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**REGULATES REGISTRATION IN THE
SIMPLIFIED TAX REGIME OF PARAGRAPH 7°
BIS OF TITLE II OF THE VAT LAW.**

SANTIAGO, OCTOBER 30th, 2024

DIRECTIVE SII N°105

IN VIEW OF:

The provisions of articles 6° letter A) No. 1 and 9° of the Tax Code, contained in Decree Law No. 830 of 1974; in articles 1°, 4° bis and 7° of the Internal Revenue Service Law, contained in Decree with Force of Law No. 7, of the Ministry of Finance, of 1980; in articles 2°, 3°, 5°, 8° letter n), 12 letter E), 13 and in Paragraph 7 bis of Title II of the VAT Law, contained in Decree Law No. 825 of 1974; in article 3° of Law No. 21.713; the provisions of articles 59 and 59 bis of the Income Tax Law, contained in article 1° of Decree Law No. 824 of 1974; and the provisions of Directives No. 55 and No. 67, both of 2020; No. 26 of 2021; No. 21, No. 46 and No. 64, all of 2022; and No. 26 of 2023.

WHEREAS:

1° That, article 35 A of the VAT Law establishes that taxpayers not domiciled or resident in Chile who supply services or sell to persons domiciled or resident in the country who are not taxpayers of the taxes established in the VAT Law, will be subject to the simplified tax regime regulated in Paragraph 7th bis of Title II of the VAT Law (hereinafter “simplified tax regime”).

2° That, No. 2 of article 2° of the VAT Law defines taxable “service” as the act or service rendered by one person to another in exchange for a remuneration, fee, premium, commission or any other form of consideration.

3° That, article 5° of the VAT Law establishes that VAT will tax services supplied or used in the national territory, whether the corresponding remuneration is paid or received in Chile or abroad.

The service is deemed as supplied in the national territory when the activity that generates the service is developed in Chile, regardless of the place where it is used by the customer.

In the case of services that are supplied remotely, it is presumed that it is used within the national territory if, at the time of contracting the said services or paying for them, at least two of the following situations occur:

(i) The IP address of the device used by the customer or another geolocation mechanism indicates that the user is located in Chile;

(ii) The card, bank account or other means of payment used for the payment is issued or registered in Chile;

(iii) The address indicated by the customer for billing or for the issuance of the payment voucher is located in the national territory; or,

(iv) The subscriber identity module (SIM) card of the mobile phone through which the service is received has Chile as its country code.

4° That, article 35 B of the VAT Law establishes that the Commissioner of the Chilean Tax Administration is authorized to exempt, through a general directive, taxpayers registered in the simplified tax regime, totally or partially from the obligations set forth in article 51 of the same law, as well as from the obligations established in Paragraph 2 of Title IV of Book I, of the Tax Code, or to replace them with another simplified procedures.

5° That, article 35 H of the VAT Law establishes that any provision of Paragraph 3 of Title IV and of the VAT Law will not be applied if it does not align with the characteristics of the simplified tax regime.

6° That, registration in the simplified tax regime by taxpayers without domicile or residence in Chile who supply services included in letter n) of article 8° of the VAT Law was regulated through Directive No. 55 of 2020, modified by Directive No. 21 of 2022.

7° That, Law No. 21.713, among other amendments, introduced several adjustments to the simplified tax regime established in Paragraph 7 bis of Title II of the VAT Law, eliminating all references to letter n) of article 8° of the VAT Law.

Therefore, all taxpayers without domicile or residence in Chile who supply all kinds of services subject to VAT or other transactions that the VAT Law considers as a supply of services (and which do not benefit from a VAT exemption) must register in said regime.

8° That, the amendments introduced by Law No. 21.713 to articles 3° bis, 4° and 35 A of the VAT Law establish new rules to determine the place of taxation for remote sellers not domiciled or resident in Chile selling low value goods, which will come into force twelve months after the publication of the Law in the Official Gazette. Therefore, sellers not domiciled or resident in Chile will not be required to register in the simplified tax regime until the said date.

9° That, as set forth above, it is necessary to systematically extend instructions comprised in Directive No. 55 of 2020, modified by Directive No. 21 of 2022, and harmonize them with the amendments introduced by Law No. 21.713, to all taxpayers without domicile or residence in Chile who supply all kinds of services taxed with VAT, or other transactions that the VAT Law considers as a supply of services.

TERMS OF THE DIRECTIVE:

1° Taxpayers without domicile or residence in Chile who remotely supply services taxed with VAT that are used in Chile by persons with domicile or residence in Chile who are not VAT taxpayers, must register in the simplified tax regime for the purpose of declaring and paying VAT that taxes such services.

2° Taxpayers without domicile or residence in Chile who are in any of the following situations are freed from the above obligation:

a) They supply services taxed with VAT only and exclusively to VAT taxpayers with domicile or residence in our country;

b) They supply services out of the scope or exempted from VAT;

c) They supply services taxed with Withholding Tax of article 59 of the Income Tax Law, that do not benefit from an exemption from said tax.

