



MIJARES ANGOITIA
CORTES Y FUENTES

25
YEARS

VALUE ADDED TAX TO THE PROVISION OF DIGITAL SERVICES



The tax reform initiative for fiscal year 2020 contemplates the incorporation of Chapter III Bis to the Value Added Tax (“VAT”) Law, which establishes certain obligations for residents abroad without a permanent establishment in Mexico that provide digital services to recipients located in national territory.

For these purposes, the service is considered to be provided in national territory when the recipient of said service is located in such territory. In this respect, the recipient of the service is deemed to be located in national territory when:

- I. The recipient indicates an address located in Mexico.
- II. Payment is made through an intermediary located in national territory.
- III. The IP address used corresponds to addresses assigned to Mexico.
- IV. IV. The recipient indicates a telephone number with a Mexican country code.

Additionally, the following are considered digital services:

- I. Download or access to images, movies, text, information, video, audio, music, games, news, traffic information, weather forecasts and statistics; the download or access to electronic books, newspapers and magazines is excluded.
- II. Intermediary services between third parties that are suppliers of goods or services and their clients, except those intended for the sale of used movable property.
- III. III. Clubs and online dating websites.
- IV. IV. Distance learning, tests or exercise services.

These services must be provided through digital applications or digital content, given that a consideration is charged for them.

Foreign residents without a permanent establishment in Mexico that provide these services must register with the Federal Taxpayers’ Registry, collect the corresponding VAT together with the price for their services, provide information regarding their monthly operations in national territory to the Mexican tax authorities, make the corresponding VAT payment on a monthly basis, send invoices to their clients, designate a legal representative and provide an address in Mexico and obtain their electronic signature for tax purposes.

In addition to this, article 18-J of the VAT Law establishes additional obligations for the providers of the intermediary services between third parties mentioned above.

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Failure to pay and withhold the corresponding VAT or to submit the applicable returns will be sanctioned pursuant to the provisions of the VAT Law and the Federal Fiscal Code.

It should be noted that the recipients of digital services may credit the tax that is transferred to them, provided they meet the requirements established by Law.

Additionally, if the provider of such services is not registered with the Mexican tax authorities, taxpayers must consider such services as importation, and pay the corresponding tax.

The provisions related to the provision of digital services will enter into force on June 1st, 2020; however, the tax authorities will issue general rules for the correct application of these provisions during the month of January 2020.

Consequently, it is important for legal entities and individuals to consider the implications of these new obligations.

We remain at your service for any questions or comments regarding the information contained herein.

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