Electronic service providers will calculate VAT at the rate which their services are subjected to. In addition, service providers of those services will be able to deduct the VAT shown in the invoices and similar documents issued due to the goods and services they obtain from those with VAT liability.

➤ **How Will the Foreign Currency Service Costs Be Declared?**

In case the price of the transaction is determined in foreign currency, the foreign currency price is the day on which the service is provided through buying exchange rate of the Central Bank of Turkey will be translated into Turkish Lira and the declaration will be made over this amount.

➤ **What is the Sanction of Displacement?**

The provisions of the Tax Procedure Law regarding the tax penalties shall apply to those who do not comply with the regulations on the disclosure obligation for services provided in electronic environment.

**09/04/2019**

Emin Uzun – Tax Manager

[euzun@nexiaturkey.com.tr](mailto:euzun@nexiaturkey.com.tr)

Tuğrul Özsüt – Managing Partner

[tozsut@nexiaturkey.com.tr](mailto:tozsut@nexiaturkey.com.tr)