

Turkey publishes final *General Communiqué on the Implementation of the Digital Services Tax*

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Executive summary

The Turkish Parliament has enacted Law No. 7194 which introduces a Digital Services Tax (DST). The DST law was published in the *Official Gazette* on 7 December 2019 and entered into force on 1 March 2020.¹

Following enactment of the law, the Turkish Government introduced, on 5 February 2020, the first draft of the *General Communiqué on the Implementation of the Digital Services Tax* (Draft DST Communiqué).²

The Draft DST Communiqué was updated on 28 February and re-issued on the website of the Turkish Revenue Administration.³

The final version of the General Communiqué on the Implementation of the DST (Communiqué) was released and published in the *Official Gazette* on 20 March 2020.

The Communiqué introduces explanations, procedures and principles regarding the implementation of the DST, regulated in Articles 1 to 7 of the Law No. 7194.

With respect to the scope of the DST, since there are no significant changes in the Communiqué in comparison to the draft version, only the following issues are addressed in this Alert:

- ▶ How taxpayers register for the DST
- ▶ Process for filing the tax declaration
- ▶ Documentation and notification process for the DST exemption
- ▶ Penalties for failure to submit the tax declaration and to make timely payment
- ▶ Other considerations

Detailed discussion

1. How taxpayers register for the DST

According to Article 3-(1) of the law, taxpayers of the DST are the digital service providers.

Whether they are full liable taxpayers in Turkey has no effect on being a taxpayer for the DST. If the entity is a limited liable digital service provider, whether they are dealing with the concerning activities through business or permanent representatives in Turkey does not affect their tax liability for digital services.

DST registration must be made through the website www.digitalservice.gib.gov.tr, by filling out an electronic form. Upon completion and approval of said form, the DST liability is established in the name of the digital service provider before the Large Taxpayers Administration.

A user code, passcode and a password will be given to the taxpayer to be able to make transactions at the Internet Tax Office. Those that have "Special VAT Liability for Electronic Service Providers" can use their existing user codes, passcodes and passwords.

2. Process for filing the tax declaration

All DST declarations must be filed electronically via www.digitalservice.gib.gov.tr.

DST is levied on the declaration of the taxpayer.

DST payers and those responsible for withholding the tax are obligated to submit their DST declarations by the evening of the last day of the month following the taxation period.

However, it is important to note that The Ministry of Treasury and Finance is authorized to determine a quarterly taxation period, rather than a one-month taxation period, depending on the types of services and the taxpayers' activity volumes. Accordingly, it would be beneficial for the taxpayers to request that the Ministry use its authority with a petition in order to extend the declaration period of this new tax.

Taxpayers are obligated to submit declarations regarding these periods even if they do not earn taxable revenue in a taxation period. However, those who are responsible to withhold tax are not obligated to submit declarations regarding the taxation periods when taxable transactions have not taken place.

If taxable revenue is not generated in the relevant taxation period, the declaration for the relevant period is submitted by checking the box "There is no tax base to be declared in the declaration."

Taxpayers who are obliged to submit tax returns and responsible for tax withholding must pay the DST for a taxation period within the tax return submission period.

3. Documentation and notification process for the DST exemption

Digital service providers that provide the services listed in Article 1 of the DST Law should certify that they are tax exempt in accordance with the explanations below.

Non-Turkish digital service providers, whose Turkish revenue generated from services fall within the scope of the DST Law and exceeds the local threshold (TL20m), and are claiming to be exempt from the DST, shall prove this by a report to be prepared in accordance with the explanations in the Communiqué and international auditing standards by independent auditors from at least five countries, including Turkey, by 30 June following the relevant accounting period.

The above report and its Turkish translation (translated by a Turkish sworn translator operating in Turkey) should be uploaded electronically to www.digitalservice.gib.gov.tr by digital service providers by 30 June.

