

# New rules applicable to the provision of digital services

Tax – July 27, 2020

## Issuance of new rules applicable to the provision of digital services

On July 24, 2020, the Second Resolution of Modifications to the Tax Miscellaneous Resolution for 2020 (the "Resolution") was published on the Federal Official Gazette. Said Resolution amends and adds, among others, rules applicable to the provision of digital services to recipients located in Mexico.

Some of the aforementioned rules establish the following:

- Foreign residents that provide digital services to recipients located in Mexico (the "Providers") may pay the corresponding taxes and, if applicable, the withholdings made to the individuals that obtain income through their platforms, through the authorized credit institutions or from abroad, provided that the Provider submits the corresponding notice according to Annex 1-A of the Tax Miscellaneous Resolution ("TMR"). Derived from the above, foreign digital services providers are not obliged to open a bank account in Mexico in order to pay the corresponding taxes and, if applicable, the withholdings made.
- The Providers will make the corresponding value added tax ("VAT") payments through the "VAT payment return for the provision of digital services" (*Declaración de pago del IVA, por la prestación de servicios digitales*), according to the corresponding Guidelines published by the Tax Administration Service ("SAT", as per its acronym in Spanish). It is important to mention that the VAT Law established the obligation to submit to the SAT on a quarterly basis the information regarding the number of

services or transactions carried out in the corresponding month concerning customers located in Mexico. However, rule 12.1.19. of the TMR establishes that said obligation shall be fulfilled by filing the aforementioned return. The information that must be included in it is the following: type of service provided, number of recipients located in Mexico, number of services provided to recipients located in Mexico, and total amount charged for the service provided in Mexico.

- Digital services providers dedicated to intermediary services between third parties offering goods or services, regardless of their tax residency, will pay the withholdings made to the individuals with business activities that sell goods or provide services through their platforms through the "Income tax withholdings payment return for technological platforms" (*Declaración de pago de retenciones del ISR para plataformas tecnológicas*) and the "VAT withholdings payment return for technological platforms" (*Declaración de pago de las retenciones del IVA para plataformas tecnológicas*), according to the corresponding Guidelines published by the SAT.

Additionally, they will have to submit certain information regarding their clients that obtain income through their platforms, when acting as intermediaries, even when the collection of the consideration and the corresponding VAT has not been made, through the "Informative return of digital intermediation services between third parties" (*Declaración informativa de servicios digitales de intermediación entre terceros*), according to the corresponding Guideline published by the SAT.

- Taxpayers who provide digital intermediation services between third parties that, derived from the return of goods or cancellation of services or the temporary use or enjoyment of goods between the offeror and their claimant, return to the latter the consideration previously collected, including the corresponding VAT, may deduct said consideration without the VAT from the amount of the consideration for which they must pay the VAT in the following monthly returns, until said amount has been completely deducted, provided that they (i) are registered in the Federal Taxpayers' Registry ("RFC", as per its acronym in Spanish) and (ii) issue the corresponding receipt pursuant to rules 12.1.4. and 12.2.12. of the RMF.

Likewise, the Resolutions adds and amends various rules applicable to the individuals that sell goods, provide services, or grant the temporary use or enjoyment of goods through technological platforms. Said rules are mainly related to the filing of returns and the cancellation of transactions.

It is important to mention that (i) the provisions related to the provision of digital services entered into force on June 1, 2020, and that (ii) the SAT has already published the aforementioned Guidelines.

We remain at your service for any questions or comments regarding the information contained herein, as well as the tax provisions applicable to the provision of digital services to recipients located in Mexico.

**For more information, do not hesitate to contact our expert professionals in this matter at the following e-mail address: [fiscal@macf.com.mx](mailto:fiscal@macf.com.mx)**

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