

Tax Alert

July 2019

The impact on financial institutions from changes to the taxation of e-commerce in Vietnam

On 13 June 2019, the National Assembly of Vietnam passed a new Law on Tax Administration ("LTA") which will place more roles and responsibilities on financial institutions to facilitate tax withholding and collection for imported goods and services via digital and e-commerce business models.

These new rules take effect on **1 July 2020**.

What's changed?

Recognizing that the supply of goods and services to individuals (located in Vietnam) by non-resident enterprises (so called B2C transactions) have historically fallen outside the Vietnamese tax system, new provisions have been introduced to regulate and tax e-commerce arrangements and appear to be an attempt to close some gaps in the legislative framework. The method of taxing these arrangements will significantly impact the IT system and business operations of the financial institutions.

Implications

An important element of these new rules is that they are intended to only apply to certain specified payments arising from e-commerce arrangements. Financial institutions will therefore need to be able to identify which transactions are subject to these new rules, levy a withholding tax, then report and remit proceeds to the relevant tax authorities.

The new Law of Tax Administration imposes new statutory obligations as follows:

1. **Commercial banks** will now become responsible for the collection of tax on behalf of foreign enterprises who conduct e-commerce activities in Vietnam; and
2. Non-resident enterprises who supply goods and services and who do not have a permanent establishment in Vietnam, are obliged to **register, declare and pay tax in Vietnam** or authorize other parties to do so on their behalf.

How will these new rules work and impact on the financial services sector?

While we expect this to take some form of withholding arrangement, it is unclear how these rules will work in practice. Additional legislative guidance, Decrees or Circulars will be required to outline how this will occur in practice, especially the tax registration or authorized declaration, the application of tax treaties, the identification of e-commerce transactions, as well as tax refund where the tax withholding is not relevant or appropriate. The consequences for non-compliance, penalty mechanism should be of great concerns for financial institutions.

This is an extraordinary requirement that will have a significant impact on the cost structure of commercial banks. In addition, it also raises contractual considerations including whether amounts can be retained from payment instructions.

Next steps

These new rules will apply within 12 months and commercial banks and other financial institutions are advised to control systems and contractual arrangements which will be central to the compliance with this new statutory requirement. KPMG can provide further insights on a range of potential other issues and considerations. Please contact your local KPMG Vietnam tax team or Nga Kieu Le (nkle@kpmg.com.vn) or Dean Rolfe (drolfe@kpmg.com.vn) to discuss this matter further.

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