# A vibrant state of change continues

## The Asia Pacific digital indirect taxation story 2024

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# Introduction

The PwC Asia Pacific indirect taxes network is pleased to present the third edition of PwC's Asia Pacific digital indirect taxes report. This publication offers an in-depth review of the evolving landscape of goods and services tax (GST), value added tax (VAT), and other indirect tax regimes in the region, against the backdrop of shifts in electronic commerce, marketplace platforms, sharing economy, cryptocurrency and other digital impacts to global trade.

As with previous editions, we discuss each regime and its rules with particular focus on providing practical insights from an indirect tax perspective. We invite you to explore the country and territory updates, which are intended to facilitate meaningful discussion, and inform decisions in this dynamic and evolving sector.

We appreciate your continued interest and engagement with this report and look forward to supporting your business as you navigate the Asia Pacific indirect tax landscape.

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# Executive summary

The rapid growth of eCommerce continues to reshape indirect tax regimes across the Asia Pacific region. This publication examines rules and developments in 15 Asia Pacific countries and territories, offering key regulatory updates and actionable insights to help businesses navigate this evolving landscape. As this publication's theme underscores, the Asia Pacific indirect tax story reflects ongoing and vibrant changes related to digital services. Notable trends include the rise of new rules targeting low value imported goods and increasing obligations for digital platforms in the sharing economy.

Since the first publication of the Asia Pacific digital indirect tax story in 2020, the trajectory has been one of constant evolution. Regardless of whether rules address remote, digital, or electronic services—or inbound intangibles—jurisdictions are converging around a growing mandate to impose VAT, GST, or equivalent local taxes on foreign sellers or platforms of digital services.

The expansion of indirect digital tax in the region is primarily driven by the surging digital economy and a dual focus: safeguarding local tax bases and, to some extent, ensuring a level playing field for domestic and foreign providers of digital goods and services.

While most countries and territories initially introduced a version of tax on electronic services, they subsequently began to focus on low-value goods transactions, bringing added complexity and procedural requirements. For instance, Malaysia and Singapore have joined Australia and New Zealand as countries with rules dealing with both remote services and low value goods.

Across jurisdictions, governments have invested significant effort into crafting carefully designed policies, often complemented by extensive education campaigns from revenue authorities. The Organisation for Economic Co-operation and Development's (OECD's) offshore supplier model policy has been adopted across the board covering underlying sellers, platforms and marketplaces, with minimal exceptions where banks are required to withhold the applicable taxes.

## Features of services and goods rules and recent developments

Digital (or electronic) services rules in the Asia Pacific region appear to be becoming more consistent, which is a promising sign for the future, signalling a move toward harmonisation. In addition, notable recent developments across countries include both scope expansions and refinements:

### Scope expansions

Across the region, we have seen several incidences of scope expansion in the context of non-residents supplying to local recipient:

- India: From 1 October 2023, India shifted to no longer limiting the scope of overseas digital services as being 'essentially automated' nor requiring only 'minimal human intervention', effectively expanding the scope to be a remote services ambit.
- Malaysia: The service tax rate increased to 8% from 1 March 2024.
- Singapore: From 1 January 2024, the GST rate rose to 9%.
- Indonesia: Sales through eCommerce platforms have been subject to VAT at 11% since 1 April 2022, with a planned increase to 12% in 2025.

### Scope reductions

- Cambodia: There has been scope relief in Cambodia, where foreign head offices engaged solely in digital supplies/eCommerce transactions with local subsidiaries or branches are exempt from registration, provided the local entity notifies authorities about such transactions.
- India: As of 1 October 2023, supplies by non-residents to government and local authorities are no longer covered.

# Executive summary (cont'd)

**Marketplace reporting obligations**

- Thailand: Local electronic platforms are now required to prepare 'special accounts' detailing income received from vendors on the marketplace platform. Overseas platforms, however, are not affected.
- Cambodia: Non-resident GST-registered suppliers must now disclose customer information including customer names, tax identification numbers and bank account details.
- Australia: Rules have been introduced in phases, with an initial scope impacting only sharing economy platforms providing ride-sharing and short-term accommodation from 1 July 2023 and expanding to cover all sharing economy platforms from 1 July 2024. Such platforms will need to report various information about the suppliers and the transactions made through their platforms.

**Additional recent developments**

- Updates to rules and regulations relating to taxation treatment of low value imported goods (LVIG) has also been an area of focus for some countries and territories in the region. From 1 January 2024, non-residents are required to register and account for sale of LVIG to Malaysian customers via platforms. Furthermore, other countries are beginning to introduce a more cohesive perspective on LVIG: Singapore introduced LVIG taxation from 1 January 2023, and Thailand and Vietnam both proposed that LVIG taxation should be introduced in the near future.
- Unsurprisingly, several countries and territories within the region have seen increases in tax authority activity. India has increased the scope of VAT for online gaming for both base (to include deposits made, not previously included) and rate (increase from 18% to 28%). In the Philippines, the Bureau of Internal Revenue issued regulations that cross border services utilised, applied, executed or consumed within the Philippines are subject to Final Withholding VAT. South Korea has introduced a new penalty of 1% of Electronically Supplied Services (ESS) supplied for failing to register from 1 January 2024.
- Cryptocurrencies continue to be an expanding field that is constantly being analysed by countries and territories to determine accurate and effective taxation treatments. Governments and taxing authorities have the challenge to keep up with a rapidly growing industry full of complexity. New Zealand recently introduced the New Offshore Gambling Duty of 12% on net gambling revenue of offshore operators providing online gambling to New Zealand residents. And Thailand has passed Royal decrees extending the VAT exemption period for transfers of crypto/digital tokens on digital asset exchanges.

## Key insights

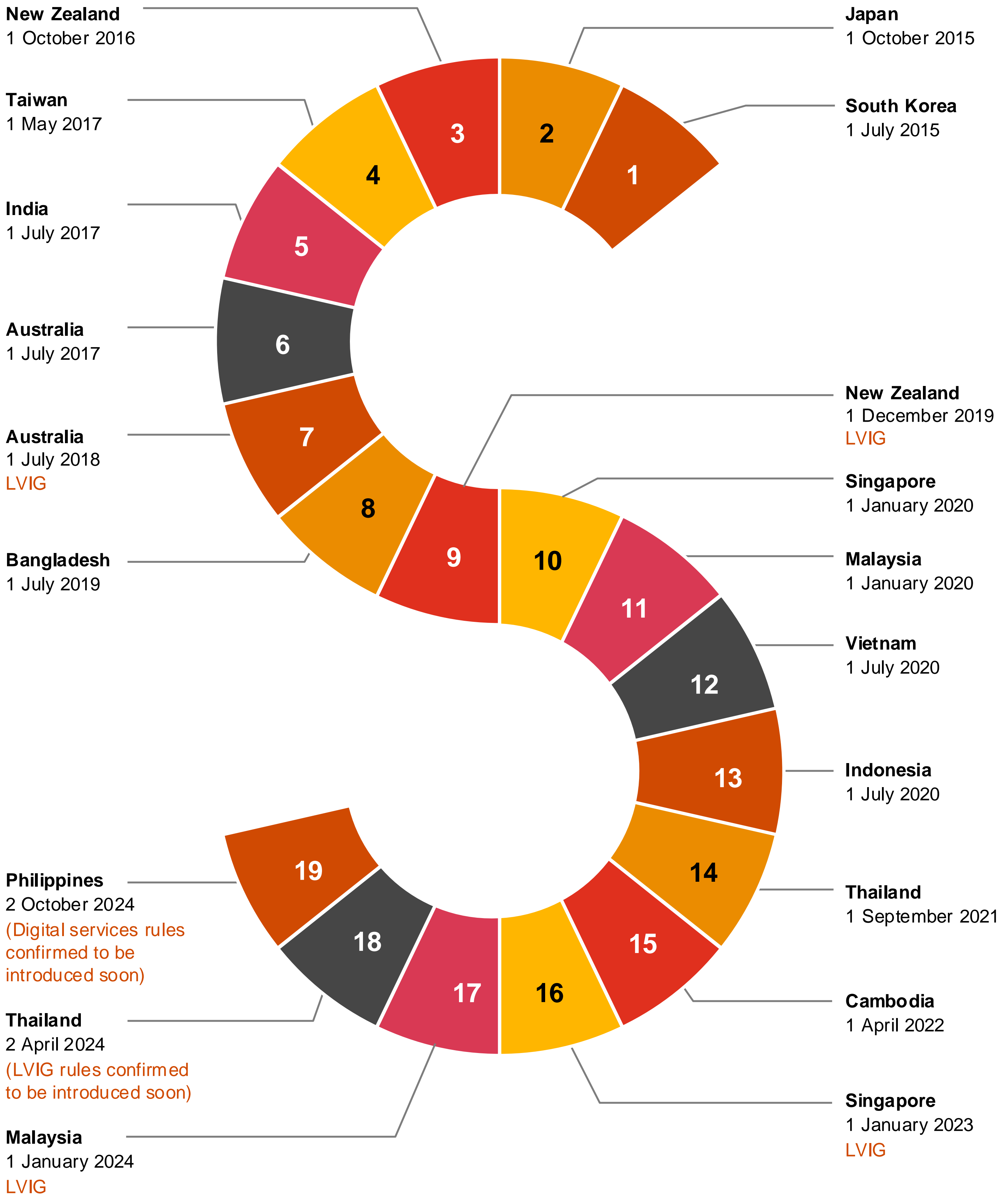
The digital indirect taxes picture in the Asia Pacific region continues to be vibrant and diverse. While there are many similarities with rules across countries, there are also some important key differences. Businesses must carefully assess their indirect tax obligations when operating in the various Asia Pacific countries and territories. It is also critical to review processes to:

- Identify business-to-consumer (B2C) and business-to-business (B2B) customers, as well as the customer location.
- Distinguish between different service types – some of which may be subject to tax and others not.
- Ascertain if they are the type of digital platform covered by the various countries' marketplace rules.

Looking to the future, businesses should remain vigilant to the ever-changing digital indirect tax environment in the Asia Pacific region and be able to respond accordingly. The overall trend is towards greater revenue collection from digital activities by tax authorities. This underscores the need for businesses to focus on equipping themselves with the knowledge, tools and processes to ensure due and proper compliance with indirect tax laws in the region.

Each country and territory's summary is based on the law as of 1 June 2024.

## Introduction of digital services and LVIG rules across the Asia Pacific region




**LVIG = Low value imported goods**

# Australia

## GST on inbound intangible supplies

### Overview

Effective 1 July 2017, Australian GST provisions include inbound intangible consumer supplies within the GST ambit. Inbound intangible consumer supplies refer to the supply of anything other than goods or real property made to an Australian consumer (broadly, Australian residents not registered for GST) by non-residents through a business operation outside Australia.

Non-resident suppliers of such inbound intangible supplies must register for GST and remit GST to the Australian Taxation Office (ATO) if their current or projected GST turnover exceeds the AUD$75,000 threshold (approximately USD$50,000). However, if the supply is made through an electronic distribution platform (EDP), such as a marketplace, the GST registration and remittance obligation rests with the EDP operator, not the non-resident supplier.

Whereas, if the non-resident supplies to a GST-registered Australian recipient (i.e. not an Australian consumer), the GST remittance obligation (if any) lies with the recipient, not the non-resident or the EDP. This obligation only applies when the GST-registered recipient cannot claim full input tax credits. No GST remittance is required if the recipient is entitled to full input tax credits.

An overview of relevant key provisions applicable for inbound intangible consumer supplies is provided in the following table:

| Particulars | Description |
|---|---|
| **Ambit** | Applicable on all intangible supplies (for example products such as streaming or downloading movies, apps/software, games, e-books, services) made to Australian consumers by a non-resident |
| **Liability to remit GST** | Non-resident supplier or if the supplies are made through an EDP, the EDP operator |
| **GST rate** | 10% |
| **Requirement to register** | The non-resident supplier or the EDP operator is required to register if its GST turnover (current or projected) exceeds AUD$75,000 during a rolling 12-month period. There is an option to obtain a simplified GST registration |
| **Reporting requirements** | Quarterly GST lodgements |
| **Tax invoice** | There is no requirement to issue a tax invoice |

## Practical insights

A key issue for many non-residents and EDPs is identifying whether a customer is an Australian consumer, and whether GST is required on the supplies. Determining applicability of GST involves gathering necessary documentation and verifying Australian Business Number (ABN)/GST registration status to confirm that a customer isn't an Australian consumer. Australian GST law imposes strict compliance obligations on non-resident suppliers and EDPs. It's crucial for businesses to ensure current processes align with these requirements to enable accurate reporting to the ATO.