4. Penalties for failure to submit the tax declaration and to make timely payment

The Communiqué states the following:

- ▶ *Regarding taxes covered by the Tax Procedure Law No. 213, digital service providers and their representatives in Turkey who do not fulfil their declaration and payment obligations in time, are notified by authorized tax administration by using communication tools, domain name, IP address on the digital service provider's web pages through notification methods and/or e-mail and/or all other means of communication listed in Law No. 213; this situation will be announced on the website of the Revenue Administration*

- ▶ *In the event that these obligations are not fulfilled within thirty days from the date of announcement, the decision to block the access to services offered by digital service providers will be taken by the Ministry of Treasury and Finance until such obligations are fulfilled, and this decision will be sent to the Information Technologies and Communication Authority to be notified to the access providers and upon the notification of this decision, the access providers will fulfil the requirements of the decisions within twenty four hours following the said notification.*
- ▶ *The procedures and principles regarding the tax security application will be determined by the Ministry of Treasury and Finance by taking the opinion of the Ministry of Transport and Infrastructure.*

According to this;

- ▶ *The authority contained in this article is for digital service providers who do not fulfil their obligations to declare and pay in full, timely and accurately in terms of all taxes covered by the Tax Procedure Law No. 213.*
- ▶ *Before the decision to block is made by the Ministry of Treasury and Finance:*
 - *Large Taxpayers Revenue Administration which is authorized to levy digital services tax notifies the digital service providers or their representatives in Turkey to make them fulfil their obligations by using communication tools, domain name, IP address on the digital service provider's web pages and information obtained from similar sources through notification methods listed in Law No. 213 and / or e-mail and / or all other means of communication.*
 - *In this notification, it is stated which obligations should be fulfilled and the digital service provider is requested to fulfil these obligations within 30 days from the date of notification to the parties of the situation.*
 - *In the website of the Revenue Administration, it is announced that the information regarding a notice was made within the scope of Article 7 of the Law, by providing information about the digital service provider and in case of no action has been taken in accordance with the notification, all powers arising from the mentioned Article will be used.*
- ▶ *If these obligations are not fulfilled within 30 days after the announcement, it is decided by the Ministry of Treasury and Finance to prevent access to the services provided by digital service providers until these obligations are fulfilled.*

- ▶ *This decision is sent to the Information Technologies and Communication Authority to be notified to the access providers and the requirement of the blocking decisions is fulfilled by the access providers within twenty-four hours from the notification.*
- ▶ *In case the obligations are fulfilled:*
 - *If it has not been decided to block access yet then it cannot be decided on the same, however, if it had already been decided but the decision has not been notified to the Information and Communication Technologies Authority, the processes cannot be continued.*
 - *If the decision had already been notified to the Information Technologies and Communications Authority, but the decision has not yet been fulfilled by the access providers, the Ministry of Treasury and Finance notifies the Information Technologies and Communications Authority.*
 - *If access is denied by access providers, the issue of removing the block is communicated to the Information Technologies and Communications Authority by the Ministry of Treasury and Finance, and access to the services offered by the digital providers is granted by access providers within twenty-four hours following the notification of this issue.*

DST Law and Communiqué itself does not impose any monetary penalties and interest in the case of non-compliance with the law. However, penalties and interest provided for under the Turkish Tax Procedural Code could be applicable.

5. Other considerations

From the amount of revenue which is derived through the intermediation of the sale of goods or services in the digital environment, the portion of the amount which is returned to the addressee by taxpayers can be taken into consideration in the determination of tax base of the taxation period under the following situations;

- ▶ When the goods are returned to the sellers because the buyers exercise their right of withdrawal within the scope of Article 48 of the Law No. 6502 on the Protection of Consumers dated 7/11/2013
- ▶ When the services are not performed
- ▶ When the cost of goods or services are returned to the buyers

Entering into force

This Communiqué enters into force on the date of publication and accordingly is effective from 1 March 2020.

Endnotes

1. See EY Global Tax Alert, [Turkey introduces Digital Services Tax](#), dated 25 October 2019, [Turkey enacts law introducing new taxes and amending various tax laws](#), dated 9 December 2019 and [Turkey's 7.5% Digital Services Tax to be effective 1 March 2020](#), dated 15 January 2020.
2. See EY Global Tax Alert, [Turkey Publishes Draft General Communiqué on Digital Services Tax](#), dated 6 February 2020.
3. See EY Global Tax Alert, [Turkey updates draft DST Communiqué](#), dated 28 February 2020.

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