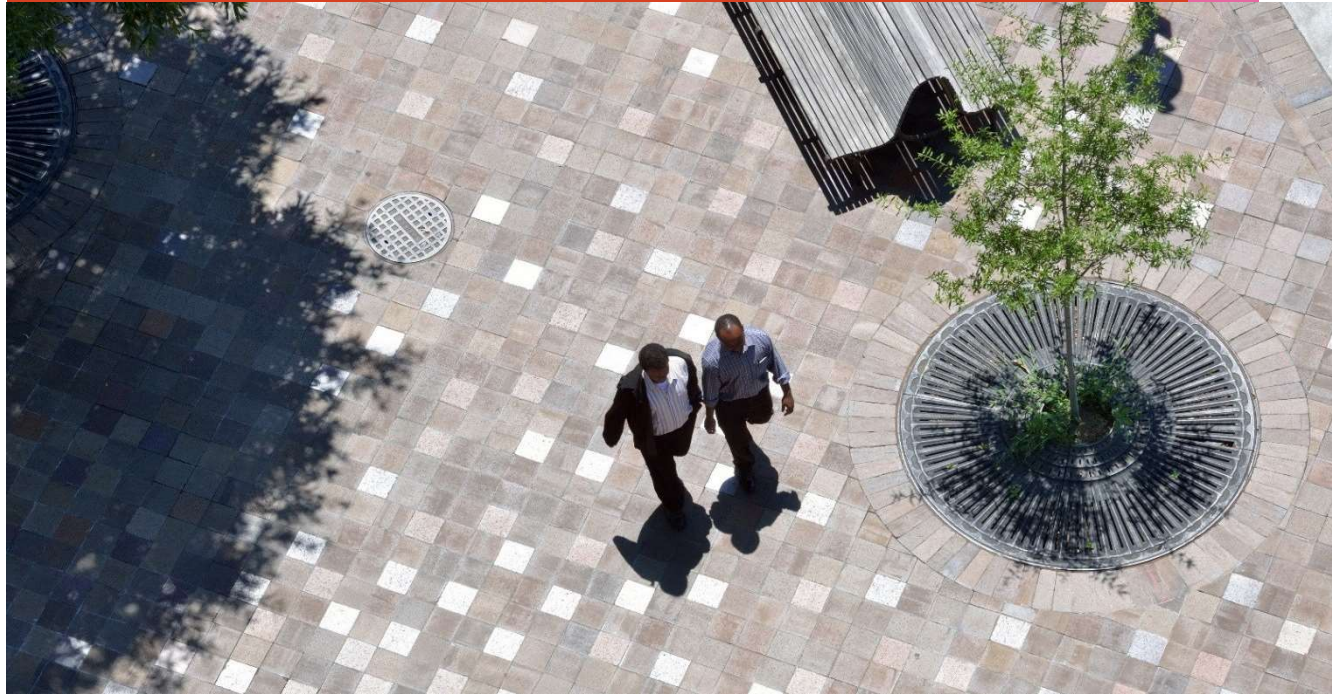


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# *Tax Insight*

## *Digital Services Regulations*

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## ***Tax Insight***

### ***Digital Services Regulations***

#### **Background**

Law Nbr 19.535 (Accountability Act, “LRC” for its Spanish acronym) –effective as from January 1<sup>st</sup> 2018- established certain tax regulations referred to the provision of services through the internet, technological platforms, computer applications, or similar.

On May 25<sup>th</sup> 2018, **Decree Nbr 144/018** regulatory of such provisions, was published in the Uruguayan Presidency website.

The main aspects regulated by the referred Decree are described below.

#### **Audiovisual services**

Both Corporate Income Tax (**IRAE** for its Spanish acronym) and Income Tax for Non Residents (**IRNR** for its Spanish acronym) consider as **100% Uruguayan sourced**, income derived from the following sources: (i) production, distribution and intermediation of motion films and other audiovisual transmissions (including those broadcasted via internet), (ii) technological platforms, (iii) software applications, and (iv) other similar transmission media, provided **the user is located in Uruguay**.

For such purpose, it will be considered that the user is placed at the national territory when the following items are therein located:

- ✓ **IP address** (Internet Protocol) of the device used when hiring the corresponding service, **or**
- ✓ Its **billing address**.

If none of the aforementioned situations are verified, it would be assumed that the user is located at the national territory when the corresponding **compensation is made through electronic payment instruments managed from Uruguay**.

With reference to **VAT**, when the previously mentioned services **are destined, consumed or economically used within the country**, it will be considered that they are completely carried out therein.

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#### **Mediation and intermediation activities carried out through computerized means**

Mediation or intermediation activities in the supply or demand of services provided through the internet, technological platforms, computer applications or similar, are defined as those complying with the following conditions:

- ✓ Being basically **automated**, involving a **minimal human intervention** and **not being viable without information technology**; and
- ✓ Involving the direct or indirect **intervention in the supply or demand in the provision of services** (main operation).

The law established the following rates (for **IRAE** and **IRNR**) to determine the Uruguayan source income for such activities:

- ✓ **100%** when both the supplier and the user (main operation) are located within Uruguayan territory.
- ✓ **50%** when the supplier or the user is located abroad.

Within this framework, the regulations establish the criteria to determine the place where the supplier and the user are situated when such services are hired. They will be considered to be **located at the national territory** in the following situations:

- ✓ The supplier, when the service (main operation) is delivered within such territory;
- ✓ The user, when the IP address or the billing address are verified in the country.

In case none of these conditions is met, Uruguayan source income will be deemed to exist, when the monetary compensation is made through electronic payment instruments managed from Uruguay.

With reference to **VAT**, the provision of services will be considered as **entirely or 50% carried out within the national territory** depending of the **supplier or the user location** (as established with reference to income taxation). As to their location, the same criteria used for income tax purposes should be followed.

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#### **Withholding agents, representatives and documentation**

IRAE taxpayers, State entities and other entities specifically designated who pay or certify remunerations for audiovisual services as from July 1st, 2018, have to act as withholding agents of **IRNR** and **VAT**.

The obligation to withhold **IRNR** and **VAT** referred to the mediation and intermediation services is suspended.

Additionally, the Tax Office is entitled to relieve non residents from the obligation to appoint **representatives in Uruguay, provided some conditions are met**. These conditions refer to (i) income derived exclusively from mediation or intermediation activities or from the provision of audiovisual services, and (ii) registration of a domicile in Uruguay for tax purposes - even when they do not have a physical presence in the country -.

In view of the abovementioned, we expect the **Tax Office to establish specific procedures** that allow these taxpayers to comply with the effective payment of their tax obligations.

Finally, the General Tax Office is empowered to establish **exceptions to the general documentation regime** for this kind of services.

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