Additionally, non-resident suppliers and EDPs must adhere to Australian consumer law, which mandates displaying GST-inclusive prices. As these businesses may offer products to customers from various countries through a single platform (e.g. a website or an application), they need to consider whether their current processes comply with this requirement. This may necessitate the non-resident/EDP reviewing and updating standard terms and conditions for its customers.

To maintain compliance, non-residents/EDPs should ensure that their processes for determining GST applicability, reporting, and price disclosure align to the requirements of the relevant GST provisions.

# Low value imported goods (LVIG)

## Overview

Effective 1 July 2018, Australian GST applies to LVIG purchased by Australian consumers. Prior to this date, GST was not applicable to such supplies unless the supplier was the importer of record. Low value goods are defined as goods (excluding tobacco, tobacco products, and alcoholic beverages) with a customs value of AUD$1,000 (approximately USD$660) or less. Even if the total customs value of a transaction exceeds AUD$1,000, individual items with a customs value of AUD$1,000 or less are still considered low value goods. The merchant, EDP, or redeliverer may be liable for GST on the supply of these low value goods.

An overview of relevant key provisions applicable for offshore supplies of low value goods is provided in the following table:

| Particulars | Description |
|---|---|
| **Ambit** | Supply of LVIGs (i.e. goods that have a customs value of AUD1,000 or less) that are purchased by Australian consumers and brought into Australia. |
| **Liability to remit GST** | Merchant, EDP operator or re-deliverer. |
| **GST rate** | 10% |
| **Taxable Value** | Price payable by the recipient of the supply. |
| **Requirement to register** | The entity that is responsible for GST on offshore supplies (i.e. merchant, EDP operator or re-deliverer) is required to register if its GST turnover (current or projected) exceeds AUD75,000 during a rolling 12-month period. Non-resident suppliers can opt for a simplified GST registration. |
| **Reporting requirements** | Quarterly GST lodgements |
| **Tax invoice** | No requirement to issue a tax invoice but there is a requirement to issue a document showing the GST paid by the Australian consumer. |

## Practical insights

The rules noted above do not apply to goods with a customs value exceeding AUD$1,000. In such cases, the normal taxable importation rules apply, and GST is payable at the border.

The difference in treatment between LVIGs and taxable importations highlights the importance of determining the correct rules for each transaction (for example bundled goods which individually are less than AUD$1,000 but together exceed). If a supplier believes it does not supply LVIGs (because the goods will be shipped together and will be treated as a taxable importation), they must have evidence of reasonable steps taken to determine this. Robust processes are crucial to ensure compliance with these requirements.

Suppliers are now required to provide additional information during customs clearance of goods. As third-party service providers (such as couriers and freight forwarders) often handle this process, suppliers must ensure these providers submit correct information on declarations, made at the time of customs clearance, that align with their GST reporting.

The price disclosure requirements for inbound intangible supplies also apply to offshore LVIG supplies. Suppliers of offshore LVIGs must disclose the GST-inclusive price to Australian consumers. Suppliers must evaluate whether their current processes comply with this requirement.

It's important to note, the Australian Board of Taxation (the Board) completed a 'Review of GST on Low Value Imported Goods' in December 2021. The review found that Australia's LVIG regime aligns with OECD VAT recommendations for low-value imported goods. The Board's recommendations primarily focused on clarifying definitions, such as for EDPs, and administrative measures. These recommendations may provide guidance on LVIG GST obligations for various entities, especially given the rising number of evolving business models in this space. The Government and relevant regulators will consider the Board's recommendations in due course.

## Digital assets and cryptocurrency

### Overview

Since 1 July 2017, digital currency has been considered a financial supply and therefore input taxed. If a business is not being carried on there are no GST consequences of buying, selling or using digital currency as payment. Digital currency is defined within the GST Act as digital units of value that have all of the following characteristics:

- fully interchangeable with another unit of the same digital currency for the purpose of its use as payment
- can be provided as payment for any types of purchases
- generally available to the public free of any substantial restrictions
- not denominated in any country's currency
- the value is not derived from or dependent on anything else; and
- does not give an entitlement or privileges to receive something else.

Some examples of digital currencies include Bitcoin, Ethereum, Litecoin, Dash, Monero, ZCash, Ripple, YbCoin.

If a business operates with digital currency or accepts it as payment, GST implications may arise. A supply of digital currency is input taxed as a financial supply, and therefore GST is typically not paid on sales nor are input tax credits claimed for GST paid on purchases that contributed to those sales. A digital currency supply is input taxed as a financial supply. However, full input tax credits may be available on purchases related to digital currency sales if the business has not exceeded the financial acquisitions threshold. Additionally, even if the threshold is exceeded, reduced input tax credits of 75% may be available, on specific types of purchases made in making financial supplies, such as brokerage costs or transaction processing costs.

Sales of digital currency to non-residents are GST-free. Non-fungible tokens (NFTs) are not considered a form of digital currency for Australian GST purposes.

## Marketplace reporting rules

### Overview

The Australian Sharing Economy Reporting Regime (SERR) commenced on 1 July 2023. Under the SERR, EDP operators must report certain information to the Australian Taxation Office (ATO) about supplies made through their platforms. Initially, the SERR applied to just online marketplaces facilitating supplies of taxi travel and short-term accommodation. However, from 1 July 2024, the SERR expanded to include all other online marketplaces, such as those for asset sharing, food delivery, and task-based services.

### Practical insights

**The key points EDP operators should note are:**

- the broad scope of the SERR is intended to capture both Australian resident and non-resident EDPs.
- EDPs are required to report bi-annually, and the ATO has issued guidance on the information details to be reported.
- there is no turnover threshold test, and therefore, any EDP with AUD$1 of relevant supplies is required to report (with one exception - in the first year, i.e. 1 July 23 - 30 June 24, EDPs facilitating less than AUD$1m of taxi travel or short-term accommodation are exempted from reporting).

- There are reporting exemptions, e.g. supplies made via multiple EDPs, supplies made by a listed entity or its subsidiary, supplies in relation to substantial property, services provided outside Australia by non-Australian residents, mere bookings or reservations, scheduled passenger travel services, scheduled events, attractions or experiences and supplies of assets by way of rent or lease.

All EDP operators should familiarise themselves with the SERR and their reporting obligations in order to ensure compliance. In particular, EDP operators should note what transactions are in scope of the SERR, the availability of any exemptions and ensure their systems are configured appropriately to report or exclude these transactions as required.

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# Bangladesh

## Value added tax

### Overview

The value added tax and Supplementary Duty Act 2012 (VAT Act 2012) was amended in 2019 to impose VAT on certain non-resident supplies of specified services to unregistered persons in Bangladesh. As a general principle, a registered service recipient is liable to pay VAT under the reverse charge mechanism in relation to imported services. However, supplies of certain specific services made by non-resident suppliers to unregistered (or private) customers give rise to VAT implications when the services are supplied in Bangladesh.

### Practical insights

**VAT liability for non-resident suppliers**

The VAT Act 2012 provides a list of services, when rendered by a non-resident to VAT unregistered persons, are considered as supplies made in Bangladesh. These services include:

- services that are physically provided in Bangladesh by the service provider staying in Bangladesh at the time of supply
- services that are directly related to land located in Bangladesh
- services of radio or television broadcasting or telecasting received at an address in Bangladesh.
- electronic services delivered to a person located in Bangladesh at the time of supply; and
- telecommunication service initiated by a person located in Bangladesh at the time of supply other than a telecommunications supplier or a person who is a global-roaming person temporarily staying in Bangladesh.

**Electronic Services and VAT**

For the purpose of VAT Act 2012, an 'electronic service' includes the following:

When provided or delivered on or through a telecommunications network, a local or global information network, or similar means:

- websites, web-hosting or remote maintenance of programmes and equipment
- software and the updating thereof delivered remotely
- images, texts and information delivered
- access to databases
- self-education packages
- music, films and games; and
- political, cultural, artistic, sporting, scientific and entertainment broadcasts and telecasts and events, including telecasts.

Based on this definition, services provided or delivered on or through a telecommunication network would be considered an ‘electronic service’.

Since electronic services provided by a non-resident to an unregistered person would be considered as ‘supplies made in Bangladesh’, the non-resident would be liable to pay VAT on supplies made to the unregistered person in Bangladesh. The non-residents would need to identify whether the services are provided to registered customers or otherwise.

If non-residents are unable to obtain the VAT registration numbers of its Bangladesh based customers, it would be prudent to treat such customers as not registered for VAT purposes in Bangladesh. For such services, non-residents will need to appoint a VAT agent in Bangladesh to discharge VAT.

**Appointing a VAT agent**

The VAT agent will carry out all the activities on behalf of the non-resident and will be responsible for:

- registering the non-resident for VAT.
- filing VAT returns; and
- paying VAT to the government.

Individuals such as a Chartered Accountant, Cost Accountant, VAT Consultant, lawyer, retired official of the VAT department, renowned advisory firms, Chartered Accountants firms and law firms can be appointed as VAT agents.

**VAT registration**

The National Board of Revenue (NBR) has introduced a new application form for VAT registration of non-residents and also introduced an online portal for VAT registration. As a result, some large non-residents have already obtained VAT registration in Bangladesh for providing electronic service to B2C customers in Bangladesh and are following monthly VAT compliance on a regular basis.

**Withholding tax**

It is important to note, in relation to the import of services by an unregistered person which are not deemed to have been 'supplied in Bangladesh', the designated Bank may withhold VAT while making the payment to the non-resident supplier.

By understanding these key provisions, non-resident suppliers can effectively manage their VAT obligations in Bangladesh.

### Registration threshold

A non-resident entity must register for VAT where the taxable turnover of its supplies exceeds BDT30m (approximately USD$345,000) or likely to exceed BDT30m in the previous 12 months or in the 12-month period.

VAT is payable at a rate of 15%.

### Compliance obligations

Once registered, a non-resident service provider is required to file a monthly VAT return by the fifteenth day of the following month. However, where the fifteenth day is a government holiday then the due date would be extended to the next working day.

### Digital assets and cryptocurrencies

There are no specific provisions relating to cryptocurrencies under Bangladesh VAT Act, 2012.

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# Cambodia

## Implementation of VAT on eCommerce

### Overview

Cambodia's General Department of Taxation (GDT) has implemented a VAT regime for eCommerce activities, including digital goods and services supplied by non-resident taxpayers. This regime, introduced on 8 December 2021 through sub-decree 65 and Prakas 542, subjects non-resident taxpayers - who do not have a permanent establishment in Cambodia - to VAT at a rate of 10%.

### Practical insights

**VAT registration and compliance**

Non-resident taxpayers providing eCommerce services to Cambodia were asked to register for simplified VAT before 1 April 2022. This includes non-resident taxpayers who:

- Provide supplies of digital goods/services or eCommerce activities from outside Cambodia to Cambodian end customers with annual turnover from KHR250m (approximately USD$62,500) or total expected turnover for three consecutive months ending in the current calendar year from KHR60m (approximately USD$15,000).
- Have been providing supplies of digital goods/services with annual turnover from KHR250m starting from 1 January 2021 to 31 December 2021.

**VAT Collection and Remittance**

Non-resident taxpayers are required to collect 10% VAT from Cambodian residents who are not registered under the self-declaration regime and submit VAT returns monthly to the GDT. This includes registered taxpayers who do not make direct payments to the non-resident suppliers through their respective accounts.

Customers who are registered in the self-declaration regime can collect the reverse charge at the rate of 10% through their monthly VAT returns to the GDT. Cambodian customers who are small taxpayers are exempt from the VAT reverse charge for five years starting from 8 September 2021. Therefore, non-resident taxpayers providing eCommerce services to these customers will need to collect 10% and remit this to the GDT. Penalties will be imposed on non-resident taxpayers who fail to register, update information or submit returns and pay VAT to the GDT.

eCommerce transactions or activities supplied in Cambodia by resident taxpayers remain unaffected by the instruction.

## Digital assets and cryptocurrencies

There are currently no specific indirect tax laws or regulations that relate to cryptocurrencies in Cambodia.

