

# Digital Service Tax

Introduced by Finance Bill, 2079-80  
(2022-23) – An Introduction



## DIGITAL SERVICE TAX

**Finance Act 2079/80 (2022/23) has introduced Digital Service Tax on Digital Services provided by Non Resident Person to the Resident Consumers.**

### Taxability on Digital Service

- Digital Service Tax shall be levied at the rate of 2% of the transaction value (excluding indirect tax levied in Nepal) of digital services provided by Non Resident Person to Resident consumers, in case the annual transaction of digital service crosses 2 millions.
- Digital service Tax shall not be levied on Digital services provided to Resident Consumers up to 2 millions. However if the transaction is higher than 2 millions, then tax will be levied on total transaction amount.

### Who is Consumer :

Consumer means a person consuming goods or services having normal place of adobe in Nepal. Provided that person consuming goods or services for business purpose or a person buying such goods or services for business using separate arrangement will not considered as Consumer.

## INTRODUCED BY FINANCE BILL 2079/80 (2022-23)

### What is Digital Service

Digital service includes following services provided to the consumers through internet which requires the use of information technology and minimum human intervention:

- a. Advertisement services.
- b. Cinema, Television, Music, Over the Top(OTT), & other similar Membership based services.
- c. Data collection related services.
- d. Cloud services.
- e. Gaming services.
- f. Mobile Application related services.
- g. Online market place services & those services availed through such platform.
- h. Software supply & updates
- i. Sale of Data Collected by Nepalese Resident Person
- j. Data & image download related services.
- k. Consultancy, Skill development & Training services.
- l. E-Book, E-Library & E-Paper Service
- m. Other services of similar nature covered in above clause (a) to (l).

**Who is Non Resident :** Non Resident means a person Who is not a Resident Person.

**Who is Resident :** Resident means a person Who is Resident as per Income Tax Act of Nepal.

## DIGITAL SERVICE TAX

### Digital Service provided to Nepalese Consumer :

Digital Service provided to Nepalese Consumer means service provided by Non Resident Person to consumers satisfying any of the following condition:

- a. Service received in Nepal,
- b. Invoice issued to Nepal Address
- c. Payment made from Nepalese Bank Account and Payment made from instrument of Licenced Institutions in Nepal,
- d. Payment made from Debit Card, Credit Card or other payment medium of Bank and Licenced Institutions in Nepal,
- e. Serviced received by using IP Address of Nepal,
- f. Serviced received by using SIM Card or Land Line having Telecommunication Code of Nepal.

**What is Income Year :** Income Year means a period from Shrawan 1 of any year till Ashad End.

### Other Important Matters:

- This tax is a Direct Tax hence it cannot be collected by adding such tax to the consumer.
- Non Resident person providing online Market Place Service and selling goods and services on such market place shall declare the transaction value of such good and services both. However if a Resident person supply goods and services on such Market Place than the Non Resident Person is not required to include such amount of goods and services supplied by Resident Person.
- Tax under Income Tax Act, 2058 shall not be applied on the income taxed under digital service tax. However Tax as per Income Tax Act 2002 shall be applicable on such digital service provided to other than consumers.
- The administration of digital service tax shall be done by Large Tax Payer Office.
- A Non Resident Person providing digital service shall obtain PAN Number in order to do provide such service.
- A Non Resident providing digital service shall obtain PAN Number within 30 days from the date on such taxable threshold has been crossed. However they can obtain PAN Number voluntarily at any time.

## DIGITAL SERVICE TAX

### Documents required to obtain PAN Number:

Following Documents are required in order for the Non Resident to apply for PAN Number:

- Notarized English Copy of Company Incorporation Certificate of Non Resident in such such Company is resident.
- Notarized English of Tax Registration Certificate of Non Resident in such such Company is resident.
- Notarized English Copy of Power of Attorney and Passport of such Authorized Person.
- Photo of Authorized Person.
- Signature Sample of Authorized Person
- Notarized English Copy of Power of Attorney and Citizenship/Passport of Authorized Person if such person is Nepalese Citizen

### Accounting & Filing Requirements:

- Non Resident Person shall mention the transaction in Nepali Currency.
- Accounting shall be done on accrual basis of accounting for tax purpose.
- Return shall be filed as per Income year (Local Fiscal Year).
- Return shall be filed within 3 Months from end of the Fiscal Year.
- Return format shall be as per Annexure 3.
- If return is not filed within the time line prescribed a fee amounting to 0.1 percent per annum of annual transaction amount shall be levied.

### Payment of Tax:

- Tax payable as per the Return shall be paid through electronic medium (Online).
- Tax payment shall be made within 3 months from the end of the Fiscal year.
- An Interest of 15 percent per annum shall be levied if the tax payment is not made in time.

### Inspection of Transaction and Tax Assessment:

- Tax Office can make tax assessment upon the inspection of transaction of Non Resident Person.
- Penalty of 50 percent of tax amount shall be levied on the transaction found by tax officers (short amount) upon inspection of transactions of Non Resident.

