

Procedure for VAT on Digital Services Provided By

Non-Resident Person 2081(2024)

Highlights



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1. Introduction

IRD has introduced a new procedure, titled "Procedure for VAT on Digital Services Provided By Non-Resident Person, 2079 (Second amendment, 2081)," to regulate the VAT on Digital services that are being provided by Non-Resident Persons.

2. How is "Transaction" defined under this procedure?

Transaction refers to a Digital service provided by a Non-Resident to a consumer, where Nepal is considered the place of supply if any of the following conditions are met:

- If the service is received within Nepal
- If the invoice is issued to an address located in Nepal
- If the payment is made from the Banks or authorized payment service providers of Nepal.
- If the payment is made using debit, credit, or similar cards issued by banks or authorized payment service providers in Nepal.
- If the service is received using an IP address within Nepal
- If service is received using Nepali coded SIM card or Nepali landline telephone.

Note: The consumer for this procedure is a person resident in Nepal who is consuming digital services except for business purposes.

3. How is "Digital Service" defined under this procedure?

'Digital service' means the following services that use information technology to deliver automated services to consumers via the Internet with minimum human intervention:

- Advertising services
- Cinema, television, music, OTT and other similar subscription-based services
- Services relating to data collection
- Cloud services
- Gaming services
- Mobile application services
- Online marketplace services and services provided through it.
- Supply and update software
- Download service of statistics, images, etc.
- Consultancy, skill development, and training services
- Other services of similar nature

4. At what rate and in what manner the Digital Services Tax be levied and collected?

The VAT on digital services should be levied and collected by following the procedure mentioned below:

- Non-residents providing taxable digital services in Nepal must register for VAT and collect VAT at 13%, if the transaction exceeds NPR 3 million in the past 12 months. Once registered for VAT due to surpassing this threshold, the person must continue collecting and depositing VAT even if future transactions fall below the threshold amount.
- Services provided in Nepal to entities other than consumers are not considered electronic services, so non-residents are not required to charge VAT on these services. For non-consumer entities, tax on services purchased from a person outside Nepal should be filed according to Section 8(2) of the VAT Act 2052.
- If a consumer misrepresents themselves as a non-consumer for evading tax and uses the service, the consumer themselves will be held accountable.

5. Who will administer the VAT on digital services?

VAT on digital services will be administered by the large taxpayer office (LTPO).

6. What provisions are mentioned for the registration of non-residents providing digital services in Nepal?

Service providers should follow the procedure outlined below for registration under this procedure:

- Non-residents providing taxable digital services in Nepal, with transactions exceeding NPR 3 million in the past 12 months, must register for VAT per the provisions of the VAT Act 2052 (1997) and begin collecting VAT from the date of registration.
- Once the registration threshold is exceeded, the non-resident must apply for registration within 30 days of exceeding such threshold.
- Non-resident providing such services may also get voluntary registration if they anticipate their transactions will exceed the threshold limit.
- For VAT registration, a scanned copy of the following documents needs to be submitted by the service provider along with the application:
 - A notarized copy of the company's registration and tax registration certificates in English from its country of residence.
 - If any person has been authorized for tax purposes, a letter of authorization and a notarized English copy of their passport.
 - If a service provider appoints an authorized person, a photo and a copy of the authorized person's signature.

7. What are the prescribed provisions for recording transactions and issuing invoices by the service provider?

Service providers should follow the procedure outlined below when recording transaction details in their books and issuing invoices against the service provided:

- A non-resident service provider registered under this procedure can issue a tax invoice electronically without needing approval from the IRD. This invoice must include details such as the service provider's name and PAN, the customer's name and PAN (if available), the date of the transaction, and other relevant information.
- The service provider shall issue an invoice either at the time the service is rendered or when payment is received, whichever occurs first.
- If consideration is received in convertible foreign currency, the invoice should be issued in NPR by converting the foreign currency using the exchange rate prescribed by the NRB.

8. Due date for payment of tax and submission of return

The service provider shall submit a VAT return and make payment of such VAT amount accordingly by the 25th of the following month (Nepali Calendar Month) electronically.

9. Revenue Code

When depositing the tax amount as per the tax return submitted by the service provider, the revenue code: 33316 should also be mentioned.

10. What are the arrangements for the tax office to review taxpayers' transactions and assess tax liability?

If the tax officer suspects that the service provider has understated its tax liability, he/she may assess the tax liability in accordance with the provisions outlined in Section 20 of the VAT Act 1997.

11. What options are available to taxpayers/service providers if they are dissatisfied with the tax assessment decision made by the tax officer?

In case the service provider is not satisfied with the tax assessment done by the tax officer, he/she can appeal to higher authority following the procedure outlined below:

- If the service provider is dissatisfied with the tax assessment conducted by the tax officer, he/she may appeal for an administrative review.
- If s/he is still not satisfied with the decision made by the Director General during the administrative review, an appeal can be filed with the Revenue Tribunal.

12. How can the service provider request de-registration?

Service providers are required to follow the procedure outlined below for de-registration under this procedure:

- Any service provider operating/registered under this procedure discontinues or plans to discontinue business/transaction in Nepal, it should be done in accordance with section 11 of the VAT Act 1997.
- Application for de-registration should be submitted to the tax officer through an online medium.
- De-registration will not occur until the service provider has settled all tax liabilities.

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