## Updated value added tax (VAT) instruction on eCommerce

The GDT issued Instruction No. 2520 (24 January 2023) on the reverse VAT charge. This replaced Instruction No. 20522 from 8 December 2021. The contents of both instructions are largely the same, except for the following changes which may impact taxpayers:

1. Non-resident parent companies or head offices that only supply digital goods/services or carry out eCommerce transactions for subsidiaries or branches in Cambodia, don't need to register for the simplified VAT system with the GDT. However, their local subsidiaries or branches need to notify the GDT of their supplies.
2. Non-resident suppliers who are registered under the simplified VAT system must file VAT returns and disclose their customers' tax Identification numbers, entity names and bank account numbers in Cambodia.
3. In the previous instruction, customers needed to make payments from their bank accounts for these to be considered B2B transactions. This requirement has been removed.
4. For B2B transactions, a credit note issued by a non-resident supplier is allowed to adjust the taxable amount.
5. The instruction will be effective 60 days after its issue date stated above.

Non-resident taxpayers should stay updated on the latest developments and ensure compliance with the evolving VAT regulations in Cambodia.

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# Chinese Mainland

## Remote services/digital services

### Overview

Chinese Mainland does not have specific VAT rules or a Digital Service Tax on transactions arising from the digital economy. The current VAT regime applies to the provision of cross-border remote services/licensing in a digital business.

The provision of remote service/licensing by an overseas supplier to an entity within Chinese Mainland is subject to VAT, unless the service/licensing is consumed/used completely outside Chinese Mainland.

The agent or service recipient in Chinese Mainland would have to withhold the VAT amount and then pay the VAT on behalf of the overseas supplier. If the service recipient is a general VAT payer, it may claim the VAT withheld and paid on the service fee/license fee as its own input credit (provided the purchase is related to taxable activities of the service recipient).

The VAT amount is calculated as follows:

- withholding VAT

  = Total amount payable to the overseas supplier/ (1+ Applicable VAT rate) x Applicable VAT rate.

- the applicable VAT rate is 6% for most remote services that fall in the category of modern services and license fee that fall in the category of transfer of intangible assets.

### Practical insights

- Under Chinese Mainland's VAT withholding mechanism, it is uncommon for a foreign taxpayer without a local establishment to register as a Chinese VAT payer. Instead, under the prevailing foreign exchange control regime of Chinese Mainland, payers of a service fee/licensing fee to a foreign service provider/licensor has the withholding obligation. A foreign service provider/licensor should factor this obligation into their business model and transaction flow when operating in Chinese Mainland.
- In some cases, the service recipient may be an individual or a small-scale business unable to fulfill the withholding obligation. Technically, the overseas service provider must report VAT in Chinese Mainland in such scenarios.
- For overseas suppliers offering services related to online promotion, opinions differ on whether these should be treated as technical service or advertisement service. If treated as advertising, the service is also subject to the construction fee for cultural undertakings, in addition to VAT.

## Low value imported goods

### Overview

For imported goods, VAT is levied upon importation and collected by Chinese Mainland customs. In general, the VAT payable on goods imported by taxpayers is based on the composite assessable value. This value includes customs duty (CD) and consumption tax (CT), where applicable, and is calculated using the VAT rate specified in the regulations.

For goods purchased by individual consumers from overseas suppliers and delivered to Chinese Mainland by couriers, import tax (also known as post luggage duty or PLD) applies

In recent years, Chinese Mainland's tax authorities have issued several circulars to clarify tax principles for cross-border retail eCommerce for individual consumers in Chinese Mainland. In 2016, Circular 18 (Caiguanshui [2016] No.18) established import tax and Customs Duty policies for cross-border retail eCommerce for individual consumers. In 2018, Circular 49 (Caiguanshui [2018] No.49) further relaxed these policies.

Under these rules, individual consumers purchasing goods through qualified cross-border eCommerce channels within certain quotas are eligible for preferential tax treatment. See the summary below for details.

| | Import tax treatment under general trading | Import tax or PLD for goods delivered to Chinese individuals | Import tax treatment for Qualified Cross-border eCommerce Channel |
|---|---|---|---|
| **Quota and criteria** | | | • Value of a single purchase is below RMB¥5,000<br>• An individual's annual import quota is RMB¥26,000<br>• The goods must be end products for use by the individual customers and should not be for resale in the domestic market |
| **Tax treatment** | • CD= Dutiable Value x CD rate<br>• CT= (Dutiable Value + CD)/(1-CT rate) x CT rate[2]<br>• VAT = (Dutiable Value + CD + CT) x VAT rate | • PLD = Fixed Assessment Value[3] x PLD rate from 13% to 50% | Transaction below the quota:<br>• CD: waived<br>• CT and VAT: levied with 30% discount<br>Transaction above the quota:<br>• Treated as general trading |

[1] For most goods the standard VAT rate on import and domestic sale of goods is 13%. A reduced rate of 9% applies to supplies of certain goods such as food, edible vegetable oils, feeds, chemical fertilisers, and others including heating, gas, books, newspapers.

[2] CT is only levied on certain goods. For some categories of CT-payable goods, the CT is calculated based on volume.

[3] If the actual value of the goods is lower than 50% of the assessment value or 100% higher than the assessment value, actual value applies upon proper evidence.

## Practical insights

- Circulars 18 and 49 aim to ensure accurate declarations by cross-border eCommerce retailers and create a level playing field for cross-border internet sales, domestic internet sales of imported goods, and traditional sales channels. They also provide preferential tax treatments for consumer products intended for personal use, within specified quotas.
- Overseas cross-border eCommerce retailers and platforms do not need to establish a dedicated legal entity in special customs supervision zones. Instead, they can engage couriers or postal enterprises to submit data to customs authorities on their behalf for clearance procedures. Couriers and postal enterprises are responsible for the authenticity of the information submitted.

## Digital assets and cryptocurrencies

Chinese Mainland does not have specific VAT rules on cryptocurrency as cryptocurrency related activities are not allowed in Chinese Mainland.

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# India

## Tax on digital services

### Overview

As India's digital economy continues its rapid growth, the Government introduced a tax on digital services in late 2016. This tax draws on provisions from other jurisdictions but includes unique local complexities. Addressing the tax challenges of digital service businesses—for foreign service providers operating across international borders—has become increasingly critical.

**Who does it apply to?**

Until 30 September 2023, the tax applied to foreign suppliers providing specified services to the Government, local authorities, individuals, or unregistered persons in India. These services had to be for purposes other than commerce.

From 1 October 2023, the rules were amended. Supplies to the Government and local authorities are now excluded. Additionally, the restriction on services to be for the 'purpose other than commerce' was removed to address the difficulty faced by foreign suppliers in determining the purpose of the service.

**Services covered**

Until 30 September 2023, online information and database access retrieval (OIDAR) services were included. These are defined as services:

- where delivery is mediated by technology over the internet or an electronic network; and
- where the nature of the service renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology.

From 1 October 2023, the terms 'essentially automated' and 'minimal human intervention' were removed. As a result, services with human intervention and partial automation now fall within the definition.

**Is there a threshold limit for tax liability?**

A threshold limit does not apply to these services. Foreign service providers register in India under the Simplified Registration Scheme with an option to appoint an agent for registration and compliance requirements.

**Key compliance**

Foreign service providers shall raise a tax invoice and charge GST at the rate of 18%. Separate monthly returns are prescribed and include payment of tax on a monthly basis, within the prescribed due date.

**Online platforms**

Non-resident online platforms which are intermediaries for such electronic services, may be required to obtain registration and discharge GST liability on behalf of the actual foreign service providers subject to certain conditions.

### Practical insights

**Initiatives taken by revenue**

- To support the introduction of tax obligations on digital services by foreign providers, the Indian Government released a flyer and an educational guide. These resources outlined key guidelines for affected supplies and related tax compliance requirements. However, addressing practical challenges has been a lengthy process, and some ambiguities remain.

- The Government recognises that some foreign suppliers of digital services (to Indian customers) are not fully compliant with Indian GST obligations. This is often due to limited awareness and the complexity of the law.
- Authorities are leveraging extensive powers under GST law to investigate and detect non-compliance. As part of these efforts, they collect information from Indian customers, intermediaries, platforms, and Indian affiliates of foreign service providers to assess the liability involved.

**Practical challenges**

- Foreign service providers must pay tax to the Indian Government on supplies made to end consumers (those not registered under India's GST law). Due to the challenge of identifying the tax status of the customers in India, and whether they have a valid registration or not, it is common for foreign service providers to pay tax on a conservative basis, as the tax is otherwise not payable if the customer has a valid GST registration.
- To fill GST returns, foreign service providers do not have access to the government portal through a foreign internet protocol (IP) address. This creates challenges in meeting filing obligations and makes it essential to engage a compliance service provider in India.
- Under the GST rules, no specific exemptions are provided to foreign service providers on invoicing requirements. Every supplier needs to insert details as prescribed under India's GST rules. This is important as non-compliance of these requirements may attract penalties on digital service providers.
- Certain foreign banks are not included in the list of authorised banks provided by the Indian Government. As a result, GST payments must be routed through authorised banks in India.
- For service tax liabilities from December 2016 to June 2017, a separate process is required for registration and payment related to these services.

**E-invoicing under India's GST rules**

E-invoicing requirements under India's GST rules were introduced in October 2020. These apply to all registered persons meeting specific threshold criteria. However, foreign service providers registered under India's GST law and supplying OIDAR services are exempt from e-invoicing requirements.

While foreign service providers have a significant market in India, the compliance requirements under India's GST law are onerous and carries potential penalties.

### Digital assets and cryptocurrencies

The Indian Government has yet to clarify its stance on GST for cryptocurrencies and related services. The GST Council is expected to deliberate soon on whether crypto should be categorised as goods or services. Initial indications suggest cryptos may be taxed at the highest GST rate of 28%. Currently, crypto platforms pay GST at the standard 18% rate on commissions earned from trading activities.

### Online gaming

Until September 2023, GST at 18% applied only to the platform fee levied by gaming platforms. From October 2023, tax authorities expanded the scope to include the entire deposit made by players. The full deposit is now deemed the value of the supply and taxed at 28% GST. This change has led to widespread disputes and ongoing litigation. The industry is actively advocating against these onerous provisions.

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# Indonesia

## eCommerce transactions

### Overview

Sales of foreign intangible goods or services into Indonesia through eCommerce systems are subject to VAT at 11% (the VAT rate will be 12% effective in 2025 onwards). This includes supplies by foreign sellers, foreign service providers, or foreign eCommerce organisers (collectively referred to as foreign eCommerce players) and domestic eCommerce organisers.

**eCommerce organisers** are defined as business players providing commercial trade transactions conducted through electronic communication device and procedures to be used in eCommerce platforms.

**Foreign sellers or service providers** are individuals or companies residing or domiciled outside of Indonesia which carry out transactions with domestic parties in Indonesia through electronic platforms.

### Practical insights

Foreign eCommerce players will be appointed as VAT Collectors if their activity in Indonesian market meets either of the following thresholds:

1. Transaction value with users in Indonesia exceeding either Rp600m in a year or Rp50m in a month.
2. Access to their eCommerce platform from Indonesia exceeds 12,000 users in 12 months or 1,000 users in one month.

If a supplier (including foreign sellers or service providers) falls under this category they are required to collect VAT and return and report on these amounts to the Ministry of Finance (MoF) at a rate of 11% (the VAT rate will be 12% effectively in 2025 onwards).

Foreign eCommerce players can appoint a representative in Indonesia to fulfil their VAT obligations.

Should a foreign eCommerce supplier fail to meet its Indonesian obligations it will be subject to:

- Administrative penalties based on KUP Law.
- Access to Indonesian markets will be disconnected by KOMINFO (Ministry of Communication and Digital Affairs).

## Fintech activities

On 30 March 2022, the MoF also issued Regulation No.69/PMK.03/2022 (PMK-69) stipulating the Income Tax treatment of interest income in peer-to-peer (P2P) lending, as well as the VAT treatment of Financial Technology (fintech) activities. The new policy will impose VAT on **service fees** provided by parties that facilitate digital transactions (i.e. service fees associated with putting funds/money into a digital wallet), rather than VAT on the total value.

Fintech is an activity using technology in a financial system which generates products, services, technology, and/or new business models that contribute to monetary and financial system stability as well as efficiency, continuity, safety and reliability of payment systems.

The high-level categories of fintech services subject to VAT are:

a. payment

b. investment settlement

c. capital raising

d. P2P lending

e. investment management

f. online insurance product

g. market support; and

h. digital finance support and other financial services.

Regular VAT rate is applicable on the VAT able services provided under each of these categories. This is a highly specialised area of Indonesian VAT and specific advice should be taken.

# Digital assets and cryptocurrency

## Overview

On 30 March 2022, the MoF issued Regulation No.68/PMK.03/2022 (PMK-68) outlining the Value-Added Tax (VAT) and Income Tax treatment of Crypto Asset trading transactions.

