

## Digital Service Tax

**(Article 1, paragraph 35 and following of Law December 30, 2018 n. 145, as amended by Law December 27, n. 160)**

### **Art. 1 – Paragraph 35**

A Tax on Digital Services has been introduced.

### **Art. 1 – Paragraph 35 - bis**

*The tax applies to revenues resulting from the provision of the services referred to in paragraph 37, carried out by the subjects referred to in paragraph 36, during the calendar year*

### **Art. 1 - Paragraph 36**

Taxpayers which are subject to the tax on digital services are those exercising a business activity which, individually or at group level, *in the calendar year preceding that in paragraph 35-bis:*

- Record total worldwide revenues equal to or greater than 750 million euros; and
- Obtain total revenues from digital services in the territory of the State as provided by Paragraph 37 equal to or greater than 5.5 million euros.

### **Art. 1 - Paragraph 37**

The tax is applied to the revenues deriving from the supply of the following services:

- a) placing of an advertisement(s) on a digital interface, targeting the users of that interface;
- b) put at disposal a multilateral digital interface allowing users to contact and interact with each other and facilitating the direct supply of goods or services;
- c) transmission of data collected by users and generated by the use of a digital interface.

### **Art. 1 - Paragraph 37 - bis**

*Digital services referred to in paragraph 37 do not include:*

- a) *the direct provision of goods and services, as part of a digital intermediation service;*
- b) *the provision of goods or services ordered through the website of the supplier of those goods and services, when the supplier does not act as an intermediary;*
- c) *the availability of a digital interface whose exclusive or principal purpose is the provision to users of the interface, by the subject who manages the interface itself, of: digital content, communication services or payment services;*
- d) *the availability of a digital interface used to manage:*
  - *interbank settlement systems pursuant to Legislative Decree September 1, 1993 n. 385 or financial instruments settlement or delivery systems;*
  - *trading platforms or trading systems of systematic internalisers referred to in Article 1, paragraph 5-octies, letter c), of Legislative Decree February 24, 1998 n. 58;*

- consultation activities of participatory investments and, if they facilitate the granting of loans, intermediation services in participatory financing;
- wholesale trading venues referred to in Article 61, letter e), of Legislative Decree February 24, 1998 n. 58;
- central counterparties referred to in Article 1, paragraph 1, letter w-quinquies), of Legislative Decree February 24, 1998 n. 58;
- central depositories referred to in Article 1, paragraph 1, letter w-septies), of Legislative Decree February 24, 1998 n. 58;
- other connection systems whose activity is subject to authorization and the performance of the provision of services subject to the supervision of a regulatory authority in order to ensure the safety, quality and transparency of transactions involving financial instruments, savings products or other financial assets;
- e) the transfer of data by the subjects providing the services indicated in the previous letter d);
- f) the carrying out of organization and management activities of telematic platforms for the exchange of electricity, gas, environmental certificates and fuels, as well as the transmission of related data collected from such platforms and any other related activity.

## **Art. 1 - Paragraph 38**

Revenues deriving from services mentioned in paragraph 37 rendered to subjects that, pursuant to 2359 of the civil code, are considered controlled, controlling or controlled by the same controlling entity are not subject to the tax.

## **Art. 1 - Paragraph 39**

Taxable revenues are calculated gross of any cost and net of the value added tax or other indirect taxes.

## **Art. 1 - Paragraph 39-bis**

*Fees paid for the provision of the services referred to in paragraph 37, letter b), include the set of fees paid by users of the multilateral digital interface, with the exception of those paid as consideration for the sale of goods or provision of services which constitute, on an economic level, operations that are independent from access and use of the taxable service.*

*39.ter. Fees for the provision of a digital interface that facilitates the sale of products subject to excise duty in accordance with Article 1, paragraph 1 of Council Directive 2008/118/EC of December 16, 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EC, are not considered when they have a direct and inseparable connection with the volume or value of such sales."*

## **Art. 1 - Paragraph 40**

The tax period coincides with the calendar year. A revenue is considered taxable in a given tax period if the user of a taxable service is located in the territory of the State in that period. A user is considered to be located in the territory of the State if:

- a) in the case of a service referred to in paragraph 37, letter a), the advertising in question appears on the user's device when the device is used in the territory of the State in that tax period to access a digital interface;
- b) in the case of a service referred to in paragraph 37, letter b), if:

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- 1) the service involves a multilateral digital interface that facilitates the corresponding supply of goods or services directly between users, the user uses a device in the territory of the State in that tax period to access the digital interface and concludes a corresponding transaction on that interface during that tax period;
- 2) the service involves a multilateral digital interface of a type that does not fall under point 1), the user has an account for the whole or part of that tax period which allows him to access the digital interface and this account has been opened using a device in the territory of the state;
- c) in the case of a service referred to in paragraph 37, letter c), the data generated by the user who used a device in the territory of the State to access a digital interface, during that tax period or a previous tax period, are transmitted in that tax period.

