

Google tax revolutionises tax regime for digital content sales

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Introduction

On June 15 2016 the State *Duma* of the Federal Assembly adopted in its third reading the Federal Law on the Amendment of Part One and Part Two of the Tax Code of the Russian Federation. The law's new requirements have informally been named 'Google tax' as they introduce significant changes to the Russian tax regime for foreign companies that:

- sell services associated with the provision of remote access to computer software and databases;
- sell hosting services;
- transfer software, computer game, audiovisual and literary rights; and
- provide advertising services on the Internet and other activities classified in the law as 'services in electronic form'.

Obligation to register with Russian tax authorities

The main change introduced by the law is the obligation for foreign companies providing services in electronic form and selling content online to Russian consumers to register with the Russian tax authorities. Such registration will not depend on the foreign company having a representative office or any other place of business in the Russian territory and – in itself – will not require the creation of such a representative office.

Foreign companies providing services in electronic form in the Russian territory must register with the Russian tax authorities:

- no later than 30 days from the date on which they begin providing such services; or
- if the provision of such services has already started, within 30 days from the date on which the law takes effect (January 1 2017).

Scope

Services in electronic form will be deemed to have been provided in the Russian territory if:

- the customer resides in the Russian territory;
- the bank or operator through which the electronic payment of services was organised is located in the Russian territory;
- the customer's internet protocol address (used to purchase the services) is located in the Russian territory; or
- the international country code of the telephone number used to acquire payment of the

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services is assigned to the Russian territory.

The cost of the services provided in electronic form in the Russian territory will be subject to value added tax (VAT) at the computed rate of 15.25%, which should be calculated and paid by the taxpayer (ie, the foreign company).

VAT

If a foreign company providing services in electronic form in the Russian territory fails to submit an appropriate tax declaration and pay the corresponding VAT, the Russian tax authorities should be entitled to audit the company and charge VAT based on available data pertaining to the similar operations of other taxpayers.

Overpaid VAT is able to be returned to foreign companies; however, they will not be entitled to a VAT deduction.

Comment

The law introduces revolutionary amendments associated with the taxation of software and internet services sold in the Russian territory and may affect all foreign companies operating in the Russian market, as well as Russian companies with foreign sales offices.

Companies are advised to assess the tax risks associated with the so-called 'Google tax' and the obligation to register with the Russian tax authorities from January 1 2017.

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