Executive summary

Russia’s Federal Law No. 335-FZ (the Law)\(^1\) includes changes to the value added tax (VAT) rules for electronic services provided by foreign companies.

The Law eliminates the current tax agent mechanism in relation to electronic services provided by foreign companies to companies and private entrepreneurs registered with the Russian tax authorities. As from 1 January 2019, foreign suppliers of electronic services and foreign intermediaries involved in settlements with Russian taxpayers for electronically supplied services will be obliged to register for the purpose of paying VAT on those supplies.

Detailed discussion

Foreign companies that supply electronic services to companies and private entrepreneurs registered with the Russian tax authorities (including, for example, branches of foreign companies) will have to submit a VAT registration application by 15 February 2019. Registration is compulsory even if the services supplied are VAT-exempt in Russia (for example, in the case of the provision of rights to use computer programs under a license agreement).
Foreign companies that are already registered and pay VAT on electronic services supplied to Russian individuals will likewise have to calculate and pay VAT on supplies to Russian companies and private entrepreneurs starting from 1 January 2019.

For these purposes, electronic services include, inter alia:
- Sale of computer programs via the Internet
- Provision of Internet advertising services
- Provision of services involving the posting of offers to acquire (sell) goods (work and services) and property rights on the Internet
- Provision and (or) maintenance of a commercial or personal presence on the Internet
- Storage and processing of information on the Internet
- Provision of hosting services
- Sale of electronic books, graphic images and musical works via the Internet
- Provision of access to Internet search engines and the maintenance of statistics on Internet sites

Foreign companies that are VAT-registered must calculate VAT at the rate of 15.25% on the value of electronic services supplied and must submit a VAT declaration and independently pay VAT on a quarterly basis.

Russian companies and private entrepreneurs who purchase electronic services will be able to offset input VAT charged by a foreign company provided that they have: (i) documents confirming payment made to the foreign company, including tax; and (ii) an agreement or settlement document in which the amount of tax and the Taxpayer Identification Number and Reason for Registration Code of the foreign company are specified.

The law also adjusts the current tax agent mechanism in relation to intermediary activities with involvement in settlements with purchasers of electronic services.

As from 1 January 2018, Russian companies that are national payment system agents (including communications operators) will not be deemed to be tax agents when carrying out intermediary activities involving settlements (transfers of money) with purchasers of electronic services. This means that a foreign company that uses such an intermediary in supplying electronic services will be required to register for VAT purposes and pay tax independently.

Implications

Foreign companies that supply electronic services or are involved in settlements for electronic services supplied to companies and private entrepreneurs registered with the Russian tax authorities must submit a tax registration application by 15 February 2019. This means that foreign companies have time to prepare for the planned changes.

Companies and private entrepreneurs who are registered with the Russian tax authorities (including, for example, branches of foreign companies) should also take the planned changes into account in order to make sure that VAT is correctly calculated by foreign suppliers and be in a position to claim deductions for lawfully charged amounts of VAT.

Taxpayers should consider the following preparatory steps:
- Analyze activities to identify supplies which may be classed as electronic services and result in obligations to register for VAT purposes in Russia
- Assess the feasibility of applying a VAT exemption in relation to certain types of electronic services
- Assess the possibility and/or necessity of changing the business model, finance model, procedures and/or documents in order to reduce tax risks
- Consider customizing an ERP system to facilitate the collection and processing of information on electronic services which the tax authority may request in the course of a tax audit

Endnote

1. The Law was passed on 27 November 2017.
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Indirect Tax

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