Crypto Asset (CA) is defined as an intangible commodity in the form of digital asset, using cryptography, peer-to-peer network, and distributed ledger, to manage the creation of new units, verify transactions, and to secure a transaction without any involvement of other party. There are various parties involved in CA trading:

- **CA Seller:** an individual or company who sells or trades the CA.
- **CA Buyer:** an individual or company who receives the CA and pays for it (or should have received/paid for the CA).
- **CA Physical Trader:** a party authorised, by the commodity futures trading regulator, to carry out CA transaction for themselves or to facilitate a CA Seller or CA Buyer transaction. This trader can be in the form of eCommerce VAT Collectors (Penyelenggara Perdagangan Melalui Sistem Elektronik (PPMSE)) who provide an electronic channel for CA trading.
- **CA Miners:** an individual or company who verifies CA transaction for a fee in the form of CA, either individually or in a mining pool.

## Practical insights

### VAT treatment

VAT is due on the delivery of:

- taxable intangible asset in the form of CA within the Indonesian customs area. This delivery can be carried out using fiat money, swapping a CA for another CA, and/or swapping CA for other assets/goods or services
- taxable service in the form of provision of electronic channel for CA trading by PPMSE; and
- taxable service in the form of CA transaction verification services and/or management service of a mining pool by CA Miners.

Any transaction value carried out using fiat money in non-Rupiah currency must be converted using MoF rate at the time of VAT collection. Any transaction value carried out using a CA is converted into Rupiah based on the value set by the CA futures exchange, or the value in the PPMSE system, which is applied consistently.

### Trading between CA buyers and CA sellers

The VAT is collected, paid and reported by PPMSE based on a final VAT rate of:

1. 1% of the general VAT rate (effectively 0.11%) multiplied by the CA transaction value, if the PPMSE is a CA Physical Trader.
2. 2% of the general VAT rate (effectively 0.22%) multiplied by the CA transaction value, if the PPMSE is not a CA Physical Trader.

The CA Seller must issue a VAT Invoice on the CA delivery and report the VAT collection under the monthly VAT Return if registered as a VATable Entrepreneur (Pengusaha Kena Pajak/PKP) in Indonesia.

PPMSE must prepare a VAT collection slip in the form of Document deemed equal to Unification Tax Withholding/Collection Slip. If the PPMSE reside or domicile outside custom area, they can be appointed as VAT Collector based on the prevailing regulation.

### Delivery of taxable service in the form of provision of electronic channel for CA trading by PPMSE

A PPMSE must at least facilitate CA transaction carried out using fiat money, swapping CA with another CA, and/or e-wallet services (i.e. consisting of deposit, withdrawal, transfer of CA to other party's account and providing and/or managing CA storage media).

VAT on these services is collected by the PPMSE and imposed based on the commission or fee in any form, including the one received by PPMSE to be forwarded to CA Miners. The regular VAT rate of 11% applies, and the PPMSE must issue a VAT invoice for their services. The commercial invoice issued for these services is deemed as Document equal to VAT Invoice.

### Delivery of taxable service in the form of CA transaction verification services and/or management service of a mining pool by CA Miners

VAT on these services is collected and paid by the CA Miners based on a final VAT rate of 10% of general VAT rate (i.e. effectively 1.1%) of CA value received by CA Miners, including CA received from CA system (block reward).

The CA Miners may issue a VAT invoice on the delivery of these services under the Retailer regime which allows for the omission of the buyer's name and seller's signature in the VAT invoice.

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# Japan

## Remote services/digital consumption taxes rules

### Consumption tax (general overview)

| Indirect tax type | Consumption tax (CT) |
|---|---|
| Tax Rate | 10% |
| Taxing the digital goods | Yes |
| Reverse charge | Yes |
| Can a foreign business register | Yes, subject to conditions |
| Can a foreign business recover VAT/GST if it is not registered | No |
| Filing frequency | Monthly, quarterly, annually |
| Filing due date | Two months after the end of the tax period |
| Payment due date | Same as the filing due date |
| Electrically filing | Yes |

### Overview

**Taxation on digital services**

Electronically supplied services (ESS) performed by a non-resident enterprise to customers in Japan are subject to the CT. The ESS is defined as the provision of copyrighted articles (including licensing of the copyrighted articles) and other services via telecommunication lines. It includes the distribution of e-books, music, software, cloud services or advertisements.

**Supplies outside the scope of ESS:**

- telecommunication carrier services (telecommunication, fax, data transmission, internet service)
- software development and its delivery via the internet
- management and investment of assets located outside Japan (including internet banking) and reporting to customers via the internet
- information/data gathering or analysis (upon a specific request by a contracting customer) outside Japan and reporting to the contracted customers via the internet
- litigation in a foreign jurisdiction and its reporting to clients via internet; and
- transfer/license of copyright.

**Category of ESS**

The application of the Japanese consumption tax regime on ESS differs based on whether it is classified as a B2B-type ESS or not.

| | B2C-type ESS | B2B-type ESS |
|---|---|---|
| **Scope of transaction** | ESS other than those classified as 'B2B-type | ESS, provided by non-resident enterprise, whose recipient is limited to business customers via the nature of the service or the terms and conditions |
| **Taxation method** | The non-resident service provider is required to file and pay the tax | Service recipient is generally liable to account for the tax under the reverse charge mechanism |

| | B2C-type ESS | | B2B-type ESS | |
|---|---|---|---|---|
| **Taxation method (cont'd)** | Non-resident service provider | Domestic service recipient | Non-resident service provider | Domestic service recipient |
| | Liable for filing return and tax payment.<br><br>The service provider can apply for a qualified invoice number so business customers can claim input tax credit. | Input tax credit is not allowed unless the service provider is a qualified invoice issuer. | Liable for notifying the recipient that the service is subject CT via the to the reverse charge mechanism. | For the time being taxpayers with a taxable sales ratio of 95% or more are not required to report in their CT returns any reverse charge transaction.<br><br>Taxpayers with a taxable sales ratio of less than 95% are required to report in their CT returns both the reverse-charged sales and corresponding taxable purchases |

**Registration for a qualified invoice issuer number**

To obtain a qualified invoice issuer number, foreign digital service providers must be in the taxable enterprise status via a voluntary election or compulsory registration rules and file a separate application to become a qualified invoice issuer. It is also required to assign a tax administrative agent.

## Practical insights

Determining the transaction category, B2B-type or B2C-type can be complex. Even if the service recipient is a business, the service can be classified as a B2C-type ESS via the nature of the services or terms and conditions of an underlying contract, triggering CT filing and payment obligations at the non-resident service provider.

Even if a non-resident service provider is not required to file a CT return (e.g. due to its base period sales), it must voluntarily elect to file a CT return to become a qualified invoice issuer. This allows the customers to claim CT input credits on purchases from the non-resident service provider.

**Platformer taxation rules**

The 2024 tax reform introduces new platformer taxation rules, effective from 1 April 2025. These rules shift the obligation for reporting of B2C-type ESS from the non-resident service providers themselves to the 'qualified' platform operators.

Qualified platform operators will process sales (e.g. receiving and transmitting consideration) on behalf of foreign B2C-type ESS providers in excess of JPY¥5bn. The qualified platform operators will be required to submit a notification to Japanese tax authorities, who will then publish the platform operators' details. The qualified platform operators should also notify the foreign service providers.

Non-resident service providers making B2C-type ESS through means other than qualified platforms, may still have CT reporting obligations, which would be determined based on factors such as base period rules. The tax reform has tightened rules around 'tax-exempt' enterprises, so businesses should be cognisant of the changes when assessing whether they have CT reporting obligations.

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# Malaysia

## Tax on digital services

### Overview

| Type of tax | Service tax |
|---|---|
| **Tax rate** | 6% (up until 29 February 2024), 8% (from 1 March 2024 onwards) |
| **Commencement date** | B2B: 1 January 2019, B2C: 1 January 2020 |
| **Type of services covered** | **Via reverse charge mechanism (B2B only):** All imported taxable services. Taxable services are specifically prescribed. Common examples include professional services (e.g. consultancy, management, training and information technology) and advertising services. With effect from 1 January 2020 digital services are also prescribed as taxable.<br>**Via overseas vendors registration (B2B and B2C):** digital services exemptions exist to mitigate double taxation arising from the two mechanisms acting simultaneously. |
| **B2B, B2C or both** | Both |
| **Registration threshold** | The registration threshold for foreign service providers providing digital services to Malaysian consumers (B2B and B2C) is RM500,000 in a 12-month period.<br>**B2B:** There is no minimum threshold for Malaysian businesses that are required to account and pay for service tax on imported taxable services. |

### Practical insights

**Imported taxable services**

The Malaysian service tax system seeks to tax specifically prescribed taxable services. Unless a service is specifically prescribed as being taxable, service tax will not apply.

Since 1 January 2019, the service tax framework has included a tax on ‘imported taxable services’. In essence, this requires any Malaysian business who is the recipient of a service from outside Malaysia to assess whether that service is taxable and self-account for service tax as appropriate.

Returns are filed monthly, unless the recipient is registered for service tax locally, in which case imported services can be filed in the normal service tax return due every two months.

Additionally, along with the introduction of foreign vendor registration (refer below), on 1 January 2020 digital services were prescribed as taxable services. This means digital services would be subject to the imported services rules. Prior to this, many digital services would have been captured as imported taxable services under the category of 'information technology' services.

**Service tax on digital services**

Effective 1 January 2020, a service tax applies on digital services provided by foreign service providers to consumers in Malaysia. Any foreign service provider providing digital services to Malaysian consumers in excess of the registration threshold RM500,000 (approx. USD$105,650) in a 12-month period would have an obligation to register for service tax in Malaysia and charge service tax in respect of those services.

'Digital services' are defined as services which are:

- delivered or subscribed over the internet or other electronic network
- cannot be obtained without the use of information technology; and
- delivery of the service is essentially automated.

'Foreign service provider' means any person who is outside Malaysia providing any digital service to a consumer and includes any person who is outside Malaysia operating an online platform on which digital services are provided on behalf of other persons.

A person will be a 'consumer' where at least two of the following are in Malaysia:

- place of residence
- financial institution or company which provides the credit or debit facility used to make payment for the digital service; or

.

- Internet protocol (IP) address or international mobile phone country code.

It should be noted that the Malaysian definition of 'consumer' does not distinguish between businesses and individuals. As such, foreign service providers (FSPs) must register for and charge service tax even if they only provide digital services to businesses in Malaysia. Registered FSPs are required to file returns and pay the tax on a quarterly basis.

## Practical insights

The Royal Malaysian Customs Department (Customs) has taken various initiatives to ease the administrative burden on FSPs and to make the service tax on digital services more 'business friendly'. For instance:

- there is no specific foreign exchange rate prescribed. FSPs can adopt the same exchange rate which they have been using in their home country or any other preferred exchange rate in preparing their returns; and
- previously, FSPs must account for service tax on digital services on a payment basis.
  Effective 1 January 2021, FSPs can apply to the Customs to account for service tax on digital services on an invoice basis.

Against the backdrop of the flexibility allowed by Customs, several key areas may require further consideration and planning by FSPs. These are outlined below.

**Consumer test**

The Malaysian digital service tax applies to both B2C and B2B transactions. To accurately determine whether the registration threshold is met and to correctly charge tax on digital services provided to both individual and business consumers in Malaysia, FSPs must ensure their systems can capture the following information to meet the ‘consumer test’:

- residence status
- location of the financial institution or company which provides the debit or credit facility used to pay for the digital services
- IP address; and
- international mobile phone country code.

If directly capturing this information isn’t feasible, FSPs should consider identifying a suitable proxy for the ‘consumer’ test and engage with Customs to ensure Customs are satisfied with the alternative proxy proposed by the FSPs.

**Invoicing requirements**

Registered FSPs also must ensure their systems can issue an invoice/receipt containing the prescribed particulars:

- date
- registration number of FSPs
- a description sufficient to identify the digital service provided; and
- the total amount excluding tax, rate of tax and tax chargeable shown separately.

Registered FSPs can make an application to Customs to exclude any of the prescribed particulars from the invoice/receipt. This approval is given at the discretion of the Director General of Customs.

**Payment of service tax**

FSPs must declare the value of digital services and service tax amounts in Malaysian Ringgit (MYR) on the digital service tax return (DST-02). Consequently, Customs require payment of service tax to be made in MYR.

To facilitate the service tax payment, FSPs without a Malaysian bank account and an existing agent/representative in Malaysia may consider engaging a third-party service provider to facilitate service tax payments. It's essential to establish clear payment processes with the third-party provider to ensure timely payment of the service tax to Customs.

