8 April 2019

Indirect Tax Alert

Austria publishes draft digital advertising tax bill

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On 5 April 2019, the Austrian Federal Ministry of Finance published a draft bill (*Digitalsteuergesetz 2020*) that would introduce a new digital advertising tax. As background, the European Commission in March 2018 proposed new tax rules for fair taxation of digital business activities in the European Union (EU), including a 3% Digital Services Tax (DST) on revenue derived from certain digital activities.[1] In March 2019, the EU Member States were unable to reach agreement on an EU-wide DST approach.[2]

As the EU Member States have not yet reached unanimity, the Austrian Government, a coalition of Conservatives and the Freedom Party, has introduced a draft bill for a digital advertising tax. New levies on digital advertising, online retailers and sharing platforms would potentially generate around €200m (around US$225 million) of additional tax revenue, if enacted as currently drafted.

Austria's draft bill introduces a 5% tax (as compared to the 3% tax originally announced in January 2019[3]) on Austrian digital advertising revenue for all groups with worldwide revenues of at least €750m and Austrian digital advertising revenue of at least €25m, effective 1 January 2020. This measure aims to levy taxes on international groups that currently pay minimal taxes in Austria, according to the Austrian Government.

Building a better working world

A second measure in the same bill, which shall enter into force as from 1 January 2021, strengthens Austria's value added tax (VAT) regime for imports from non-EU countries. Under current legislation, no VAT is levied on imports of goods from non-EU countries if the value of such goods does not exceed €22. The Austrian Government has taken the position that the value of many goods is incorrectly declared. As a result, that minimum threshold of €22 will now be abolished.
In addition, internet selling platforms will be treated as recipients and suppliers of import distance selling and intra-EU sales to non-entrepreneurs in the EU, performed by non-EU suppliers using the platform. Insofar as such supplies have their place of supply in Austria, the platforms will have to pay VAT and will have to report all VAT information in Austria. In addition, as from 1 January 2021,the supply threshold for distance selling from EU countries to non-entrepreneurs in Austria (which currently stands at €35,000) will be abolished, with the consequence that distance selling from other EU countries to non-entrepreneurs in Austria will be subject to Austrian VAT from the first Euro. Sales made by small businesses (of up to €10,000 annually) will still be subject to VAT in the other state.

A third measure aims to increase the reporting obligations of online platforms that connect the buyers and sellers of goods and services. Operators would be obliged to report all bookings and revenue in Austria to the tax authorities from 2020 onwards. In addition, operators could be held liable for taxes in order to enforce reporting obligations.

Enactment of the new provisions is subject to future legislative action.

Implications

If enacted as currently drafted, the new provisions would have significant tax and reporting impacts on businesses. Impacted taxpayers at domestic and international levels should therefore continue to monitor the draft bill as it progresses through the Austrian legislative process, as well as assessing systems capabilities and tax compliance processes for readiness.

Endnotes

1. See EY Global Tax Alert, *European Commission issues proposals for taxation of digitalized activity*, dated 21 March 2018.
2. See EY Global Tax Alert, *ECOFIN publishes updated list of non-cooperative jurisdictions for tax purposes, fails to gain agreement on digital services tax*, dated 14 March 2019.
3. See EY Global Tax Alert, *Austria announces new digital tax*, dated 15 January 2019.

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EYG no. 001630-19Gbl

1508-1600216 NY
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