ECUADOR FACING DIGITAL SERVICES

Tax collection worldwide faces one of its greatest challenges as a result of the globalization, that is, finding itself faced with the increasing impossibility of taxing income from companies that do not have a tax domicile that concentrates all of their operations as is the case with dropshipping, the increasingly popularization of ecommerce or the use of digital platforms that provide transport, delivery, streaming services, among others, all these new ways of carrying out activities constitute a challenge to the Tax Administrations that seek to tax the income that these services generate and find limitations within their national legislation for their regularization.

Ecuador is not far to this reality that affects the world, according to information from the Economic Commission for Latin America, ECLAC, tax evasion in Ecuador is placed by 65.33%, amounting to USD 7.6 billion annually, which represents 7% of GDP. These alarming data have given rise to a discussion about the way in which it could be reduce this tax evasion that currently affects the State.

One of the initiatives that have been proposed by the State has been the imposition of a tax on what are called digital services, which frame all transactions that they carry out through computer platforms whether they carry out dropshipping activities, ecommerce, transport, delivery, streaming, education, and therefore beneficiaries of the payment, are located abroad and are not can directly tax the income they receive as a result of the service provided.

The tax that is imposed on the provision of these digital services although it seeks to tax income that they perceive the product of the service provided, given the impossibility of achieving it, it is establishing a lien on the person who benefits from the service or makes use of the platform,

Therefore, the lender's income or utility would not be taxed, but it is taxing the consumption and thus only making the service more expensive at the expense of the beneficiary.

In 2019, the Law of simplification and tax progressivity was enacted in Ecuador, same that reformed the Internal Tax Regime Law, LRTI, and for the year 2020 it taxed with the Value added tax, VAT, at a rate of 12% digital services, for this purpose granted the power to the Tax Administration to determine which digital platforms that their services would be subject to tax, this in accordance with the provisions that are bfound in the LRTI regulations; levying VAT on the use of certain platforms digital is the response that the State has had to achieve a collection on services that at present they were not subject to any imposition.

The withholding of these taxes has been entrusted to the institutions of the financial system national, by exception to the taxpayer who benefits from the service, being transactions that vast majority are made with the use of electronic means of payment, therefore these are public and / or private institutions who, within their obligations, must adopt measures that allow the calculation and retention of VAT that corresponds to each transaction; the Cadastre of digital service providers is updated quarterly, every 15 days of the months of January, April, July and October of the same fiscal period.

The tax base for withholding is composed of the total amount paid for the **tax resident in Ecuador to the non-resident digital service provider in Ecuador.**

PLATAFORMA DIGITAL	VALOR DEL SERVICIO	CÁLCULO IVA SERVICIOS DIGITALES
	$ 11,60	Valor del Servicio $ 11,60 IVA: 12% $11,60 X 12% = 1,39 11,60 + 1,39 TOTAL: $ 12,99

COSTO DEL SERVICIO INCLUIDO IVA : $ 12,99

In the case of platforms that identify and frame their activities in dropshipping and / or ecommerce, to determine the VAT tax base to be paid for the use of services digital, they should consider the following rules:

1. When they are payments for digital services of delivery and shipment of movable goods corporations or the provision of services where a commission is charged, VAT is will apply on the commission paid to the additional value to the value of the good or service; or,

PLATAFORMA DIGITAL	VALOR DEL PRODUCTO Y SERVICIO	CÁLCULO IVA SERVICIOS DIGITALES
	COSTO PRODUCTO: $ 1.000,00 COSTO TRANSPORTE: $ 2,00 TOTAL FACTURA: $ 1.002,00	COSTO PRODUCTO: $ 1.000,00 COSTO TRANSPORTE: $ 2,00 IVA: 12% $2,00 x 12%= 0,24 $1.002,00 + 0,24 TOTAL: $ 1.002,24

COSTO DEL BIEN Y TRANSPORTE INCLUIDO IVA : $ 1.002,24

2. When the service provider is not registered with the Tax Administration, and in the surcharge to the card does not differentiate the value of the commission and the value paid for the **goods, withholding will be made on 10% of the total amount paid by the provider** of the digital service.

PLATAFORMA DIGITAL	VALOR DEL PRODUCTO Y SERVICIO	CÁLCULO IVA SERVICIOS DIGITALES
ebay	TOTAL FACTURA: $ 1.002,00 Nota: En este escenario no se desglosan valores de la factura	TOTAL FACTURA: $ 1.002,00 IVA: 12% $ 1.002,00 X 10% = 100,20 $100,20 x 12%= 12,02 $1.002,00 + 12,02 TOTAL: $ 1.014,02
		COSTO DEL BIEN Y TRANSPORTE INCLUIDO IVA : $ 1.014,02

Although financial institutions are the entities in charge of withholding the VAT generated in the provision of digital services, the one who administers the tax is the Central State through the Tax

Administration entity that is in charge of making the refund of this tax in the event that there is an undue and / or overpayment, therefore the financial institutions w are prevented from returning these values except in the following cases:

1. When payments made with the use of a credit card or debit do not conclude successfully, provided that the corresponding values have returned to Ecuador; and,

2. When there are consumptions not recognized by the clients of the institutions financial whose origin is the realization of malicious acts committed by third parties such as card theft or cloning.

The VAT on digital services is the response of the Ecuadorian State to the impossibility of achieving tax the profits generated by the administrators of these computer platforms, an action that noted, it taxed the consumer and not the income earner, which is not in itself a solution to the problem raised, but opens the possibility of not only taxing the provision of digital services provided by foreign providers, but is extended to national suppliers, being able to project a growing collection taking into account.

Consideration that according to ECLAC the growth of companies that have deployed sales digital channels grew for the year 2018 in a percentage of 9.20%.

The global boom in constantly growing digital sales channels forces in this case to Ecuador to take measures that tax these consumption activities, otherwise the VAT collection rates, which for 2019 amounted to USD 6,685,078 million dollars and for the year 2021, with a cut-off to July, they amount to USD 3.605.5 billion dollars. It is an undeniable fact that the digital market is increasingly playing a leading role in the habits of consumers, therefore it is an obligation of the State in order to comply with the collection sufficiency conceived as having the resources to carry out the support of public charges that a way to tax the use of services should be sought
digital, which are growing faster than what happens with tax collection, because while the growth of digital sales channels would be 9.20%, the collection with cut as of July 2019 was USD 3,959,228 million, which compared to the same 2021 period represented a decrease in collection.

As we have seen, if the Ecuadorian State is conceiving that the way in which the taxation of income generated by the use of digital platforms will be done by taxing consumption, this forces the collection goal to project growth in a manner exponential to the growth of digitization, because currently the variation in collection VAT on digital services is becoming minimal, but according to digital sales channels continue to grow, this regularization may offset the impact that could be generated in other direct taxes such as income tax.

Tax collection of income tax in 2019 amounted to USD 2,748,159 million dollars, but with a 9.20% growth in digital sales channels, this fact generates an additional gap to the sole impossibility of taxing consumption (VAT), but additionally the country will have to face the impossibility of taxing income, because by not being able to determine the residence service providers, this will directly affect the collection of this tax, which being second highest tax collection a decrease in the universe of taxpayers would represent a significant impact on the state budget.

Finally, the challenge for Ecuador is great as represented for the rest of the world, the globalization forced to an evolution of the Tax Administrations and especially of the way in which the collection of taxes is projected, by breaking the paradigm that for the generation of income had a residence exist, an important step has been taken to achieve the end of ensure collection, but this must be accompanied by measures that seek an increase in the universe of taxpayers who are now carrying out their economic activities in channels of digital sales.