

**1. Who are the subjects of the VAT taxation to be registered, using the electronic service “e-Commerce VAT” on the official page of the State Tax Service [www.sfs.md](http://www.sfs.md)?**

According to the provisions of art.94 letter d) of the Tax Code, subjects of taxation with the Value Added Tax in the Republic of Moldova to be registered using the electronic service “e-Commerce VAT” on the official page of the State Tax Service [www.sfs.md](http://www.sfs.md) are:

- Non-resident economic agents which, without holding an organizational-legal form on the territory of the Republic of Moldova, provide services to the citizens of the Republic of Moldova (B2C), delivered through electronic networks.

- Non-resident economic agents, which do not hold an organizational-legal form in the Republic of Moldova, through which resident individuals of the Republic of Moldova, who do not carry out entrepreneurial activity, pay for the services received through electronic networks from other non-residents, the place of delivery of which is considered to be the Republic of Moldova.

**2. Which electronic services provided by non-residents carrying out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova are subject to VAT?**

According to the provisions of art.95 para.(1<sup>1</sup>) of the Tax Code, electronic services that are subject to VAT are services provided to resident individuals from the Republic of Moldova by non-residents carrying out entrepreneurial activities without holding an organizational-legal form in the Republic of Moldova, automatically, using information technologies, through telecommunication information networks, including through the Internet, namely:

- a) granting the right to use computer programs (including computer games), databases via the Internet, including by providing remote access to them, as well as the right to upgrade and extend their functional possibilities;
- b) providing advertising services on the Internet, including with the use of the computer programs and databases operating on the Internet, as well as the providing advertising space on the Internet;
- c) providing services for placing the offers regarding the purchase (marketing) of the goods (services), of the patrimonial rights in the Internet network;
- d) providing through the Internet of the services for granting of technical, organizational, informational and other possibilities, performed with the information technologies and systems use, for establishing contacts and concluding transactions between sellers and buyers (including granting of the trade spaces operating in the online internet, in which the potential buyers offer their price through the automated procedure and the parties are notified of the sale by the automated message);
- e) ensuring and/or supporting the commercial or personal existence in the Internet network, supporting the information resources of the users (of the sites and/or the pages from the Internet network), ensuring the access to them of other users of the network, offering users the possibilities to modify them;
- f) information storage and processing, provided that the person providing this information has access to it through the Internet;
- g) granting in on-line regime the computational power for placing information in the information systems;

- h) granting domain names, providing hosting services;
- i) provision of administration services for information systems, of sites in the internet network;
- j) providing automated services via the Internet network when entering data by the buyer of the services, providing services for searching, selecting and sorting data on demand, providing these data to users through information and telecommunications networks (especially real-time presentation of stock market reports, real-time machine translation);
- k) granting through the Internet network the rights of use the electronic books (editions) and other electronic publications, informational materials for training, graphic presentations, musical pieces with or without text, audio-visual pieces, including by granting remote access to them for viewing or listening;
- l) providing search services for the beneficiary and/or providing the beneficiary with information on potential buyers;
- m) granting access to the search systems in the internet network;
- n) keeping statistics on the sites from the internet network;
- o) digital transmission of the radio or television programs;
- p) granting access to the audio-visual content.

***3. Is the online accessing of games with the purchase of upgrades and the expansion of their functionalities, paid for by individuals, subject to VAT taxation under “e-Commerce VAT”?***

According to the provisions of art.95 para.(1<sup>1</sup>) letter a) of the Tax Code, electronic services provided by non-residents which, without holding an organizational-legal form on the territory of the Republic of Moldova, provide services to citizens of the Republic of Moldova in the field of granting the right to use computer programs (including computer games), databases via the Internet, including by granting remote access to them, and their upgrading and expanding their functionalities are subject to VAT under “e-Commerce VAT”.

