

# RETAIL CHALLENGES AND TRENDS IN MEXICO

TAX







## Tax Regime Applicable to Digital Platforms Dedicated to Electronic Commerce

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Within the commerce industry, it is common for residents abroad to conduct sales or provide services through digital means such as the internet or applications. In these cases, it is important to consider that these non-Mexican residents will be obligated to collect and remit the Value Added Tax (VAT) applicable to these operations, subject to various obligations, as described below.

### » Applicable regime for foreign digital platforms

As of June 1, 2020, a new VAT regime came into effect in Mexico, thereby being applicable to foreign residents providing “digital services” to recipients located in Mexican territory and residents abroad providing “digital intermediary services” between providers of goods and/or services and their customers, when the latter are located within Mexican territory.

### » Digital services

Digital services are considered to be subject to VAT when they are provided by means of applications or content in digital format through the internet or other network, mainly automated, and may or may not require minimal human intervention, and to the extent that a consideration<sup>1</sup> is charged for such services.

It is important to keep in mind that these digital services will be subject to VAT to the extent that they are rendered to recipients located within Mexican territory.

### » Digital intermediation

With respect to the case of digital services - intermediation between third parties that are suppliers of goods or services and the demanders of the same - the VAT law provides a specific chapter that regulates them, imposing additional obligations on foreign residents without an establishment in Mexico, who provide digital intermediation services between suppliers of goods and/or services and the purchasers of such goods and/or services, when the latter are located in Mexican territory.

### » Obligations

Depending on the activities conducted by foreign residents without a permanent establishment, whether they involve digital services or intermediation, a detailed analysis of the applicable obligations for the specific activity performed must be carried out.

### » Penalties

Regardless of the pecuniary penalties and tax offenses that could be incurred in the event of noncompliance with the above-mentioned provisions, the VAT law establishes as a special sanction for the lack of compliance with certain obligations, the temporary blocking of access to the digital service of the provider that failed to comply with such obligations. Such blocking will be carried out through the concessionaires of the public telecommunications network in Mexico and until the tax situation of the non-compliant party is regularized.



<sup>1</sup> Article 18-B, first paragraph of the VAT law.



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