Russian VAT Rules for E-Services

2018

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The Law, effective since 1 January 2017, introduced comprehensive VAT rules on the supply of e-services to Russian consumers. The respective rules aim to collect Russian VAT on the sale of e-services at their place of consumption (i.e. in Russia) by requiring that the foreign suppliers of these services register for VAT purposes for B2C sales. In this way the Law levels the playing field for Russian and foreign suppliers of e-services.

The key provisions of the Law are summarised below, along with the key challenges for businesses.
1 E-services definition and place of supply rules for e-services

The Russian Federation Tax Code now includes **e-services**, which are services **delivered over the Internet** or another similar electronic network **in an automated fashion** with the use of information technology. E-services include:

- Provision of the right to use software (incl. games) and databases, incl. updates to them and additional functions
- Advertising services, incl. use of web-based software and databases, and provision of advertising space on the Internet
- Provision of rights to use ebooks / other e-publications, information / educational materials, images, music with or without lyrics, and audio-visual content
- E-commerce web-based platform services for establishing contacts and concluding transactions between buyers and sellers
- Provision / maintenance of a commercial / personal presence on the Internet; websites / web page support, securing access to them and provision of read-write access
- Data storage and processing services, where the person providing data has access to the data through the Internet
- Services performed automatically based on user (consumer) data input; provision of automated data searches and the provision of sorted data through an information and telecommunications network
- Provision of domain names and hosting services
- Administration and support of information systems and websites
- Online provision of computing capacity to place information in an information system
- Services for placing offers for the sale / purchase of goods, work, services and property rights
- Provision of search services and / or information to the purchaser on potential customers
- Provision of access to Internet search engines
- Provision of web-based statistics services

**VAT rate 15.25% on gross sales**

* the tax base on sales of e-services is deemed VAT inclusive

Available VAT **exemption for e-services:**

- Provision of rights to use software (incl. games) and databases based on a licence agreement or on a tangible media

The following are **not e-services:**

- Sale of goods (work, services) ordered through the Internet, where supply takes place without using the Internet
- Providing consulting services by e-mail
- Provision of services for providing remote access to the Internet

For VAT purposes, the place of supply for e-services is determined based on the location of the customer:

- for B2B sales, location in Russia is determined based on registration of the company / branch with the Russian tax authorities;
- for B2C sales, the consumer (individual) is treated as being in Russia if **at least one** of the following conditions is met:
  - The consumer (individual) resides within Russia
  - Payment is made by the consumer through a bank / payment operator located in Russia
  - The consumer used a Russian IP address when purchasing the e-service
  - The consumer for purchasing or payment of e-services used a telephone number with Russian telephone country code

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If a foreign company provides e-services to Russian customers

VAT registration requirement

The business implications for foreign companies (and intermediaries) may vary depending on the type of e-services sold (B2B, B2C) and the role performed in the sale of e-services (i.e. as a service provider, agent, etc.) to the Russian consumers:

Supply of e-services to Russian customers

B2C

Registration for VAT purposes is required, depending on the structure of sales

<table>
<thead>
<tr>
<th>Foreign company’s role</th>
<th>Type of e-services sold</th>
<th>VAT registration required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service provider</td>
<td>Direct sales</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>Sales through a foreign or Russian intermediary</td>
<td>✗</td>
</tr>
<tr>
<td>Intermediary</td>
<td>Resale to an individual</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>Resale through a foreign or Russian intermediary</td>
<td>✗</td>
</tr>
</tbody>
</table>

VAT registration is also necessary when VAT exempt e-services have been provided. In view of this obligation to register, foreign e-service suppliers may potentially need to consider restructuring their sales channels, for example, by establishing a Russian subsidiary as the seller in Russia and transferring some of the functions of the foreign e-service supplier to that Russian subsidiary.

B2B

VAT registration is not required until 2019

B2B supplies of e-services from foreign providers are subject to withholding VAT, i.e. the Russian business customer withholds VAT (acts as a tax agent) from the payment for the e-services provided to a foreign supplier, and then recovers VAT if the necessary conditions for VAT recovery are met.

If a foreign or Russian legal entity is an intermediary in a complex e-services supply chain, it may be difficult identifying which party should act as the VAT agent for a foreign e-services supplier. This is why intermediary legal entities should structure their transactions carefully with counterparties and pay close attention to the wording of related contracts.
**VAT compliance**

Registration includes an obligation to maintain VAT compliance and to pay VAT.