## **Art. 1 - Paragraph 40-bis**

*The device is considered to be located in the territory of the State with reference mainly to the internet protocol (IP) address of the device itself or to another geolocation system, in compliance with the rules concerning the processing of personal data.*

## **Art. 1 - Paragraph 40-ter**

*When a taxable service referred to in paragraph 37 is provided in the territory of the State during a calendar year pursuant to paragraph 40, the total of taxable revenues is the product of all revenues deriving from digital services, wherever realized, and the percentage representing the part of these services connected to the territory of the State. This percentage is equal:*

- a) *for services referred to in paragraph 37, letter a), to the proportion of advertising messages placed on a digital interface based on data relating to a user who accesses this interface while he is located in the territory of the State;*
- b) *for services referred to in paragraph 37, letter b), if:*
  - 1) *the service involves a multilateral digital interface that facilitates the corresponding supply of goods or services directly between users, to the proportion of goods or services supply operations for which one of the users of the digital interface is located in the territory of the State;*
  - 2) *the service involves a multilateral digital interface of a type that does not fall under point 1), to the proportion of users who have an account opened in the territory of the State that allows access to all or part of the available services of the interface and who used this interface during the calendar year in question;*
- c) *for services referred to in paragraph 37, letter c), to the proportion of users for which all or part of the data sold were generated or collected while accessing, when they were located in the territory of the State, a digital interface.*

## **Art. 1 - Paragraph 41**

The tax due is obtained by applying the rate of 3% to the amount of taxable revenues obtained by the taxable person *during the calendar year.*

## **Art. 1 - Paragraph 42**

*Taxable subjects are required to pay the tax by 16 February of the calendar year following the one referred to in paragraph 35-bis. The same subjects are required to present the annual declaration of the amount of taxable services provided by 31 March of the same year. For companies belonging to the same group, a single company of the group is appointed to fulfill the obligations deriving from the provisions relating to the digital service tax.*

## **Art. 1 - Paragraph 43**

Non-resident entities, with no permanent establishment in the territory of the State and an identification number for VAT purposes, that in the course of a calendar year fulfill the conditions indicated in paragraph 36 must request the Revenue Agency an identification number for the purpose of the digital service tax. The request is made according to the procedures set forth in the Provision of the Director of the Revenue Agency referred to in paragraph 46.

*Non-resident subjects, with no permanent establishment in the territory of the State, established in a State other than a Member State of the European Union or of the European Economic Area with which Italy has not concluded an administrative cooperation agreement to fight against tax evasion and tax fraud and a mutual assistance agreement for the recovery of tax claims, must appoint a tax representative to fulfill the duties of declaration and payment of the digital service tax.*

The entities resident in the territory of the State that belong to the same group of the entities referred to in the previous period are jointly responsible with the latter for the obligations deriving from the regulation contained in this article.

## **Art. 1 - Paragraph 44**

For the purposes of the assessment, penalties and tax collection referred to in this article, as well as for the related litigation, the provisions regarding VAT are applied, insofar as they are compatible.

## **Art. 1 - Paragraph 44 - bis**

*Taxable subjects keep a specific accounting to collect monthly information on the revenues of taxable services, as well as the monthly quantitative elements used to calculate the proportions referred to in paragraph 40-ter. The information on the sums collected monthly specifies, where necessary, the amounts collected in a currency other than the euro and the amounts converted into euros. The amounts collected in a currency other than the euro are converted by applying the latest exchange rate published in the Official Journal of the European Union, known on the first day of the month during which the sums are collected.*

## **Art. 1 - Paragraph 45 (repealed)**

## **Art. 1 - Paragraph 46**

With one or more Provisions of the Director of the Revenue Agency the implementing modalities of the present article are defined.

## **Art. 1 - Paragraph 47**

*The provisions relating to the digital service tax apply from 1 January 2020.*

## **Art. 1 - Paragraph 48**

New or greater charges for public finance must not derive from the implementation of the provisions contained in paragraphs 35 to 50. The administrations involved provide for the fulfilments required with the human, instrumental and financial resources available under current legislation.

## **Art. 1 - Paragraph 49**

The Minister of Economy and Finance presents to the Chambers an annual report on the state of implementation and on the cognitive and economic results deriving from the provisions set out in this article. In the Update of the Economic and Financial Document (DEF), the Ministry of Economy and Finance - Finance Department presents a report on the implementation of the discipline contained in this article, also for the purpose of updating the financial effects deriving from the same.

## **Art. 1 - Paragraph 49 - bis**

*Paragraphs 35 to 49 of Article 1 of Law December 30, 2018 n. 145 will be repealed at the time of entry into force of provisions deriving from agreements reached in the international forums with regard to the taxation of the digital economy.*