

## The VAT Guidelines for Digital and Remote Services Provided by Non-Residents

### Highlights

The Ministry of Finance (the “**MoF**”) recently issued decree no. 160 of 2023 (the “**Decree**”) providing guidelines concerning the value-added tax (the “**VAT**”) due on digital and other services that are remotely provided by non-residents in Egypt (the “**Guide**”). The Guide’s first edition was issued on 22 March 2023 and will enter into force on 22 June 2023. It provides detailed guidance to assist, design, and implement a VAT reform to supplies of taxable services rendered by non-resident vendors in Egypt. In addition, it covers the comprehensive VAT strategy directed to digital trade and e-commerce. It is worth mentioning that the VAT on remote and internet services was introduced to the law issuing the tax on the added value no. 67 of 2016 (the “**Law**”) in 2022. Accordingly, this Guide concerns the VAT for services rendered or imported to Egypt.

### Important Definitions

The Guide specifies several important terms, among which are the following:

1. **Non-Resident Registrant:** defined as a natural or legal person deemed a non-resident of Egypt and is liable to register under the simplified vendor registration regime (the “**SVRR**”) and account for VAT under the provision of “imported services to customers not registered in Egypt”.
2. **The Electronic Distribution Platform (the “EDP”):** defined as an electronic interface, including websites, internet portals, online stores or marketplaces, allowing recipients and persons offering services to enter into contact resulting in a sale.

### Concerned Entities

1. The digital trade and e-commerce actors, particularly the online (intangible) sales of services to private consumers provided by foreign businesses that have no physical presence in Egypt (the “**Non-Resident Vendors**”);
2. The EDP that renders remote services to customers based in Egypt on behalf of vendors or merchants;
3. The non-resident vendors must render remote services to a customer in Egypt who could be: (i) a Business (registered taxpayer) or (ii) a Consumer (non-registered).
4. **Exempted Entities: Intermediaries**  
Intermediaries such as digital insurance agents and educational services providers are not classified as digital marketplace providers or subject to VAT.

## Scope of Application

1. **The Remote Services** (electronic and digital services) are defined as any services - where at the time of their performance - there was no necessary connection between the recipient and the location of its physical performance. The scope includes the following:
  - i- any supplies of digital content (e-books, movies, shows, newspaper subscriptions, etc.),
  - ii- the legal, accounting or consultancy services, and
  - iii- the online supplies of games, apps, and software.
2. **On the Spot Services** are considered out of the scope of application. These services are defined as services requiring the physical presence of customers in a specific location to receive it, even if they were booked online (i.e. booking of hotels, restaurants, or transportation service).
3. **The Exempted Services:**  
Certain services are exempted from abiding by the Guide. The most significant services are as follows:
  - i- production, desalination, or distribution of electric current;
  - ii- buying or selling currency in exchange firms or banks;
  - iii- insurance and reinsurance services;
  - iv- educational, training, and scientific research services;
  - v- subscription to e-books, e-magazines, and e-news;
  - vi- services pertaining to farming, breeding, taking care of lands and crops, and harvesting; and
  - vii- free of charge services broadcasted by radio and television or any other means.

## Key Provisions

### 1. The Reverse Charge Scheme (the “RCS”):

The Guide sets out requirements of the RCS, a system under which the beneficiary is liable to pay the tax directly to the ETA instead of the obligation incurred by the non-resident provider of services. Two distinct procedures of RCS were provided by the Guide as follows:

#### 1.1. Business to Business (“B2B”): The customer is a registered taxpayer:

In such case, the resident registered taxpayer (recipient of the service) is obliged to do the following:

- i. self-account for the VAT on the received supplies using the RCS system and pay directly to the ETA within 30 (thirty) days of the service supply date, which consequently exempts the non-resident vendor from charging and remitting the VAT,
- ii. provide his tax registration number to the vendor when the latter renders services to him, and
- iii. apply the RCS when dealing with a non-resident vendor in all cases, regardless he sells taxable or non-taxable goods/services.

### Obligations of the non-resident's vendors:

- i. The vendor should not charge VAT to a legal business; and
- ii. the vendor is required to check the validity of the provided tax registration number of the legal business. Such examination must occur using the API system, which is “a system the non-resident vendors must integrate with their systems allowing the automated exchange of information between the vendor and ETA for the verification of the tax registration no. of the legal business”, while noting that the API system will be mandatory “five months” after the issuance of the Guide (i.e. 22 August 2023).

