



# Italy: Digital Services Tax applicable from 1 January 2020

## Tax Alert

17 October 2019



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## Italian Digital Services Tax

The decree approved on 15 October amends the previous version of the Italian Digital Services Tax (DST) introduced by the Budget Law 2019. That DST never came into force as implementing measures were never adopted (see our [Tax Alert](#) from 2 January 2019).

The 3 percent DST will apply to revenues generated from certain B2B and B2C digital services rendered to Italian customers by companies or groups of companies of a certain size. The relevant digital services are described in more detail below.

This DST will come into force on **1 January 2020** and will be repealed when (and if) the internationally agreed provisions on digital economy taxation become applicable (sunset clause).

Following below is our unofficial English translation of the new DST rules.

### Taxable persons

*The DST applies to revenues resulting from the provision of certain digital services, as defined below, obtained by the taxable persons indicated below, during a calendar year.*

**Taxable persons** are businesses that, individually or group-wide, meet both of the following conditions, in **the calendar year before** the one in which the taxable revenues are obtained:

- total worldwide revenues of not less than EUR750 million;
- revenues of not less than EUR5.5 million, obtained in Italy from the digital services defined below.

### Taxable services and tax period

**The DST shall apply** to revenues resulting from the provision of the **following services**:

- the placing on a digital interface of advertising targeted at users of that interface;
- the making available to users of a multi-sided digital interface which allows them to be in contact and to interact with each other, and which may also facilitate the provision of underlying supplies of goods or services directly between users;
- the transmission of data collected from users and generated from the use of digital interfaces.

The taxable revenues shall include total gross revenues, net of VAT and other indirect taxes.

Revenues derived from the provision of the above services shall **not be taxable** if the services are rendered to companies that are deemed to be parent, subsidiary or sister companies as per article 2359 of the Italian Civil Code.

The DST **does not apply** to the **following services**:

- the making available of a digital interface for the sole or main purpose of enabling the entity making it available to supply digital content to users or to supply communication services to users or to supply payment services to users;
- the supply of regulated financial services by regulated financial entities;
- the transmission of data by the regulated financial entities mentioned above.

The **tax period** shall be the calendar year.

### Place of taxation

A revenue shall be taxable in a given tax period if the user of the taxable service is located in Italy in that period.

A user shall be deemed to be **located in Italy** if:

- in the case of a service falling under **letter (a)**, the advertising in question appears on the user's device at a time when the device is being used in Italy in that tax period to access a digital interface;
- in the case of a service falling under **letter (b)**:
  - i. if the service involves a multi-sided digital interface that facilitates the provision of underlying supplies of goods or services directly between users, the user employs a device in Italy in that tax period to access the digital interface and concludes an underlying transaction on that interface in that tax period;
  - ii. if the service involves a multi-sided digital interface of a kind not covered by point (i), the user has an account for all or part of that tax period that allows the user to access the digital interface and that account was opened using a device in Italy;
- in the case of a service falling under **letter (c)**, data generated from the user's employment of a device in Italy to access a digital interface, during that tax period or any previous one, is transmitted in that tax period.

For the purposes of locating the user in Italy, the device shall be deemed to be used in Italy mainly by reference to the **Internet Protocol (IP) address** of the device itself or any other method of geolocation.

### Digital services tax calculation and compliance

DST shall be calculated by applying the 3% rate to the amount of taxable revenues obtained by the taxable person during **the calendar year**.

Taxable persons shall pay the DST **by 16 March** of the calendar year following the one in which the taxable revenues are obtained. The same taxable persons shall file an annual return to declare the taxable services by **30 June** of the same year. For companies belonging to the same group, a single company shall be appointed to fulfill the obligations resulting from the DST provisions.

**Non-established** persons, without a permanent establishment in Italy or Italian VAT registration shall, if they qualify as DST taxable persons and meet the above conditions during a calendar year, obtain a DST identification number by submitting an application to the Italian Revenue Agency. The application shall be made in accordance with the procedures to be laid down by the Director of the Revenue Agency.

Persons established in Italy and belonging to the same group as the non-established DST taxable persons shall be **jointly liable** with the latter for DST compliance.

For the purposes of DST assessment, penalties, collection and litigation, the **Italian VAT rules** shall apply, if compatible.

The Director of the Revenue Agency shall issue one or more decrees establishing how to apply the DST.

### Entry into force

The above provisions shall apply **from 1 January 2020**.

The Italian DST shall be repealed when the internationally agreed provisions on digital economy taxation become applicable.

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Tax Alert / KPMG in Italy / 17 October 2019

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