***4. Are advertising services provided to residents of the Republic of Moldova through social networks subject to VAT taxation under “e-Commerce VAT”, if advertising content is of commercial nature?***

According to the provisions of art.95 para.(1<sup>1</sup>) letter b) of the Tax Code, the provision of advertising services on Internet, including the use of computer programs and databases, operating on Internet, and the provision of advertising areas (spaces) on Internet by non-resident economic agents which, without holding an organizational-legal form on the territory of the Republic of Moldova, provide services to the residents of the Republic of Moldova (B2C), delivered through electronic networks are subject to VAT under “e-Commerce VAT”.

In this sense, for the purpose of Value Added Taxation, the status of the beneficiary/recipient and the type of the service provided, rather than the content of the placed advertisement, are of primary importance.

***5. Are the services of viewing movies and TV programs or downloading audio-visual content paid by residents of the Republic of Moldova subject to VAT under “e-Commerce VAT”?***

In accordance with the provisions of art.95 para.(1<sup>1</sup>) letter k), letter o) and letter p) of the Tax Code, granting through the internet the rights to use musical pieces with text or without text, of audio-visual pieces, including by granting remote access to them for viewing or listening; digital transmission of radio or TV programs and granting access to audio-visual content by non-resident economic agents which, without holding an organizational-legal form on the territory of the Republic of Moldova, provide these services to the citizens of the Republic of Moldova are subject to VAT under “e-Commerce VAT”.

***6. Are the services for granting the right to use software, e-books, without downloading them, paid by the residents of the Republic of Moldova, subject to VAT under “e-Commerce VAT”?***

In accordance with the provisions of art.95 para.(1<sup>1</sup>) letters (a) and (k), the category of objects taxable with VAT include:

- granting the right to use computer programs (including computer games), databases via the Internet, including by providing remote access to them, as well as the right to upgrade and extend their functional possibilities;

- granting through the Internet the rights to use electronic books (editions) and other electronic publications, information materials for training, graphic presentations, musical pieces with or without text, audio-visual pieces, including by granting remote access to them for viewing or listening.

Thus, the granting via Internet of the right to use the software, the electronic books, even without being downloaded by their beneficiary, represents an object taxable with VAT when provided to the citizens of the Republic of Moldova by non-resident economic agents that do not hold an organizational-legal form on the territory of the Republic of Moldova.

***7. How is the taxable value of the taxable delivery determined under “e-Commerce VAT”?***

The taxable value of services provided through electronic networks by non-resident taxable persons is the value paid by the buyers (excluding VAT).

The amount of value added tax is included in the price and its rate is 16.67%.

***8. Which is the tax period of VAT liabilities under “e-Commerce VAT”?***

According to the provisions of art.114 para.(1<sup>1</sup>) of the Tax Code, the tax period regarding VAT for non-resident taxable subjects represents the calendar quarter.

***9. Which is the deadline and method of declaration of VAT liabilities by non-resident economic agents which, without holding an organizational-legal form on the territory of the Republic of Moldova, provide services to the residents of the Republic of Moldova (B2C)?***

In accordance with the provisions of art.115 para.(1<sup>2</sup>) of the Tax Code, each taxable subject is obliged to submit the VAT return for each tax period in which taxable transactions took place.

The VAT return is prepared according to the form, approved by the Order of the State Tax Service No. 12 dated 14.01.2020 and must be submitted, by automated methods of electronic reporting through the taxpayer's personal account until the day of 25th day of the month following the end of the tax period.

***10. Which is the deadline and method of payment of VAT liabilities under “e-Commerce VAT”?***

According to the provisions of art.115 para.(3) of the Tax Code, for each tax period non-resident taxable subjects that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova, that provide services through electronic networks and obtain income from resident individuals of the Republic of Moldova who do not carry out entrepreneurial activity, as well as non-residents that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova, through which the resident individuals of the Republic of Moldova who do not carry out entrepreneurial activity pay the services they receive through electronic networks from other non-residents, are required to pay to the budget the amount of VAT, in one of the currencies (MDL / USD / EUR), at the latest on the date set for the submission of the return for this period.

***11. How can the status of the buyer (natural or legal person) of the services provided through electronic networks be determined by the non-resident economic agent, which carries out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova?***

The status of a natural or legal person may be indicated by the beneficiary/recipient of the services when completing personal data upon registration on the portal of the non-resident economic agent or when completing the data in order to conclude the bilateral service agreement specified in art.95 para.(1<sup>1</sup>) of the Tax Code.