Being a relatively new scope of tax, there is ambiguity whether a service falls within the scope of digital services. 'Digital service' is defined under the legislation with reference to how it is delivered. Under the local service tax legislation, services are defined as taxable by what they are. This leads to a potential conflict. For example, 'Information technology (IT) service' is one of the prescribed taxable services under the local service tax legislation. It is taxable for Malaysian businesses providing or importing such services. However, it is not specifically defined under the legislation and would generally be assessed based on the nature of the service. For instance, where software is downloaded from the internet, such a service by a foreign software developer could potentially fall within the scope of digital services.

However, where the software is manually installed by the foreign software developer, it may not be a digital service as it is not delivered 'digitally' to consumers. But it is still IT in nature.

It is critical to differentiate whether a service provided by an FSP is a digital service or an IT service as it would affect the registration liability of the FSP.

A further issue arises from the definition of digital services based on delivery method. For example, an online banking transaction provided from a foreign bank to a Malaysian consumer, while fundamentally a financial service is delivered digitally. This could potentially subject it to digital service tax, despite financial services generally being exempt.

**Mitigation of double taxation**

As noted above, the importation of digital services by Malaysian businesses would also be subject to imported services tax (effective 1 January 2019). To mitigate potential double taxation of the same service, an exemption is in place to ensure that if the digital service tax is charged by the FSP, then the Malaysian business is exempted from self-accounting for service tax on the imported services. Nevertheless, Malaysian businesses acquiring digital services must be ensure that if the FSP does not charge the service tax on the digital services, they will have to self-account for service tax on the imported taxable services.

Additional exemptions and policy decisions have been introduced to reduce the cascading effect of service tax. However, these exemptions/refunds are subject to fulfilling various conditions and Malaysian businesses will need to put in place additional compliance measures before these exemptions/refunds can be applied.

## Low value imported goods

### Overview and practical insights

Sales tax and/or import duty will apply to goods imported into Malaysia, unless exempt. From 1 January 2024, sellers (local and foreign) of low value goods (LVG) on online platforms to Malaysian customers must register for and impose sales tax if the total sale value of LVG for a 12-month period exceeds - or is expected to exceed - RM500,000. For the purpose of charging sales tax, LVG is defined in the legislation as goods sold at a price not exceeding RM500 and are brought into Malaysia by land, sea or air. LVG exclude the following:

- cigarettes and tobacco products
- intoxicating liquors
- smoking pipes (including pipe bowls)
- electronic cigarettes and similar personal electric vaporising devices; and
- preparation of a kind used for smoking through electronic cigarettes and electric vaporising device, in form of liquid or gel, whether or not containing nicotine.

'Seller' is a person, whether in or outside Malaysia, who sells LVG on an online platform or operates an online marketplace for the sales and purchase of LVG.

Customs indicated in their guide that an 'online platform' refers to one which provides facilities for the sale and purchase of LVG which includes a marketplace operated via website, internet portal or gateway.

The rate of sales tax on LVG is 10% and sales tax is calculated on the sale value of the LVG excluding any tax, duty, fee or other charges such as transportation, insurance or other costs.

A seller of LVG who has registered with the Customs is referred to as a registered seller. A registered seller is required to file the returns online and pay the tax on a quarterly basis to the Customs.

## Cryptocurrencies

### Overview and practical insights

Malaysia currently has a sales tax and service tax (SST) regime in place: sales tax applies to the manufacture and importation of taxable goods, and service tax applies to the provision of prescribed taxable services.

Neither law, at present, specifically covers the indirect tax treatment for cryptocurrencies. In respect of sales tax, as cryptocurrency is unlikely to be classified as goods, the sales tax law would not be applicable.

However, in the context of service tax, the provision of digital services is a prescribed taxable service and is subject to service tax as explained above. To date, it is not clear, and there has not been any guidance issued by the authorities, whether the provision of digital assets (such as digital currency, payment tokens, security tokens or utility tokens) would be considered a digital service or any other taxable service.

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# New Zealand

## Remote services rules

### Overview

New Zealand introduced the remote services rules on 1 October 2016, requiring offshore sellers of digital services - to New Zealand end consumers - to return GST on a quarterly basis.

| Type of tax | Goods and services tax |
|---|---|
| Tax rate | 15% |
| Commencement date | 1 October 2016 |
| Type of services covered | All services (digital and non-digital) supplied to New Zealand recipients by an offshore seller |
| B2B, B2C, or both | B2C supplies only |
| Registration threshold | Revenue of NZD$60,000 in any 12-month period |
| Tax on online platforms | Yes (unless the platform solely processes payments) |

### Practical insights

**What is a remote service?**

A remote service (i.e. New Zealand's equivalent of ESS) is any service that, at the time of performance, has no necessary connection between the place where it is physically performed and the location of the recipient of the services.

The New Zealand rules are drafted broadly and are intended to cover both digital and non-digital services. Examples of services subject to the remote services rules include:

- television and music streaming
- software services
- insurance
- consultancy and advisory services
- online gambling and betting
- advertising services; and
- NFTs.

The rules do not include on-the-spot services, such as accommodation or concerts

**Who is a New Zealand recipient?**

A recipient is a resident of New Zealand based on two pieces of non-contradictory information in support of this conclusion, e.g. billing address, bank details or IP address.

**B2C vs. B2B supplies**

The rules are intended to apply to B2C supplies made to New Zealand recipients. However, the rules presume all supplies are B2C and therefore subject to tax unless the seller has confirmation of the customer's GST registration status or New Zealand Business Number, i.e. a B2B sale. This is usually confirmed as part of the check-out or on-boarding process.

**Registration threshold**

An entity must register for GST where its supplies subject to New Zealand GST exceed, or are likely to exceed, NZD$60,000 over a 12-month period.

**Compliance obligations**

Once registered, a remote services seller is required to file returns and account for GST quarterly to Inland Revenue.

**GST rate**

Registered offshore sellers must return GST at 15% (3/23rds of the GST-inclusive amount paid by customers) on all B2C supplies to New Zealand consumers.

### Concessions

The remote services rules allow an offshore seller to agree an alternate method with the Commissioner of Inland Revenue to confirm whether a supply is treated as being made to a registered person (B2B).

When determining the alternate approach, the Commissioner can consider:

- the nature of the supply (e.g. would it generally only be acquired by a registered person in the course of their taxable activity?)
- the value of the supply; and
- the terms and conditions relating to the supply (e.g. would it only be made available to a registered person in the course of their taxable activity?)

B2B supplies are not subject to GST but offshore sellers can opt to treat these supplies as subject to 0% GST for the purpose of registering for and recovering New Zealand GST incurred on expenses.

### Marketplaces

The remote services rules provide that, where remote services are sold through an electronic marketplace, the operator of the electronic marketplace and not the non-resident underlying supplier is required to register and account for New Zealand GST.

### Implementation

Inland Revenue placed a big focus on communicating the introduction of the remote services rules. Inland Revenue also conducted a significant global publicity campaign to spread news of the rules and inform businesses of the changes they would need to implement. This played a significant role in the successful roll out of the rules and the high number of voluntary registrations.

Inland Revenue opted to take a 'light touch' approach to enforcement for the initial period after the rules were introduced. This included granting a number of B2B concessions, and recognising the time it took businesses to update and adapt their systems to become compliant with New Zealand GST without imposing penalties. We expect that audit activity will increase in the future.

### Prevention of double taxation

New Zealand legislators also introduced rules to protect New Zealand suppliers of remote services to overseas customers from being subject to double taxation both in New Zealand and in the foreign jurisdiction where the supplies were consumed. The rules allow the New Zealand supplier to claim a GST deduction to the extent a supply has already been taxed in the foreign jurisdiction.

### Ease of compliance

The remote services rules include a number of provisions designed to reduce the compliance burden on offshore sellers. These include:

- allowing a New Zealand-based agent to carry out an offshore seller's tax compliance obligations, including filing returns and paying GST liabilities to Inland Revenue on the seller's behalf
- concessions in terms of how the remote services rules apply, including the ability for sellers to treat all remote services as B2B and therefore not subject to tax if certain criteria are met. Inland Revenue requires clear evidence to support whether supplies are B2B or B2C; and
- the return system for offshore sellers is a simplified 'pay only' registration system designed to minimise compliance costs where possible and minimise revenue risk.

### Currency conversion

New Zealand also has a flexible approach towards the foreign currency exchange rates adopted by offshore sellers. Offshore sellers can select their preferred method from a number of options and must maintain this approach for the 2 years from when a method is adopted.

### Registration status of consumers

Unlike a number of other jurisdictions, New Zealand does not have a publicly accessible register of GST-registered businesses. Instead, it is possible to search New Zealand Business Numbers (NZBNs). As discussed above, the NZBN is an alternative method of verifying a recipient's status for the purpose of treating a sale as B2B and therefore not subject to GST.

# Low value imported goods (LVIG)

## Overview

The LVIG rules were introduced on 1 December 2019 and require sellers of imported goods valued at or under NZD$1,000 to account for New Zealand GST.

| Type of tax | Goods and services tax |
|---|---|
| **Tax rate** | 15% |
| **Commencement date** | 1 December 2019 |
| **Type of services covered** | Any goods that are outside of NZ at the time of supply supplied by an offshore seller valued at or under NZD$1,000 for delivery to New Zealand recipients. |
| **B2B, B2C, or both** | B2C supplies only |
| **Registration threshold** | Revenue of NZD$60,000 in any 12-month period |
| **Tax on online platforms** | Yes (unless the platform solely processes payments) |

## Practical insights

### What is a LVIG?

From 1 December 2019, a LVIG (referred to in the legislation as a 'distantly taxable good') is an item of goods that is subject to New Zealand GST where:

- it is supplied by an offshore seller or via a marketplace or redeliverer
- it is delivered to a New Zealand address; and
- it is valued at or under NZD$1,000.

### Assessing application of NZD$1,000 threshold

When assessing whether a good is above or below the NZD$1,000 threshold, international shipping and insurance costs should be excluded from the price paid. However, if the good is a LVIG, these items are included for the purposes of calculating the GST payable.

### Compliance obligations

Once registered, a LVIG seller is required to file quarterly returns with Inland Revenue.

If an entity was already registered prior to the introduction of the LVIG rules, then its existing filing frequency continues.

### GST rate and calculation

Registered offshore sellers must return **15%** GST (or three/twenty thirds of the GST-inclusive amount paid by the customers) on all B2C supplies to New Zealand recipients.

When calculating GST payable on LVIG sales, the offshore seller must account for GST on the price paid by the customer, **including** international shipping and insurance costs.

### B2C vs. B2B supplies

The rules are intended to only apply to B2C supplies made to New Zealand recipients. However, all supplies are presumed to be B2C and therefore subject to tax unless the seller has confirmation of the customer's GST registration status, i.e. a B2B sale. This confirmation can be provided as part of the customer check-out or on-boarding process.

### Marketplaces

Where goods are sold through an electronic marketplace, the operator of the electronic marketplace and not the non-resident underlying supplier is required to register and account for New Zealand GST. This means that both non-resident and New Zealand resident electronic marketplaces can be subject to the LVIG rules.

The rules provide an option for non-electronic marketplaces to register for and return GST on supplies made by their underlying non-resident sellers. However, this can only be done with agreement from the Commissioner of Inland Revenue.

### Redeliverers

Under the LVIG rules, a 'redeliverer' is an entity engaged to deliver or assist in the delivery of goods into New Zealand.

A redeliverer is required to register for and return New Zealand GST when, under an arrangement with the New Zealand based recipient, it does one or more of the following:

- provides use of an address outside of New Zealand for the delivery of goods
- arranges or assists the use of an address outside New Zealand where goods are delivered
- purchases the goods outside New Zealand as an agent to the recipient; and
- arranges or assists the purchase of goods outside New Zealand.

### Documentation

Offshore sellers of LVIG are not required to issue tax invoices but they are required to provide a receipt. The receipt must include specific pieces of information, including the name and registration of the supplier and the price charged for the goods.

The supplier must also take reasonable steps to provide New Zealand Customs Service with sufficient documentation to confirm if GST has already been accounted for.