#### **1.2. Business to Consumer (“B2C”): Non-registered customer (the “Consumer”):**

It is worth noting that B2C invoicing requirements shall be simpler than domestic invoices, as ETA allows such invoices to be submitted in the language of their main trading partners. In case the remote service is rendered to a consumer in Egypt, two alternative procedures were stipulated by the Guide as follows:

##### **1.2.1. The Remote Services performed by the vendor via its portal or app.:**

In such case, the non-resident vendor shall be registered following procedures of “the simplified vendor registration regime” to be charged and accountable for VAT on supplies made to consumers in Egypt.

##### **1.2.2. The Remote Services are rendered via the EDP:**

The EDP is deemed for VAT by rendering services to a non-registered taxpayer in Egypt. Therefore, they shall collect and account for VAT using the SVRR.

##### **1.2.3. Exceptions: EDP not liable for the VAT:**

EDP having minimal influence and involvement in the services sold by vendors via their platform shall fulfil all the conditions to be regarded as not liable for the VAT, as follows:

- a. the vendor shall agree in writing with the EDP operator that he is responsible for collecting VAT and its remission to the ETA instead of the EDP,
- b. the invoice issued to the service recipient shall identify the vendor as the person rendering the service and the service itself, and
- c. the sale’s payment, delivery, terms, and conditions shall be separately settled, arranged, and negotiated between the seller and buyer.

#### **2. The Non-Resident Vendor Registration:**

A non-resident vendor providing to consumers in Egypt shall register under the SVRR via the ETA portal.

##### **2.1. The Mandatory Registration:**

A SVRR shall apply for remote services sales that exceed the supplier threshold of EGP 500,000 (five hundred thousand Egyptian pounds) for 12 (twelve) months, except for professional and consultancy services that should be registered from day one, whatever the turnover is.

## 2.2. The Optional Registration:

It is possible for the non-resident vendor whose taxable services do not exceed the supplier threshold within 12 (twelve) months to register under the same regime voluntarily.

## 3. The VAT Rate and Payment Currency:

- 3.1. Non-resident registrants shall declare and pay tax on their supplies of remote services at the standard rate of 14% (fourteen per cent), except for supplies of professional and consultancy services on which the reduced rate of 10% (ten per cent) shall apply.
- 3.2. The due VAT will be paid in EGP or USD currencies. In this regard, other currencies will be available as of December 2023.
- 3.3. Additional provisions were stipulated regarding the VAT return process, the refund requirements and procedures, the VAT payment due date, the simplified records and books keeping, and specific requirements and conditions regarding the e-invoices system applicable in Egypt.

## Important Stipulations

### 1. For remote services, a recipient is considered to be in Egypt if it is:

- i. a non-registered person that has permanent residence in Egypt;
- ii. a registered taxpayer in Egypt (unless the service is predominantly used by a permanent establishment of the taxpayer in another country); and
- iii. a governmental body, a public or economic Authority, or any other non-registered Authority or entity in Egypt.

The Guide listed several criteria to help non-resident vendors determine its recipients residence and the place of supply in a remote area.

### 2. Registration process under the SVRR:

- i. The non-resident vendor/non-resident EDP or his legal representative shall file a registration application on the web portal of ETA, which shall consequently examine the file and all the required data, assign a registration number, then issue a registration certificate (Form No. 3-VAT) and notify that person thereof via (Form 13/1.-VAT).
- ii. Noting that each non-resident vendor or EDP platform that fails to apply for registration shall be treated by Egyptian Laws as registered under the SVRR, starting as of the date on which the value of their sales reaches the registration threshold.
- iii. Moreover, if a non-resident vendor is currently registered under the standard registration regime, they should apply to register at the SVRR after de-registration from the Standard one. Such de-registration is deemed to occur as of the day following the delivery thereto of the de-registration Form in the ETA portal.

- iv. Finally, it is important to note that if a non-resident vendor is conducting an activity through a permanent establishment in Egypt, they shall not apply then for registration under the SVRR but the standard registration.

### 3. Tax Compliance Obligations:

The invoices of the non-resident registrants providing taxable services in Egypt shall include a description of the service supplied, its amount, the rate and amount of VAT, the name and registration number of the non-resident registrant, and the invoice/receipt number.

Finally, the customer's name, phone, and email address are required for advertisement services except when they are rendered for elections, jobs or missing persons and items as it should be exempted from VAT.