**VAT compliance setup**

- **Reporting setup**
  Development of the conversion templates needed to convert the accounting data of the foreign company to that of the statutory VAT return format and e-services sales register

- **VAT payment setup**
  Development of a bridge between SWIFT, the bank of the foreign company, and the specific payment rules applied by the Russian tax authorities

**Regular reporting and payments, quarterly**

- **VAT return**
  Quarterly, to be filed by the 25th day after the reporting quarter

- **E-services sales register**
  Quarterly, in statutory format, to be submitted upon a request from the tax authorities

- **VAT payment**
  Quarterly, by the 25th day after the reporting quarter

**Ad hoc activities upon request of the tax authorities**

- **Communication with the Russian tax authorities**
  Communication needed on e-services VAT matters, such as tax authority queries related to the content of VAT returns and/or sales registers, e-services supply and payment chains, tax audits, and the exchange of supporting documentation.

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**KPMG can support you with the following:**

- Preparing and filing tax returns
- Calculating taxes payable
- Preparing the sales register in Excel format upon a request from the tax authorities
- Preparing payment orders for taxes and penalty fee payments (if applicable)
- Communications with the tax authorities and preparing replies to tax requests
From 1 January 2019, foreign suppliers of e-services to Russian business customers (B2B) directly receiving payments from such customers will be required to register for VAT in Russia

Currently, Russian VAT applicable to e-services rendered by foreign suppliers (that are not tax registered in Russia) to Russian business customers is paid under the tax agent mechanism (similar to the reverse charge mechanism), i.e. the Russian business customers acquiring e-services withhold VAT (act as tax agents) from their payments to the foreign suppliers, report both input VAT and the supplier’s output VAT to the Russian tax authorities and pay the respective VAT to the authorities on behalf of the foreign suppliers. This VAT could be claimed for recovery by such business customers if general conditions for VAT recovery are met.

Starting from 1 January 2019 the requirement as to VAT registration for e-service suppliers currently existing for B2C transactions also extends to B2B supplies, i.e. Russian business customers will no longer be required to act as tax agents and pay VAT with respect to e-services acquired from foreign suppliers. According to new rules foreign e-services suppliers directly receiving payments from the customers are required to:

- register for VAT purposes with the Russian tax authorities (even if VAT exempt e-services are provided)
- file the VAT returns to the Russian tax authorities and maintain e-services sales ledgers
- pay Russian VAT itself
- prepare the documents required for Russian business customers in order to recover input VAT.

Current VAT rules for sales of B2B e-services

<table>
<thead>
<tr>
<th>Russian jurisdiction</th>
<th>Foreign jurisdiction</th>
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</thead>
<tbody>
<tr>
<td>Sale of e-services RUB 100 (including VAT)</td>
<td></td>
</tr>
<tr>
<td>Russian business customer</td>
<td>Foreign provider of e-services</td>
</tr>
<tr>
<td>VAT return</td>
<td>Payment for e-services net of VAT</td>
</tr>
<tr>
<td>Information about Provider’s output VAT</td>
<td>VAT withholding and transfer to the tax authorities, RUB 15.25</td>
</tr>
<tr>
<td>Information about Customer’s input VAT</td>
<td></td>
</tr>
<tr>
<td>Russian tax authorities</td>
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</table>
The Russian customers that purchase such VATable e-services from the foreign suppliers will be able to claim for recovery VAT charged on the respective e-services if general conditions for input VAT recovery are met and the Russian customers have the following documents in place (instead of the VAT invoice):

— an agreement concluded with the foreign supplier and (or) settlement document that contain the following information:
  – an amount of Russian VAT indicated separately from the fee
  – the Taxpayer Identification Number (in Russian «ИНН») of the foreign service provider
  – the Tax Registration Reason Code (in Russian «КПП») of the foreign service provider
— documents confirming the actual payment of the fee (including payment of the amount of Russian VAT) to the foreign supplier

In other words, the Russian business customer will not be able to recover input VAT on a purchase of e-services unless the foreign e-services provider is registered for VAT in Russia.

Also starting from 1 January 2019 a standard VAT rate increases from 18% to 20%. Respectively, the computed VAT rate applicable to e-services increases from 15,25% to 16,67%.

VAT rules for sales of B2B e-services effective from 2019

KPMG can support with the following:

Analysis of whether the services rendered in favour of Russian business customers are e-services and, respectively, whether such foreign e-service provider is required to register for VAT in Russia.

If the services are treated as e-services – analysis of whether it is possible to apply the VAT exemption (established for provision of right to use software/database on the basis of a license agreement) to such e-services (if applicable).

In particular, it is necessary to analyse the intercompany charges to Russian subsidiaries such as management fees to understand whether any element of such charges could be treated as fees for e-services (such cases may include for example a provision of rights of access to a centralized software located on non-Russian servicers to a Russian company).

Registering foreign entities with the tax authorities (see section 2: VAT registration requirement)

VAT compliance support (see section 2: VAT compliance)

Assisting with updating accounting and tax software to meet requirements applying in 2019
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