***12. How can the place of the individual receiving the services, provided in art.95 para.(1<sup>1</sup>) of the Tax Code, be determined by non-residents that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova?***

According to the provisions of art.111 para.(5) of the Tax Code, the place of delivery of services provided in art.95 para.(1<sup>1</sup>), provided by non-residents that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova for resident individuals of the Republic of Moldova who do not carry out entrepreneurial activity, is considered to be the Republic of Moldova if at least one of the following conditions is met:

- a) the residence of the individual is in the Republic of Moldova;
- b) the location of the financial institution in which the account used for the payment of services is opened, or the operator of electronic funds, through which the payment is made, is located in the Republic of Moldova;

c) the network address (IP) of the device used by the buyer to purchase the services is located in the Republic of Moldova;

d) the country's phone code used for the purchase or payment of services is assigned to the Republic of Moldova.

***13. The individual registers on the site administered by the non-resident using authentication via the mobile phone with the Republic of Moldova code and receives services provided by this non-resident through this electronic device. The payments for these purchases are made with a card issued by a financial institution registered in a third country. How in this situation is to be determined the location of the individual who receives the services provided the taxable person under “e-Commerce VAT”?***

According to the provisions of art.111 para.(5) of the Tax Code, the place of delivery of services specified in art.95 para.(1<sup>1</sup>), provided by non-residents that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova for resident individuals of the Republic of Moldova who do not carry out entrepreneurial activity, is considered to be the Republic of Moldova if at least one of the following conditions is met:

a) the residence of the individual is in the Republic of Moldova;

b) the location of the financial institution in which the account used for the payment of services is opened, or the operator of electronic funds, through which the payment is made, is located in the Republic of Moldova;

c) the network address (IP) of the device used by the buyer to purchase the services is located in the Republic of Moldova;

d) the country's phone code used for the purchase or payment of services is assigned to the Republic of Moldova.

Therefore, based on the fact that the device (mobile phone) used by the buyer to purchase services has the phone code and network address (IP) of the Republic of Moldova, the place of delivery of these services is considered to be the Republic of Moldova.

***14. The employee of a company from the Republic of Moldova contracted and paid for advertising services of the employer's activity from his personal account on a social network. In this situation, who pays VAT on the provided service?***

According to the provisions of art.95 para.(11) of the Tax Code, the services provided through telecommunication information networks, including through the internet network, automatically, with the use of information technologies by non-residents that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova are subject to taxation under “e-Commerce VAT”.

According to the provisions of art.111 para.(5) of the Tax Code, the place of delivery of services provided in art.95 para.(11), provided by non-residents that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova for individuals resident of the Republic of Moldova that do not carry out entrepreneurial activity, shall be considered the Republic of Moldova if at least one of the following conditions is met:

a) the residence of the individual is in the Republic of Moldova;

- b) the location of the financial institution in which the account used for the payment of services is opened or the operator of electronic funds, through which the payment takes place, is located in the Republic of Moldova;
- c) the network address (IP) of the device used by the buyer for the purchase of services is located in the Republic of Moldova;
- d) the country's phone code used for the purchase or payment of services is assigned to the Republic of Moldova.

Based on the foregoing and taking into account the fact that, in the context of the described situation, the services were contracted by an individual, the obligation to pay VAT must be fulfilled by the non-resident service provider.

***15. Can the VAT return be submitted by non-residents registered under “e-Commerce VAT” for the services provided in art.95 para.(1<sup>1</sup>) of the Tax Code for the tax periods in which they did not have the status of a VAT payer?***

In accordance with art.112<sup>1</sup> para.(1), non-resident carrying out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova and providing services through electronic networks to individuals resident of the Republic of Moldova who do not carry out entrepreneurial activity or through which the payment is made by the resident individuals of the Republic of Moldova who do not carry out entrepreneurial activity of the services they receive through the electronic networks from other non-residents are considered registered as a VAT payer from the day the TIN has been assigned in accordance with art.163 para.(7<sup>1</sup>).

