

TAX REPORT

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• LEGAL & TAX •

Bolivia is looking to tax the digital services of foreign companies

Hereunder we set forth a preliminary analysis and the impact of the Bill N°164/20, which establishes the extension of the VAT's scope to digital services supplied by foreign companies, and was recently announced by Bolivia's president, Luis Arce Catacora.

- **Taxable events**

The Bill includes in the VAT's scope the following cross-border digital services, as new taxable events, among others, supply, download, stream, or transfer technology, videos, music, games, texts, magazines, books, and other similar.

- **Location of the VAT's taxable event**

The new taxable events will be located – consumed, used, supplied, or exploited – in Bolivia when the transfer, download, or reception of the service is made to a device geolocated in Bolivia.

Additionally, the Law presumes without admitting evidence to the contrary - *luris et de lure* - that the taxable event occurs in Bolivia when the payment is performed through an intermediary regulated in Bolivia, regardless of the payment method used.

Tax base	Accrual or constitution of the taxable income	Taxpayers and collection agents
<p>The tax base will be the price paid to the foreign service supplier.</p>	<p>VAT on digital services will be accrued when any of the following events occur, whichever happen first: When the service is consumed, used, or exploited in Bolivia, or When the price of the services is paid.</p>	<p>For the Bill, VAT's taxpayers are foreign companies that supply or intermediate services for their consumption, use, or exploitation in Bolivia.</p> <p>If a taxpayer is not registered in Bolivia, payment intermediaries – such as banks – will act as collection agents. The conditions for this will be regulated in a Supreme Decree.</p>

VAT Tax chargeability	Rate	Tax credits and invoicing
<p>This tax will impact the total price of the service; in other words, VAT must be incorporated in the price of the service.</p>	<p>The VAT's nominal rate is 13%. However, in Bolivia, the VAT is included within the price; therefore, the VAT's effective rate is 14.94%.</p>	<p>Foreign suppliers of digital services will not be required to issue an invoice; however, the beneficiary of the service may use the tax credit. The Bill does not establish the mechanism to validate the tax credit since, in Bolivia, the invoice is the instrument for this.</p> <p>In addition, foreign suppliers will not have the right to use tax credits to reduce the tax owed.</p>

Formal Obligations

Obligations for VAT's taxpayers	Obligations for the collecting agents (payment intermediaries)
<ul style="list-style-type: none"> ▪ To register in Bolivia before the Tax Administration. ▪ To submit and pay the tax bimonthly. ▪ To pay the tax to a USD bank account of the Tax Administration through deposit or transference. ▪ The taxpayers will be able to submit and pay the VAT from abroad. 	<ul style="list-style-type: none"> ▪ To collect the tax when the taxpayer is not registered before the Tax Administration. ▪ To provide non-personalized information to the Tax Administration about the payments to foreign digital services suppliers, as established in the regulation.

Additional considerations

- **Modifications to the VAT principle in Bolivia:** VAT in Bolivia, was always territorial, which means it applied only to operations carried out within the territory of Bolivia and will now include transactions carried out outside the territory, that is, extraterritorial operations. To this end, it is enforced the application of the destination principle as a rule for cross-border services. However, about this principle.
- **Permanent Establishment:** The Bill establishes that foreign companies must register before the Bolivian Tax Administration, however, it does not clarify whether this will trigger a Permanent Establishment for corporate income tax purposes in Bolivia.
- **Andean intra-community operations:** The treatment for the operations reached by the Decision 599 of the Andean Community related to the Harmonization of VAT, could be an important element to discuss during the legislative revision.
- **Special regimes as ZOFRA Cobija:** The Bill does not foresee a treatment for the operations whose recipients are located in Cobija – capital of the Department of Pando, could be an important element to discuss during the legislative revision
- **Legislative procedure in Bolivia:** This Bill is currently in the Chamber of Deputies; therefore, we estimate that, at most, the Law will be published by July 30th, 2021. However, the Law may be published in a shorter period if all legislative steps are streamlined.

ABOUT US

PPO Abogados is the largest law firm in Bolivia, with more than 100 professionals working from their offices in La Paz, Santa Cruz, Sucre, Cochabamba and Cobija. PPO is recognized for being the leader in the Bolivian legal market and has highly specialized in tax and customs matters.

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