## VALUE ADDED TAX ON DIGITAL SERVICE

### Definition of Digital Service inserted in Value Added Tax Act, 2052 (1996) - Section 2(Da1)

“Non resident person” means a person residing outside Nepal having no permanent business address, a business representative or a legally recognized representative in Nepal.”

### Requirement for registration of Non-Resident persons providing Digital Services as per Value Added Tax Act, 2052 (1996) - Section 10(Kha1)

- Notwithstanding anything contained in any other provision of this act, every Non-Resident person providing Taxable digital services exceeding 2 millions during the preceding 12 months shall be liable for registration under the Value Added Tax Act, 2052 (1996).
- The Registration of Non-Resident person providing digital services shall be as determined by the Department.
- In case of Closure or discontinuance of business by Non-Resident person registered under sub section 1, the Cancellation of registration shall be as determined by the Department.



## VALUE ADDED TAX ON DIGITAL SERVICE

**Who is Consumer under VAT Act :** Consumer means a person consuming goods or services having normal place of adobe in Nepal. Provided that person consuming goods or services for business purpose or a person buying such goods or services for business using separate arrangement will not considered as Consumer.

**What is Digital Service provided to Nepalese Consumer in VAT :** Digital Service provided to Nepalese Consumer means service provided by Non Resident Person to consumers satisfying any of the following condition:

- a. Service received in Nepal,
- b. Invoice issued to Nepal Address
- c. Payment made from Nepalese Bank Account and Payment made from instrument of Licenced Institutions in Nepal,
- d. Payment made from Debit Card, Credit Card or other payment medium of Bank and Licenced Institutions in Nepal,
- e. Serviced received by using IP Address of Nepal,
- f. Serviced received by using SIM Card or Land Line having Telecommunication Code of Nepal.

**Tax Period under VAT :** Tax Period means Nepali Month

**Non Resident under VAT :** Non Resident means a person not having any permanent place of business in Nepal or business representative or legally recognized representative in Nepal.

- **Definition of Digital Service inserted in Value Added Tax Act, 2052 (1996) - Section 2(Ta2)**

Digital service includes following services provided to the consumers through internet which requires the use of information technology and minimum human intervention:

- a. Advertisement services.
- b. Cinema, Television, Music, Over the Top(OTT), & other similar Membership based services.
- c. Data collection related services.
- d. Cloud services.
- e. Gaming services.
- f. Mobile Application related services.
- g. Online market place services & those services availed through such platform.
- h. Software supply & updates
- i. Data & image download related services.
- j. Consultancy, Skill development & Training services.
- k. Other services of similar nature covered in above clause (a) to (l).

## VALUE ADDED TAX ON DIGITAL SERVICE

### Tax Base and Tax Rate:

- VAT Shall be collected and deposited on the Digital Service Transactions.
  - Value Added Tax Rate shall be 13 percent.
  - If a Non Resident provides digital service of more than 2 millions within the period of last 12 months, then such non resident shall register in Value Added Tax and shall collect and deposit Value Added Tax on such transactions. After registration under Value Added Tax, Registered Non Resident shall collect and deposit VAT irrespective of the transaction amount.
  - VAT shall not be collected on the Digital Services provided by Non Resident to the persons other than Consumers. Digital Service provided to persons other than consumers shall be covered by Section 8(2) of VAT Act. As such Reverse VAT Shall be applicable on transactions.
- 6) A Non Resident providing digital service shall obtain VAT Number within 30 days from the date on such taxable threshold has been crossed. However they can obtain VAT Number voluntarily at any time.

### Documents required for Registration under VAT:

- Notarized English Copy of Company Incorporation Certificate of Non Resident in such such Company is resident.
- Notarized English of Tax Registration Certificate of Non Resident in such such Company is resident.
- Notarized English Copy of Power of Attorney and Passport of such Authorized Person.
- Photo of Authorized Person.
- Signature Sample of Authorized Person
- Notarized English Copy of Power of Attorney and Citizenship/Passport of Authorized Person if such person is Nepalese Citizen

### Invoicing & Accounting:

- Invoice can be made/generated electronically. For Electronic Invoicing permission from Inland Revenue Department is not required.
- Invoice shall be issued at the time of provision of service or at the time of receipt of payment whichever is earlier.
- If the Non Resident receives the payment of digital service in convertible foreign currency, the rate of that currency shall be the rate prescribed by Nepal Rastra Bank on such date.

## VALUE ADDED TAX ON DIGITAL SERVICE

### Tax Return:

- VAT Return shall be submitted electronically within 25 days from the end of the month on which such digital service is provided.
- If return is not filed within the time line prescribed a fee amounting to 0.05 percent of tax amount per day or Rs. 1000 per Tax Period whichever is higher shall be levied.

### Tax Payment:

- VAT payment shall be made within 25 days from the end of the month in which such transaction is provided.
- Interest at the rate of 15 percent per annum and additional fee at the rate of 10 percent per annum of tax amount shall be levied if case the payment of VAT is not paid within the prescribed time.

Note : Tax Inspection, Tax Assessment, Appeal are applicable as per VAT Act.





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