**Concessions**

New Zealand has introduced a number of unique concessions to ease the compliance burden. These include:

1. **Alternative method of determining B2B customer status:** As with the remote services rules, an offshore seller may agree an alternate method with the Commissioner of Inland Revenue for confirming whether a LVIG supply is made to a GST registered person (B2B) (same criteria as with the remote services rules).
2. **Election to charge GST on low value B2B sales:** Offshore sellers that mainly make B2C LVIG sales may elect to also charge 15% GST on B2B LVIG sales. The test is that the seller must have a 'reasonable expectation' that at least 50% of their total LVIG sales value in the 12 months from the date of election will be made to B2C customers.
3. **Election to charge GST on high value B2C sales:** Offshore sellers whose B2C sales are mainly of LVIGs can elect to charge 15% GST on all B2C sales, regardless of the sale value. The test is that the seller must have 'reasonable grounds' to believe that at least 75% of their total value of B2C sales in the 12 months from the date of election will be of LVIGs (i.e. no more than NZD$1,000 in value).
4. **Limited safe harbour for electronic marketplaces and redeliverers:** Inland Revenue has introduced limited safe harbour rules to protect electronic marketplaces and redeliverers where they have applied the default rules for determining the estimated customs value of goods that they bring into New Zealand.

These safe harbour rules mean that a marketplace operator or redeliverer cannot be held liable for GST that should have been returned to Inland Revenue where it was underpaid as a result of relying on incorrect or misleading information provided by another party.

## Digital assets and cryptocurrencies

### Overview and practical insights

New Zealand enacted legislation on 29 March 2022 focusing on the GST considerations of crypto assets to reduce the uncertainty surrounding this area. The changes include:

- Cryptocurrency is excluded as a taxable or exempt supply - this wide-ranging change is innovative and will allow cryptocurrency transactions to be ignored for GST. Part of the reason for removing cryptocurrencies from the GST net was to reduce market distortions and enhance certainty.
- NFTs are covered by the standard GST rules and the remote services rules (if the consumer is a NZ resident in the case of the remote services rules).
- Brokerage and commission services in relation to cryptocurrency are GST-exempt.
- Options over cryptocurrency are also GST-exempt.

These changes have retrospective effect to **1 January 2009** (when Bitcoin was launched). In addition, GST on costs incurred as part of a cryptocurrency issue will be recoverable by a GST-registered business (retrospective to **1 April 2017**).

## Listed services supplied through online marketplaces

### Overview

From 1 April 2024, new rules fundamentally changed the GST treatment for online marketplace operators who facilitate the sale of 'listed services'. The marketplace now must collect and return GST of 15% when the service is performed, provided or received in New Zealand, no matter their GST resident status.

### Practical insights

**What are listed services?**

Listed services include:

- food and beverage delivery
- ride-sharing and hailing; and
- short-stay and visitor accommodation services.

**Affected parties**

The rules affect:

- online marketplace operators that connect buyers with sellers of listed services
- sellers on online marketplaces that receive income from listed services (drivers, deliverers and accommodation providers); and
- listing intermediaries that list short-stay and visitor accommodation on online marketplaces on behalf of accommodation hosts.

A large operator of short stay accommodation may be able to opt out of platform rules (or the platform may request this), which results in the accommodation hosts remaining responsible for their own GST obligations. This enables large enterprises like hotels that list their rooms on platforms to continue with their existing processes, systems, and practices.

### Marketplace operators

A marketplace operator will be treated as a supplier of listed services, if they authorise the charge or delivery for the supply of listed services to the customer or set the terms or conditions under which the supply of listed services is made. This applies whether the marketplace operator is GST resident or not.

### Flat-rate credit scheme

A flat-rate credit scheme will apply for sellers who are not GST registered to recognise the GST on their costs from supplying listed services. Unregistered suppliers will have GST at 15% applied on listed services that are performed, provided or received in New Zealand. Of the GST collected, the unregistered supplier will be allocated an 8.5% GST credit, providing an economic benefit similar to input tax credits on expenses, without needing to register for GST. The remaining 6.5% of the GST is to be remitted to the tax authorities.

# Offshore gambling duty

## Overview

A new offshore gambling duty applies from 1 July 2024. The offshore gambling duty will be charged at 12% of the net gambling revenue of offshore operators who provide online gambling services to New Zealand residents. This excludes amounts from betting on sports and racing that are subject to existing point of consumption charges (POCC) that already apply to certain wagers placed by New Zealand residents on races and sports events. The net gambling revenue is the gross gambling revenue minus the prizes paid to residents, minus the POCC.

## Practical insights

The offshore gambling duty is broadly aligned with the existing rules for GST on remote services, subject to deduction of the POCC. The offshore gambling duty will be administered by Inland Revenue and the return periods and due dates are the same as those for GST on remote services. The duty is payable quarterly by the same dates as the GST returns. The offshore gambling duty is subject to the same assessment, disputes, penalties and interest rules as the casino duty.

# Taxable supply information

## Overview

Inland Revenue has created new GST invoicing and record keeping rules which came into effect 1 April 2023. These apply to all taxable supplies, not only digital supplies.

## Practical insights

A key principle of the changes is to increase flexibility and remove the requirement to issue and hold a single prescribed ‘tax invoice’ document. Rather, the GST requirements would be met if specified GST information is provided and held, regardless of the source(s) (e.g. commercial invoices, supply agreements, or other business records).

For clients this means that there will be fewer rigid requirements on what is needed to support GST claims. Tax documents that a client issues now should generally be compliant with the new rules. Further, this should help facilitate the transition to e-invoicing.

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# Philippines

## Digital economy

### Overview

The Bureau of Internal Revenue (BIR) has been gradually issuing tax rulings, revenue regulations, and memorandum circulars clarifying the tax treatment of persons engaged in online transactions and eCommerce. To date, these are as follows:

- sale of products in digital or electronic format
- online business transactions
- persons engaged in business of land transportation; and
- persons engaged in offshore gaming services.

### Practical insights

The tax treatment provided in these issuances is quite general. Essentially, these businesses are taxed similarly to other industries. Taxpayers engaged in online business transactions, such as online shopping and retailing, intermediary service, advertisement and auction, are required to register the business, secure Authority to Print invoices/receipts, register and maintain books of accounts for use in business and issue registered invoice/receipts for each transaction, among others, just as taxpayers engaged in other income-generating activities.

Additionally, as part of its efforts to enhance compliance, the tax authority issued guidelines for the registration, filing of tax returns and payment of taxes by online sellers. A task force was also established to create a database of online sellers of goods and services and to determine which of these sellers are registered (or not registered) with the BIR.

A recent regulation imposed a 1% withholding tax (WHT) on gross remittances made by electronic marketplace operators and digital financial service providers to sellers/merchants for goods and services sold/paid through their platforms. These operators and providers are now responsible for deducting and withholding the tax on sales made through their platforms.

Electronic marketplace operators and digital financial service providers had until 14 July 2024 to adjust their systems and procedures and file necessary applications with the tax authority and other government agencies to comply with the new tax reporting requirements.

Several bills were under consideration at the legislative level to further regulate the digital economy in the Philippines.

**Recent update 2 October 2024:** One of these bills was passed into law as Republic Act (RA) 12023 on 2 October 2024. The law imposes 12% VAT on digital services rendered by non-resident digital service providers (NDSPs) and introduced certain amendments that apply generally to digital services, regardless of the tax residence of the service provider. The salient features of the new law include:

- Generally, the sale or exchange of services now specifically include the supply of digital services, as well as the lease of motion films and the lease, use or the right to use satellite transmission.
- 'Digital services' refers to any services that are supplied over the internet or other electronic network with the use of information technology, and where the supply of the service is essentially automated. Specifically, digital services shall include:
  - online search engine
  - online marketplace or electronic marketplace
  - cloud services
  - online media and advertising
  - online platform; and
  - digital goods.
- Non-resident digital service providers (NDSPs), or the digital service providers that have no physical presence in the Philippines, may be liable to withhold and remit 12% VAT on digital services consumed in the Philippines depending on whether the consumer is VAT-registered or not.
  - If the consumer is not VAT-registered, NDSPs are required to withhold and remit 12% VAT (in which case VAT registration is needed).
  - If the consumer is VAT-registered, consumers are liable to withhold and remit VAT within ten (10) days following the end of the month the withholding was made.
- NDSPs are not allowed to claim creditable input tax.
- It is mandatory for a NDSP to issue a digital sales or commercial invoice. The invoice issued by NDSPs shall include the following information.
  - date of the transaction
  - transaction reference number
  - identification of the consumer
  - brief description of the transaction; and
  - the total amount with the indication that such amount includes the VAT (a breakdown may be indicated to show particular components that are VAT zero-rated or VAT-exempt).

Meanwhile, Philippine-resident service providers shall comply with the regular invoicing requirements.

- A non-resident digital service provider that sells or exchanges digital services in the Philippines is required to register for VAT purposes.

## Digital assets and cryptocurrencies

### Overview and practical insights

There are still no laws or pending bills in existence for cryptocurrencies, nor any clear guidance from the tax authority. However, the Securities and Exchange Commission (SEC) of the Philippines issued guidance treating cryptocurrencies as securities. They also advised that violators to the registration and disclosure requirements—where the virtual currencies offered are in the nature of a security—would be reported to the tax authority so that the appropriate penalties and/or deficiency taxes can be assessed.

Likewise, the Bangko Sentral ng Pilipinas (BSP), the Philippines' central bank, issued guidance treating cryptocurrency/virtual currency exchanges as remittance and transfer companies, which must be registered with the central bank.

Cryptocurrencies and other digital assets are also considered as property within the meaning of anti-money laundering laws and regulations, which may become the subject of an anti-money laundering investigation.

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# Singapore

## Imported digital/remote services rules

| Type of tax | Goods and services tax |
|---|---|
| Tax rate | 9% (effective from 1 January 2024) |
| Commencement date | B2C: 1 January 2020 (digital services only)<br>B2C: 1 January 2023 (remote services[1])<br><br>[1]Encompasses digital and non-digital services |
| Type of services covered | Effective from 1 January 2020: Any service supplied over the Internet or other electronic network and the nature of which renders its supply essentially automated with minimal or no human intervention, and impossible without the use of information technology.<br><br>Effective from 1 January 2023: Any services where, at the time of the performance of the service, there is no necessary connection between the physical location of the recipient and the place of physical performance (with certain exclusions). |
| Registration threshold | A two-tier registration threshold is applicable. Global turnover and the value of digital services (prior to 1 January 2023) or total values of remote services and low value imported goods made to non-GST registered customers in Singapore exceeding SGD$1m and SGD$100,000 respectively in a calendar year or are expected to exceed these thresholds in the next 12 months. |
| Tax on online platforms | Overseas and local operators of an electronic marketplace supplying digital/remote services to non-GST registered customers in Singapore, on behalf of overseas suppliers through the marketplace, may be required to register for GST in Singapore and account for the GST under certain conditions. |

### Overview

Digital services provided by overseas digital service providers and overseas electronic marketplace operators, to non-GST registered persons in Singapore, may be subject to GST. This is effective from 1 January 2020 under an overseas vendor registration (OVR) regime.

Specifically, the term ‘digital services’ is defined as: 'Any services supplied over the Internet or other electronic network and the nature of which renders its supply essentially automated with minimal or no human intervention, and impossible without the use of information technology.'

Examples of services that will be taxed include downloadable digital content such as mobile applications, e-books, music, games and movies, subscription-based media, software programmes, and cloud services.

With the extension of the overseas vendor registration regime from 1 January 2023, all B2C supplies of imported services (digital or non-digital) will be subject to GST if the services can be supplied and received remotely. These services are referred to as ‘remote services’.

Specifically, the term ‘remote services’ is defined as: 'Any services where, at the time of the performance of the services, there is no necessary connection between the physical location of the recipient and the place of physical performance.'

Services which are exempt or qualify for zero-rating are excluded from the definition of remote services to ensure parity in the GST treatment on such supplies (regardless of whether they are procured locally or from overseas suppliers). Examples of remote services include digital products (e.g. mobile games, downloadable software), professional services, online educational services, online counselling and telemedicine services.

Overseas digital service/remote service providers and overseas electronic marketplace operators (such as app stores) will be required to register for GST in Singapore if their global turnover exceeds SGD$1m (approximately USD$715,000) and their digital/remote service sales to non-GST registered customers in Singapore exceeds SGD$100,000 (approximately USD$71,500), in a calendar year or are expected to exceed these thresholds in the next 12 months.

Service providers registered under the OVR regime file simplified quarterly GST returns, with payment due within one month from the end of each accounting period. OVR service providers filing simplified GST returns are not allowed to claim GST incurred on their expenses (this is a pay-only regime).