At the same time, according to art.163 para.(7<sup>1</sup>), non-residents that carry out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova and that provide services through electronic networks to resident individuals in the Republic of Moldova who do not carry out entrepreneurial activity submit the application through the electronic service provided by the State Tax Service, during the first tax period in which the obligation to calculate and pay VAT occurs, until the return is submitted.

Thus, provided that for the tax periods in which the non-resident did not have a TIN assigned by the tax authority of the Republic of Moldova, but obtained income from resident individuals of the Republic of Moldova for services provided through electronic networks, specified in art.95 para.(1<sup>1</sup>) of the Tax Code, the non-resident is to submit the VAT return for the previous tax periods, in which the obligation to calculate and pay the VAT occurs.

***16. Which is the procedure for correcting VAT tax liabilities previously declared in VAT returns by non-residents registered under “e-Commerce VAT” in case of errors in the declared amounts?***

According to point 5 of The way of filling out the VAT return regarding services provided through electronic networks by non-residents performing entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova, approved by the State Tax Service Order No. 12 dated 14.01.2020, upon the identification by the non-resident entity in the return submitted to the State Tax Service for previous tax periods of omissions, errors or untrue data, which conditioned the decrease of the amount of tax to be

paid or its overpayment to the budget, the non-resident entity reflects the necessary adjustments in box 5 Compartment 2 of the return presented for the current tax period.

***17. The non-resident economic agent provides intermediary services via Internet, through which payments are made by resident individuals of the Republic of Moldova for electronic services received from other non-residents. Is this economic agent subject to VAT taxation under “e-Commerce VAT”?***

According to the provisions of art.94 letter d) of the Tax Code, subjects of taxation with the Value Added Tax in the Republic of Moldova to be registered using the electronic service “e-Commerce VAT” on the official page of the State Tax Service [www.sfs.md](http://www.sfs.md) are non-resident economic agents, which do not hold an organizational-legal form in the Republic of Moldova, through which takes place the payment by the resident individuals of the Republic of Moldova, who do not carry out entrepreneurial activity, of the services received through electronic networks from other non-residents, whose place of delivery is considered to be the Republic of Moldova.

***18. By which normative act is approved the Tax Registration Application Form of the non-resident that carries out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova and the filling out method and the confirmation regarding the tax registration of the non-resident?***

The Tax Registration Application Form of the non-resident that carries out entrepreneurial activity without holding an organizational-legal form in the Republic of Moldova and the filling out method and the confirmation regarding the tax registration of the non-resident is approved by the State Tax Service Order No. 352 dated 28.09.2017 on the approval of the Instruction on taxpayers’ registration.

***19. Following the filling out of the Tax Registration Application through the electronic service “e-Commerce VAT” on the official page of the State Tax Service [www.sfs.md](http://www.sfs.md), the non-resident economic agent notes the need to adjust some data in the application. Which is the procedure for making adjustments?***

In case of changes related to the data on the non-resident taxpayer subject of taxation under “e-Commerce VAT” or the data on authorized persons, they will be adjusted from the “Profile” section in the personal account, through the options in the “Company’s Data” or “Data on authorized person” sections.

From the “Company’s Data” section, the data declared in the Tax Registration Application are modified, except for the “Registration number assigned in the country of registration”, „Country of registration” and “Registration number as VAT payer” sections.

***20. Following the filling out of the VAT return by the subjects of taxation under “e-Commerce VAT”, which is the procedure for generating payment data of the established tax liability?***

After filling out the return, the Register of returns will be displayed in the personal account. Within this interface, the button „Generating payment data” can be accessed.

The “Generating payment data” section contains the bank data where funds are to be transferred to the state budget of the Republic of Moldova.

The taxpayer selects the currency in which the payment is made, after which the bank details are automatically generated where funds are to be transferred to the state budget of the Republic of Moldova. Payment is made in Moldovan Lei (MDL) or in foreign currency (EUR / USD). In order to ensure the correct record of the amounts transferred to the account to pay off the VAT liability, the non-resident taxpayer e-VAT, must indicate in the “Payment destination” column the VAT code assigned upon registration within the system.