

VAT on e-services

A foreign company provides electronic services (sale of the software such as application, game, e-book, audio, video, music etc. by download and cloud computing service, services to run advertisements, Brokerage service) to private persons in Korea, the VAT registration is required. The related law has been enacted from July 1, 2015. VAT rate is 10% flat. The issue of VAT invoice is exempt but a receipt should be issued instead.

Article 96-2 (Special Cases concerning Supply of Services and Business Registration by Foreign Entrepreneurs Providing Electronic Services)

(1) “Game, audio or video file, software, or other services prescribed by Presidential Decree” in Article 53-2 (1) 1 of the Act means any of the following that is capable of being stored and executed, or is capable of being operated in real time without being stored, in a mobile communications terminal device, computer, etc.: <Amended on Feb. 12, 2019>

1. A game, audio or video file, electronic document, software or other works, which are manufactured or processed in the form of code, letters, voice, sounds, images, etc. after optical or electronic processing;
2. Services to improve electronic services under subparagraph 1.

(2) “Services to broker goods or service. prescribed by Presidential Decree” in Article 53-2 (1) 4 of the Act means any of the following: Provided, That this shall exclude where a person liable to pay tax under Article 3 of the Act makes a return and payment of value-added tax because the price for brokerage services is included in that for the supply of goods or services: <Newly Inserted on Feb. 12, 2019>

1. Brokering to make goods, places, etc. leased, used, or consumed in the Republic of Korea;
2. Brokering to supply goods or services, or make them supplied, in the Republic of Korea.

1. Which VAT obligations does your client have in South Korea?

Article 53-2 (Special Cases concerning Supply of Services, Business Registration, etc. by Foreign Entrepreneurs Providing Electronic Services) of the Restriction of Special Taxation Act:

Where **a non-resident or a foreign company** supplies any game, audio or video file, software, or other services prescribed by Presidential Decree (hereinafter referred to as “electronic services”), which are capable of being executed in a mobile communication terminal device, computer, etc., to consumers in the Republic of Korea (excluding where services are supplied for the taxable business or tax-free business of a person whose business has been registered under the Income Tax Act, or the Corporate Tax Act), the electronic services shall be deemed supplied in the Republic of Korea. However, a person referred to above supplies any electronic services to consumers in the Republic of Korea through a third party who operates an open market or other equivalent to provide services to enable electronic services transactions through an information and communications network, etc., the third person shall be deemed to supply the electronic services in the Republic of Korea.

2. Does your client have to register for VAT purposes in South Korea?

A non-resident or foreign corporation referred to above 1 shall have its business registered according to the simplified method prescribed by Presidential Decree (hereinafter referred to as “simplified business registration”). In such cases, the person shall file an application for simplified business registration not later than 20 days after the commencement date of the business.

3. How does your client apply for the Simplified Business Operator?

They need to first access the NTS (National Tax Services) Hometax website (Simplified Business Operator). Then, they can sign up for a membership and apply for the Simplified Business Operator.

4. What details should they need to fill in when applying for the Simplified Business Operator?

Followings are the details they should fill in:

- Business operator’s name
- Representative person’s name
- Email address
- Website address
- Registered country and business registration number of foreign business operator
- Commencement date of e-service in Korea
- Service type
- Tax agent information, if any (See number 10 below)

5. How do they file the VAT return?

In order to file a VAT return via Hometax, they must first receive a business registration number. Then, they can file the VAT return by log-in (enter ID, Password, and Business Registration Number) onto the NTS Hometax (for Simplified Business Operator) website.

6. What is required to be reported when filing the VAT return?

Followings are details to report when they file the VAT return:

- Business operator’s name
- Business registration number of the simplified business operator
- Filing period
- Total supplied value within filing period
- Purchased tax amount to be deducted

7. When they received foreign currencies (dollars, euros) as the compensation of the e-service, how do they file the VAT return?

When filing VAT return, the return should be filed in KRW. However, when a provider received foreign currencies or foreign exchanges as the compensation of his/her e-service, the provider should file the

tax base by converting the received currency into KRW based on the standard foreign exchange rates* as of closing date of the taxable period.

* The standard rate noticed by Seoul Money Brokerage Services (www.smbs.biz) is applied.

8. What currency are they supposed to use to pay the VAT?

In principle, VAT shall be paid in KRW. In case of being paid from abroad, taxpayers are allowed to pay VAT in USD by applying the current standard foreign exchange rate. Considering required time to deliver a remittance, taxpayers shall pay their VAT 3 days earlier from the end date of payment period.

9. Is it necessary to hire a tax agent to pay VAT return?

They can hire a lawyer, a tax agent, or a certified public accountant to handle their tax affairs, but it is not required.

10. Having read the above description in detail, hiring a tax agent does not seem to be necessary. Nonetheless, are there any reasons to hire a tax agent at the moment?

- It looks simple, but as they do not know the Korean VAT practice, they may face a lot of hurdles.
- So we recommend they hire a tax agent at the beginning stage at least.
- Once the process is stabilized, the in-house accountant may take over the filings.

If you need more information or assistance, please feel free to contact the following:

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