## Practical insights

The inclusion of the human intervention factor in the definition of ‘digital services’ presented some uncertainties in scenarios where the services are provided by real persons but supplied electronically via the Internet. For example, it is unclear if the following scenarios would fall within the scope of digital services:

- Provision of distance learning services where a portion of the lectures is conducted in real time by the trainers.
- Subscription fees from live video streaming involving performances by real persons where real-time interaction between the audience and the performer is possible in the form of 'likes' and 'comments' (in social media parlance).

With the remote services rules commencing from 1 January 2023, the human intervention factor will no longer be relevant based on the way the term 'remote services' is defined.

The OVR rules require service providers of digital/remote services to treat the services as supplied to a non-GST registered customer and charge GST accordingly, unless the customer provides his GST registration number. Operationally, this means that service providers primarily selling to business customers would need to have processes in place to capture the customer’s GST registration details and status to determine if GST needs to be charged at the outset. Service providers who are unable to determine the GST registration status of their customers may seek approval from the Inland Revenue Authority of Singapore (IRAS) for alternative methods of determination.

Overseas electronic marketplace operators registered under the OVR regime face additional GST compliance complexities. Under certain conditions, these operators are deemed the suppliers of digital/remote services, even if they act on behalf of underlying service providers. This places the GST accounting obligation on the marketplace operators. These overseas electronic marketplace operators must track the following transactions separately and apply different GST treatments:

- supplies of digital/remote services made by local suppliers through the electronic marketplace (GST, if applicable, to be accounted by the local suppliers)
- supplies of digital/remote services made by overseas suppliers through the electronic marketplace to non-GST registered consumers in Singapore (GST to be charged)
- supplies of digital/remote services made by overseas suppliers through the electronic marketplace to GST registered consumers in Singapore or to non-Singapore consumers (no GST to be charged)
- its own supplies of digital/remote services made to GST-registered consumers in Singapore and non-Singapore consumers (no GST to be charged); and
- its own supplies of digital/remote services made to non-GST registered consumers in Singapore (GST to be charged).

In addition, the GST treatment also differs between supplies of remote services and supplies of goods. Hence, the systems of the electronic marketplace operators must be robust to address these complexities.

A related operational issue arises when GST-registered customers fail to provide their GST registration details to the OVR service providers and are being incorrectly charged GST. Under the rules, such customers cannot recover the GST so charged as an input tax credit. Instead they have to seek a refund from the OVR service providers who in turn must process the refund and adjustment their output tax liability, which increases compliance costs. This underscores the importance of collecting the GST registration details of the customers, especially if one customer base is primarily made up of businesses (instead of individuals).

An interesting point to note is that OVR service providers must charge and account for GST on all taxable supplies. In other words, such providers must also account for GST on a local supply of goods in Singapore and on services rendered through their business or fixed establishment in Singapore (if any). This is in addition to the GST collected on supplies of digital/remote services to non-GST registered customers in Singapore. What is more interesting is that this rule has indirectly extended the reach of the GST net as such service providers would not have been liable for GST registration under the normal GST rules if not for their supply of digital/remote services to non-GST registered customers. This is because businesses (offshore or otherwise) are only liable for GST registration if they make taxable supplies in Singapore in excess of SGD$1m and have to charge GST on all taxable supplies under the normal GST rules – OVR service providers are subject to same liability at a much lower registration threshold of SGD$100,000.

## Low value imported goods

### Overview

Singapore Customs administers the collection of import GST on goods imported into Singapore. However, imports of non-dutiable goods by air or post valued at SGD$400 (approximately USD$285) or less are exempt from import GST. Dutiable goods in Singapore include certain intoxicating liquors, tobacco products, motor vehicles, petroleum products, and biodiesel blends.

From 1 January 2023, the Singapore GST regime has been extended to levy GST on the supply of B2C LVIG imported into Singapore via air or post, valued SGD$400 or less. This expansion of the OVR regime now covers B2C supply of LVIGs in addition to remote services.

| Type of tax | Goods and services tax |
| --- | --- |
| **Tax rate** | 9% (effective from 1 January 2024) |
| **Commencement date** | 1 January 2023 |
| **Type of services covered** | LVIG are goods which at the point of sale:<br>• are not dutiable goods, or are dutiable goods, but payment of the customs duty or excise duty chargeable on the goods is waived under section 11 of the Customs Act<br>• are not exempt from GST<br>• are located outside Singapore and are to be delivered to Singapore via air or post; and<br>• have a value not exceeding the GST import relief threshold of SGD$400 |
| **B2B, B2C or both** | B2C supplies only |
| **Registration threshold** | A two-tier registration threshold is applicable. Global turnover and the value of remote services and LVIG made to non-GST registered customers in Singapore exceeding SGD$1m and SGD$100,000 respectively in a calendar year or are expected to exceed these thresholds in the next 12 months |
| **Tax on online platforms** | Yes - overseas and local operators of an electronic marketplace supplying LVIG delivered from overseas to Singapore, on behalf of local and overseas suppliers, through the marketplace may be required to register for GST in Singapore and account for the GST under certain conditions |

#### Who may be impacted by this change (non-exhaustive)

- Overseas and local supplier making sales of LVIGs delivered from overseas to customers in Singapore.
- Overseas and local operator of an electronic marketplace supplying LVIGs delivered from overseas to Singapore, on behalf of local and overseas suppliers, through the marketplace.
- Overseas and local redeliverer delivering or facilitating the delivery of LVIG from overseas to Singapore, by providing or facilitating the purchase or the use of an address outside Singapore.

#### Different values to be considered

- OVR vendors are required to use the sales value of the goods (which excludes insurance and freight costs), to determine whether the goods fall within the definition of LVIG (unless they elect otherwise).
- However, GST is chargeable on the value of supply of LVIGs, which includes insurance and freight costs, where applicable.
- Where multiple goods are shipped as single consignment, the goods should be disaggregated and valued separately as separate items in determining whether each item falls within the definition of LVIG (unless otherwise elected).

#### GST registration requirements

- A two-tier registration threshold applies under the extended OVR regime.
- An overseas vendor would be liable for GST registration if the following thresholds are exceeded in a calendar year or are expected to be exceeded in any 12-month period.
  - SGD$1m in global revenue; and
  - SGD$100,000 in remote services and LVIG relating to B2C supplies in Singapore.
- The registration rules are applied on a retrospective and prospective basis, and transitional rules apply.
- The current pay-only regime with simplified registration and reporting requirements will apply to the extended OVR.

#### GST implications for B2B customer

- GST is not chargeable by the OVR vendor to a Singapore GST registered customer. The Singapore GST registered customer should provide a GST registration number to the OVR vendor when buying LVG from the OVR vendor.
- The Singapore GST registered customer will need to assess reverse charge liability (if any).

## Practical insights

Given the wide reach of the extended OVR rules, businesses (including marketplaces and redeliverers) providing goods and services to Singapore non-GST registered customers, should consider if they would be affected by the new rules.

Areas to investigate include:

- assessing if supplies fall within the definition of remote services or LVIG.
- assessing if the marketplace or redeliverer rules apply.
- determining GST registration liability.
- updating processes and systems:
  - implement processes to differentiate B2B from B2C and differentiate LVIG from non-LVG; and
  - ensure sufficient information captured for remote services and/or LVIG reporting requirements.
- ensuring GST is charged on the correct value for LVIG; and
- seeking IRAS clarification/concession where applicable.

The extended OVR regime has been in effect since 1 January 2023. Existing businesses should assess its retrospective impact, while new businesses should prepare early for the complexities of operationalising the new rules and implementing necessary system and process changes.

## Digital assets and cryptocurrencies

### Overview

Prior to 1 January 2020 supplies of digital tokens, virtual currencies, and cryptocurrencies were treated as a taxable supply of service and subject to GST at either the standard rate or zero-rated. From 1 January 2020, supplies of digital payment tokens are no longer be subject to GST. Specifically:

- the use of digital payment tokens as payment of goods and services will no longer give rise to a supply of those tokens (i.e. no longer treated as a barter trade); and
- a supply of digital payment tokens in exchange for fiat currency or other digital payment tokens, and the provision of any loan, advance or credit of digital payment tokens will be exempt from GST.

The GST treatment for digital tokens, virtual currencies, and cryptocurrencies that do not qualify as digital payment tokens remain unchanged. Based on the definition set out the GST Act, a digital payment token is a digital representation of value that has all the following characteristics:

- it is expressed as a unit
- it is designed to be fungible
- it is not denominated in any currency and is not pegged by its issuer to any currency
- it can be transferred, stored or traded electronically; and
- it is, or is intended to be, a medium of exchange accepted by the public, or a section of the public, without any substantial restrictions on its use as consideration.

The following are not considered as a digital payment token for GST purposes:

- money
- anything which, if supplied, would be an exempt supply of financial services; and
- anything which provides an entitlement to receive or to direct the supply of goods or services from a specific person and ceases to function as a medium of exchange after the entitlement has been used.

Based on guidance from the IRAS, examples of digital payment tokens are Bitcoins, Ether, Litecoin, Dash, Monero, Ripple and Zcash.

### Practical insights

Given the diverse range of cryptocurrencies available in the market, businesses trading in cryptocurrencies must carefully assess whether a specific cryptocurrency qualifies as a digital payment token or another type of asset to determine the appropriate GST treatment.

The IRAS has indicated that cryptocurrencies listed on digital payment token exchanges generally meet the condition of being intended as a medium of exchange. However, for unlisted cryptocurrencies, the specific criteria and evidence required to establish this intent remain unclear. At present, there is limited guidance from the IRAS on this matter.

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# South Korea

## VAT law and digital services

### Overview

South Korea has implemented a VAT regime for imported digital services, including electronic services, software, and online advertising.

Since 1 July 2015, imported B2C digital services have been subject to VAT in South Korea. There is import relief for non-dutiable goods valued at no more than USD$150 (also referred to as low value imports), where no import VAT is payable to Korean Customs.

According to the Simplified Business Registration regime under Korean VAT law, digital services mean selling digital content such as games, electronic documents, music, videos, software, apps, advertisement, cloud computing and intermediary services which are supplied via mobile telecommunication terminal devices and computers. For this purpose, this does not apply to digital services that are used for business registered customers (for its VAT-taxable or VAT-exempt businesses).

### Practical insights

**Affected businesses**

The Simplified Business Registration regime affects an overseas supplier making sales of digital services to individual customers in South Korea. A local or overseas operator of an electronic open market may be regarded as the supplier of the services made by the suppliers through these open markets.

**VAT liability**

VAT is levied at 10% unless a zero-rating provision applies.

**Registration**

Under the regime, any overseas vendors who are making B2C sales of digital services to South Korea are liable to be registered.

**VAT returns, payments and refunds**

There are two return periods each year:

(1 January to 30 June and 1 July to 31 December). However, preliminary VAT returns are required for the periods 1 January to 31 March and 1 July to 30 September.

Every registered business must file a quarterly VAT return. The return must be electronically submitted to the National Tax Service by the twenty-fifth day after the end of each quarter.

The payment due with the return must be made no later than the twenty-fifth day after the end of each quarter.

Input VAT can be claimed to offset output VAT (any excess can be refunded).

The quarterly VAT return under the Simplified Business Registration regime must include the value of supplies and the output VAT, and the value of purchases and the input VAT, if any.

**Documentation and reporting**

Under the new requirement, foreign business operators are required to keep transaction details for five years and, if requested by the tax authorities, submit such details within 60 days from the date it receives the request.

The required transaction details include the type of services, supply price/value added tax, date of service provision, service recipient (and whether the recipient's business is registered, i.e. Korean VAT registration number). This applies to the electronic services supplied on or after 1 July 2022.

**Penalties**

Failure to comply with VAT obligations can result in significant penalties, including those for non-registration, non-reporting, under-reporting, and late payment.

The exemption of non-compliance penalties on ESS VAT for foreign business operators has been abolished since 1 January 2021. Therefore, for ESS supply after 1 January 2021, penalties on non-reporting (20% of unreported tax amount), under-reporting (10% of under-reported tax amount) and late payment (2.5/10,000 per day, 2.2/10,000 from 15 February 2022) will be imposed regardless of whether relevant VAT is collected from individual customers.

In addition, a penalty for non-registration will be imposed (1% of ESS supplied until the registration) for the ESS supply after 1 January 2024

## Digital assets and cryptocurrencies

There is no clear provision for VAT treatment on virtual assets under the Korean tax law, but Ministry of Economy and Finance (MOEF) has issued a tax ruling, interpreting that a supply of virtual assets is not regarded as a VAT-taxable supply of goods (MOEF VAT department -145, 2 March 2021)

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# Taiwan

## Digital economy

### Overview

Taiwan has implemented a VAT regime for cross-border B2C electronic services. Foreign businesses providing such services to Taiwanese consumers must register for VAT, file returns, and remit taxes if their annual revenue exceeds a certain threshold.

