

Turkey's 7.5% Digital Services Tax to be effective 1 March 2020

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Executive summary

On 5 December 2019, the Turkish Parliament enacted Law no.7194 which provides for a Digital Services Tax (DST). This law was published in the *Official Gazette* on 7 December 2019 and the DST will enter into force as of 1 March 2020.

The DST is levied at a rate of 7.5% on in-scope revenues generated in Turkey by the provision of certain digital services. It applies only to companies with global, in-scope revenues of at least €750 million and generating revenues of at least 20 million Turkish Lira (approximately \$3.3 million) in Turkey from in-scope services.

The DST shares some similarities with the draft EU DST Directive,¹ including a dual approach to the thresholds that must be met for a company to be within the scope of DST. There are, however, significant differences, including a broader scope and higher tax rate.

Detailed discussion

Broad scope of the Turkish legislation

The scope of the Turkish DST is very broad, and includes the following revenues generated from the following categories of services in Turkey:

- ▶ All types of digital advertising services, including services such as advertisement control and performance measurement services, services relating to data transmission and user management (i.e., the sale of user data), and technical services relating to the display of advertisements
- ▶ The sale of audio, visual or digital content in digital format, as well as services provided in digital format for listening, viewing, playing or recording digital content or using such content in digital format (including computer programs, applications, music, video, games and in-game applications, among others)
- ▶ Digital intermediary activities that allow users to interact with other users, include digital intermediary activities that can facilitate the sale of goods and services between users
- ▶ Intermediary services provided in a digital environment for the above categories of services

Key concepts

While there remain some uncertainties in respect of the final law, the legislation as published clarifies a number of key concepts:

- ▶ Any environment where online activity is performed without a vendor being physically present qualifies as a “digital environment.”
- ▶ The “digital service providers” are the suppliers of the services listed above and include digital advertisers and music and film streaming platforms.
- ▶ Provision of the services in Turkey refers to supplying such services to users physically located in Turkey or benefitting from the services in Turkey, the use of such service by a person in Turkey and services used in processing or transmission of data derived digitally from users located in Turkey or from activities of users located in Turkey.
- ▶ Determination of the global revenue threshold of €750 million is based on the multinational group’s IFRS consolidated financial statements. Determination of the local revenue threshold of 20 million Turkish Lira is based on Turkish Financial Reporting Standards.

Revenue thresholds

Digital service providers that generate at least €750 million of in-scope revenue on a global basis and at least 20 million Turkish lira of in-scope revenue in Turkey are subject to the DST. Both conditions must be met for the company to be in-scope of the tax.

If a digital service provider meets both thresholds, it will become liable for the DST as of the 4th month following the month in which the threshold is met.

The law authorizes the President of Turkey to reduce the revenue thresholds to as little as zero or to increase them to up to triple the specified levels.

Out-of-scope services

The following services are out of scope of the Turkish DST:

- ▶ Services that are subject to Turkish Treasury Duty, paid in accordance with the Telegram and Telephone Law
- ▶ Services that are subject to the special communication tax
- ▶ Services that are in scope of Article 4 of the Banking Law No. 5411
- ▶ Payment services within the scope of Article 12 of the Law on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions
- ▶ Sales of products and services provided exclusively through products developed through research and development (R&D) activities in R&D centers in Turkey as defined under Article 2 of the Law on Supporting Research, Development and Design Activities dated 28 February 2008, No. 746

Tax base, rate, calculation and payment

The base of the DST is the gross revenue generated during a taxation period. If the revenue is denominated in a foreign currency, it must be converted to Turkish lira. No deduction can be made from the tax base.

The DST is levied at a rate of 7.5%. The President of Turkey may reduce the rate to 1% or increase it to 15%, either per type of digital service separately, or for all types of digital services together.

Tax compliance and penalties

Taxpayers and those responsible for tax declarations must submit a Digital Services Tax return to the relevant tax office by the end of the month following the taxation period and pay the tax within the taxation period. In case of non-compliance, there will be a tax loss penalty in addition to the DST that is equal to the amount of DST. In other words, the tax loss penalty is applied at a rate of 100% of the DST in accordance with the Turkish Tax Procedure Law. Additionally, there will be a 1.6% late interest payment per month.

In addition to monetary penalties, in case of failure of the digital service providers or their Turkish representatives to submit the tax return and to make a timely payment, access to the digital services provided by such digital service providers may be blocked until these obligations are fulfilled.

Implications

Companies whose global and local revenue thresholds are below €750 million globally or 20 million Turkish lira locally will not be impacted by the DST.

For companies within the scope of the DST, the impact is likely to be significant, as the tax payable is calculated on revenue, not profit. Turkey also levies a 15% withholding tax (WHT) on digital advertising payments to services providers and intermediaries, which was published in the *Official Gazette* on 19 December 2018.² With an overlapping scope between the WHT and the DST, companies may be subject to double taxation on revenues generated by digital advertising services.

Endnotes

1. See EY Global Tax Alert, [ECOFIN agrees to extend discussions on Digital Services Tax, taking into account a new proposal from France and Germany](#), dated 4 December 2018.
2. Presidential decree No. 476.

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