

TAX

Digital services tax: latest developments

24 October 2019

The draft of the tax decree to be included in the Italian 2020 Finance Bill, approved by the Council of Ministers on 15 October 2019, provides for the enactment of the Digital Services Tax (DST), introduced in 2017 and never actually applied due to the lack of the implementing secondary legislation.

Under the draft decree, the DST will apply as of 1 January 2020, and the DST tax period will be the calendar year.

The DST will apply to any business or person, wherever resident or established, supplying digital services that generate, either at company level or at group level, cumulatively:

1. worldwide revenues not lower than € 750,000,000; and
2. Italian sourced revenues from qualifying digital services not lower than € 5,500,000.

The DST will apply to revenues generated by the supply of the following digital services:

Stricter requisites

The MED has introduced stricter requisites:

- a) advertising on a digital interface targeted at users of that interface (e.g. search engines);
- b) providing a multilateral digital interface which allows users to interact with other users, and which may also facilitate the provision of underlying supplies of goods or services directly between users (e.g. market places or social networks);
- c) the transmission of data collected from users and generated through the use of digital interface (e.g. data collection).

The following services are not relevant for the purposes of the DST:

- digital contents supply;
- communication services;
- payment services;
- financial services and transmission of data by regulated financial entities.

Qualifying digital services are subject to the DST if they are provided to a user with a device located in Italy. The location in Italy will be based on the IP of the device or other localization system. The draft decree establishes criteria for determining where the users should be deemed to be located, depending on the type of qualifying digital service.

The DST shall be calculated by applying a 3% rate on the gross revenues (excluding VAT and other indirect taxes) deriving from qualifying digital services during the calendar year. Digital intra group services are not taxable for DST purposes.

DST taxable persons shall pay the DST within the 16th of

Highlights

March of the calendar year following the year during which the revenues were generated, and file the annual DST return by the 30th of June of the same year.

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