VAT is imposed on import of goods and is collected by Taiwan customs. Under certain prescribed limitations, imported goods (excluding alcohol, tobacco and agricultural goods) with custom value not exceeding TWD$2,000 (approximately USD$65) may be exempt from VAT.

Taiwan has formally implemented a VAT mechanism for foreign companies that provide cross-border sales of B2C services since 1 May 2017.

Foreign e-service providers that have no fixed place of business in Taiwan who provide e-services to domestic individuals (B2C), and whose annual revenues exceed the TWD$480,000 (approximately USD$16,000) threshold will be required to register for VAT purposes, file VAT returns, and pay relevant VAT in Taiwan. Electronic services are defined as following:

- the services used are downloaded via the internet and saved to computers or mobile devices for use
- the services are used online without being downloaded and saved onto any devices; and
- other services used are supplied through the Internet or other electronic tools.

### Practical insights

**Affected businesses**

Foreign companies providing cross-border B2C electronic services in Taiwan will be impacted by the VAT regulations.

**VAT liability**

VAT is levied at 5% on all supplies.

**Registration**

The cross border electronic service providers—whose total annual sales from services provided to Taiwan individuals exceeds TWD$480,000 in the previous year or current year—should register for VAT purposes in Taiwan.

**VAT returns, payments and refunds**

VAT returns shall be submitted on a bi-monthly basis via the tax authority's web portal. The deadline is by the fifteenth day after the end of each period (e.g. by 15 March for the period of January-February)

Tax payment needs to be made prior to the filing of the tax return.

Input VAT incurred by a foreign taxpayer may be creditable against it if the input VAT incurred is related to its business operation

The VAT return to be filed is a simplified form where only the value of supplies made, the applicable VAT, and applicable input VAT is required to be reported.

**Penalties**

The current penalty regime does apply to overseas suppliers with cross-border sales of B2C services. Key penalties are further defined as follows:

**Failure to register for VAT:** penalties of between TWD$3,000 and TWD$30,000.

**Underreporting or failure to report VAT sales:** penalties of up to five times the underpaid amount.

**Failure to report VAT in accordance with regulations:** penalties of between TWD$1,200 and TWD$30,000.

## Digital assets and cryptocurrencies

There is no clear provision for VAT treatment on virtual assets under the Taiwan tax law.

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# Thailand

## Electronically supplied services

### Overview

From 1 September 2021, non-resident electronic service providers and electronic platform operators are subject to VAT at 7% for electronic services provided to non-VAT registrants in Thailand.

Non-resident suppliers will be required to prepare an output VAT report with details of the transactions attached to the report, in accordance with the Notification of the Director-General of the Revenue Department on VAT No. 239.

VAT is payable on the revenue received by:

- overseas digital service providers; and
- operators of electronic platforms, on the services provided to Thai consumers who are non-VAT registrants.

In 2022, the Revenue Department released the second edition of the 'Guide on VAT on Electronic Services Provided to Non-VAT Registrants in Thailand by Non-resident Business Persons.' This guideline is intended to explain in more detail the application of the digital services tax law, and to address the compliance procedures to be undertaken by non-resident suppliers. This guideline is available on the Revenue Department's website here.

The Revenue Department also recently introduced a database called VAT for Electronic Service (VES). This replaces the simplified VAT system for e-service (SVE).

The key takeaways from the development are summarised in the table below.

| Topic | Key issues |
|---|---|
| **Scope** | Non-resident electronic service providers and electronic platform operators, who receive income of more than THB฿1.8m per year from providing electronic services to non-VAT registered customers in Thailand, must register for VAT, file VAT returns and pay VAT by calculating output tax (without deducting input tax).<br>These taxpayers are not required to issue tax invoices or prepare input tax reports. |
| **Key elements** | The guideline gives more insight into the following:<br>• The definition of 'electronic services': the guideline provides a non-exhaustive list of services which are included (e.g. mobile applications, online advertising) and excluded (e.g. telecommunication services, money transfer services) from the definition.<br>Distance teaching via pre-recorded media is treated as an electronic service. However, a live teaching course is excluded from the definition of electronic services.<br>• Location determination: The rules for determining whether a service is 'used in Thailand' are clarified. The service should be treated as used in Thailand if the customer information indicates that the customer is in Thailand. The non-resident service provider should determine the location of the customer based on one of the following items of customer information.<br>1. payment information<br>2. residence information; and<br>3. access information.<br>If the above information is not consistent, the taxpayer should obtain at least two pieces of non-conflicting evidence of where the customer is located, or the service is used. |

| Topic | Key issues |
|---|---|
| Key elements | • **Determining the VAT registration status of customer:** By default, non-resident electronic service providers and electronic platforms can treat the customer as a non-VAT registrant (and must charge VAT). If VAT registration information is provided by the customer, the non-resident service provider is not required to completely verify the customer's VAT registration. The guideline indicates that the non-resident service provider may request and rely on a Tax ID number provided by the recipient of the service.<br>• The non-resident service provider can also visit the Revenue Department's website to verify the validity of the customer's VAT registration and tax identification number.<br>• **The provision of services through an electronic platform:** An electronic platform operator is required to pay VAT on behalf of non-resident service providers who provide e-services through a platform with all of the following processes<br>1. offering services<br>2. receiving payment; and<br>3. delivering services. |
| VAT registration | If the non-resident service provider or non-resident electronic platform operator has revenue exceeding THB฿1.8m in an accounting period (for a corporation) or a calendar year (for an individual), it should register for VAT within 30 days from the day on which the revenue exceeds THB฿1.8m.<br>For corporations, income should be calculated from the first day of the accounting period that ends after 1 September 2021. For individuals, income should be calculated from 1 January 2021. If the income exceeds THB฿1.8m before 1 September 2021, the VAT registration should have been completed by 1 September 2021.<br>All registration documents must be submitted to the Revenue Department through VES on the Revenue Department's website. |
| VAT point, VAT filing and VAT payment | The VAT liability from the provision of electronic services to customers in Thailand will arise when the service fee is paid either fully or partially. If payment is made using a credit card, the VAT liability arises when proof of the credit card usage is issued.<br>More details are also provided on the exchange rate for converting foreign currency into Thai Baht, VAT filing through the form called 'P.P.30.9', the VAT filing due date (i.e. the twenty-third day of the following month) and the VAT payment channels via VES. |
| Output tax report | VAT operators have the right to request a VAT refund if there is an overpayment of VAT. However, the details of the VAT refund process have not yet been disclosed. |
| VAT refund | VAT operators have the right to request a VAT refund if there is an overpayment of VAT. However, the details of the VAT refund process have not yet been disclosed. |
| Compliance and enforcement | The Revenue Department's Large Tax Administration (LTO) is responsible for supervising and auditing non-resident electronic service providers and electronic platform operators.<br>If the non-resident VAT electronic service providers fail to comply with the law, they will be subject to the same civil and criminal penalties as VAT operators in Thailand. |

## VAT on low value imported goods

### Overview

On 2 April 2024, the Ministry of Finance announced that the Revenue Department would soon propose an amendment to the Revenue Code. The amendment will impose 7% VAT on the import of low valued goods (of not exceeding THB฿ 1,500) purchased through online marketplaces.

### Practical insights

An amendment to the Revenue Code is expected to be issued to remove the provision which says that import VAT is exempted for goods that are exempt from customs duty. This development may impact sales made by overseas suppliers through online marketplaces to non-VAT registrant Thai customers.

There may be additional administrative duties under the law as online marketplaces may need to be responsible for monthly VAT filings.

The details on how this will be achieved in practice has yet to be announced. However, a draft regulation is estimated to be proposed by the Revenue Department to the Ministry of Finance within May 2024.

This mechanism is built on the OECD's recommended framework for collecting VAT on low value imports by pushing the filing and payment obligations to the eCommerce platforms.

## Additional reporting requirements for local electronic platforms

### Overview and practical insights

Late 2023, the tax authorities published a regulation requiring Thai marketplace entities to prepare 'special accounts' with details on the income that the marketplace entity receives from vendors on the platform.

The requirement applies to marketplace entities incorporated in Thailand that have, or previously reported to have, total revenue of more than THB฿ 1,000m in the same accounting period.

The accounts need to be submitted to the tax authorities within 150 days of the end of the accounting period (i.e. the same deadline as corporate income tax filing).

## Digital assets and cryptocurrencies

### Overview and practical insights

Cryptocurrencies and digital tokens are classified as intangible goods under the VAT law and are subject to VAT. However, relief is available for:

- the transfer of cryptocurrencies or digital tokens carried out on a digital asset exchange under the law is exempt from VAT between 1 April 2022 and 31 December 2023 (Royal Decree 744)
- the transfer of digital currencies under the Retail Central Bank Digital Currency Development and Testing Project is exempt from VAT when executed between 1 April 2022 and 31 December 2023 (Royal Decree 745); and
- the transfer of investment tokens offered to the public under the law governing digital asset business carried is exempt from VAT when executed from 14 May 2018 onwards (Royal Decree 779).

In February 2024, a cabinet resolution approved, in principle, a draft Royal Decree to:

- extend the VAT exemption period under Royal Decree 744 indefinitely; and
- extend the scope of Royal Decree 779 to also include exemption for the transfer of utility tokens on an exchange. It remains to be seen when the draft Royal Decree will be enacted.

Non-resident electronic service providers are required to register for and pay VAT in Thailand on B2C transactions. The regulation may impact non-resident exchanges, traders and dealers of digital assets and cryptocurrencies charging consumers in Thailand for services (e.g. broker fees).

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## Digital economy

### Overview

At this stage Vietnam does not have a separate taxation regime for the digital economy. However, the Vietnam Government, taking into consideration the recommendations of the OECD and the United Nations on the digital economy, has developed a set of rules and a roadmap for tax legislation dedicated to the digital economy.

### Practical insights

Notably, in 2019 Vietnam introduced a tax administration law which includes a taxing mechanism for foreign organisations and individuals doing business or deriving income in Vietnam from eCommerce activities or digital platforms ('eCommerce vendors').

This law came into effect on **1 July 2020** and requires eCommerce vendors, even without having a permanent establishment in Vietnam, to file tax in Vietnam, either directly or via an authorised entity. To enforce the tax collection, this law and the subordinate legislation also require commercial banks, payment intermediaries to withhold and pay taxes on behalf of eCommerce vendors upon the order of the Vietnam General Department of Taxation (GDT), and the State Bank of Vietnam (SBV), as the management body of national banking operations, to establish a nationwide payment system to facilitate the tax collection.

Following the introduction of the tax administration regulations on 21 March 2022, the (GDT) introduced the e-portal dedicated to the eCommerce vendors to register and file tax in Vietnam. Any eCommerce vendor can find guidance on tax registration, filing and payments in Vietnamese and English in the portal. There have been many (around 100) foreign suppliers who registered, declared and paid taxes through the portal.

## Low value imported goods

### Overview

Vietnam does not have a separate taxation regime for LVIGs. At this stage, there are certain tax exemptions for certain low value imported goods (in form of gifts, carry-on luggage) under the law on customs duty and its implementing regulations.

### Practical insights

The General Department of Customs has drafted a new decree on customs management of cross-border eCommerce activities, following the increased quantum of imported goods from/via eCommerce platforms, and instruction of the Ministry of Finance (MoF).

However, during a meeting in April-May 2024, the Chairman of the National Assembly's finance and budget committee proposed the Vietnamese Government consider removing the prevailing tax exemption on LVIGs. The vast majority of those are being imported through eCommerce platforms.

## Digital assets and cryptocurrencies

### Overview

Cryptocurrency is not yet legally recognised as a payment instrument in Vietnam. Therefore, there are no tax regulations concerning cryptocurrency. There have been some developments which are outlined below.

### Practical insights

Developing a legal framework for managing cryptocurrencies has been emphasised under the Resolution No. 01/NQ-CP dated 6 January 2023 by the Government, which stipulates the nation plans on economy, society, State budget and enhances the business environment for the period 2021 – 2030.

On 23 February 2024, the Vietnamese Government issued Decision 194/QD-TTg promulgating the national action plan to implement the Vietnamese Government's commitments on preventing and combatting money laundering, terrorist financing, and financing for the proliferation of mass destruction weapons.

Accordingly, the Vietnamese Government has assigned the MoF to research and develop a legal framework to ban or regulate crypto assets in May 2025 with an aim to combat money laundering.

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