3° To register in the simplified tax regime, the “simplified tax regime registration form” (hereinafter “registration form”) available in the “registration” menu of the Digital VAT Portal (hereinafter “portal”) available on the website of the Chilean Tax Administration (sii.cl) must be completed; the content of which is displayed in English and Spanish.

a) Registration process

(i) Indicate the name of the taxpayer without domicile or residence in Chile, country of residence for tax purposes and tax identification number in the country of tax residency.

(ii) Indicate the services being supplied remotely by the taxpayer without domicile or residence in Chile and the date on which the supply of said services to consumers with domicile or residence in Chile began, considering the following options:

(a) intermediation of all types of services supplied to Chile or of the sale of goods located in Chile or abroad, provided that the latter give rise to an import;

(b) supply or delivery of digital entertainment content, such as videos, music, games or other similar content, through download, streaming or other technology, including for these purposes texts, magazines, newspapers and books;

(c) provision of software, storage, platforms or IT infrastructure;

(d) advertising, regardless of the medium through which it is delivered, materialized or executed;

(e) any other service taxed with VAT and used in Chile, specifying the type of service supplied by the taxpayer without domicile or residence in Chile.

(iii) Indicate the tax period to declare the Digital VAT Form (F129) and pay VAT, being able to choose a tax period of one month (monthly) or of three consecutive months (quarterly), and the currency to declare the tax return and pay VAT, being able to choose between United States dollars, euros or Chilean pesos. The taxpayer may modify the tax period, the currency for declaring and paying VAT, or both, by sending a request to the mailbox ivasd.chile@sii.cl between January 21 and January 31 of each year, provided that there is no outstanding or unpaid VAT, interest or fines. To do so, in the “modify data” option of the portal you will be informed if there is an outstanding balance (taxes, interest or fines) and its amount. If the tax period has been modified, the Digital VAT Form (F129) must be completed and sent by the 20th of the month following the new tax period. Consequently, if the new tax period is monthly, the Digital VAT Form (F129) must be completed and sent by February 20th of the year of the modification; if it is quarterly, the Digital VAT Form (F129) must be completed and sent by April 20th of the year in which the modification was made. If the declaration and payment currency has been changed, all subsequent tax return declarations, VAT return amendments and payment of VAT for services provided remotely must be made in the new currency.

(iv) Indicate three contact persons to communicate with the Chilean Tax Administration, specifying the full name, position in the organization, telephone number and email address. The Chilean Tax Administration will validate the email addresses provided for each of the contact persons. To do so, an email will be sent containing a verification code to validate the email address.

(v) Once the registration form has been completed, it must be sent to the Chilean Tax Administration using the “send form” option provided at the end of the form.

(vi) Once the email addresses provided have been validated, the taxpayer will receive an email with the user number that identifies as a VAT taxpayer without address or residence in Chile.

Once the user number has been obtained, taxpayers must create a password with which they can securely access all the portal's functionalities. This password may be updated using the “change password” option provided for this purpose on the portal.

b) Update of information and user guides

The taxpayer may update the information provided at registration, selecting the “Modify my Data” option of the portal.

The user guides regarding the registration process are available on the portal.

c) Automatic elimination of incorrect registrations

Without prejudice to the provisions of Directive No. 26 of 2023, the Chilean Tax Administration will automatically eliminate the registration of a taxpayer without a domicile or residence in Chile who, by mistake or due to other cause, incorrectly registers two or more times in the simplified tax regime, obtaining two or more different user numbers.

If the taxpayer did not submit the tax return Digital VAT Form (F129), the last registration and its corresponding user number will be maintained, eliminating the previous one(s). If the taxpayer submitted the tax return Digital VAT Form (F129), only the registration and the user number used to submit the tax return will be maintained. Prior to deletion, the Chilean Tax Administration will contact the taxpayer through the email box ivasd.chile@sii.cl to alert and obtain information on the multiple registrations.

Likewise, the Chilean Tax Administration will delete the registrations and user numbers of taxpayers whose website does not exist or whose email address could not be validated.

4° Taxpayers without domicile or residence in Chile who are registered in the simplified tax regime may request to abandon this regime if they permanently cease to supply services used in Chile, or if, after registration, they find themselves in one of the situations specified in provision 2°, or if they obtain a Chilean Tax Identification Number (Rol Único Tributario) and register as a local taxpayer in accordance with articles 66 and 68 of the Tax Code, provided they do not have outstanding or unpaid VAT, interest, or fines.

The request must be sent to the email box ivasd.chile@sii.cl, with the subject line “abandonment of the simplified tax regime” including the user number, the cause for the abandonment and the date it was verified.

Along with the request, they must attach the Swift transfer receipt of Form 21 issued on the last declaration of the tax return Digital VAT Form (F129) submitted. If the taxpayer notices any differences in their information regarding declarations and VAT payments available on the portal, they must also attach supporting documents, without prejudice of the Chilean Tax Administration's authority to request additional information.

The Chilean Tax Administration will verify, using information provided by third parties on payments to foreign suppliers, whether the taxpayer without domicile or residence in Chile has received undeclared payments from Chilean customers who are not VAT taxpayers.

The contacts will be notified via the email box ivasd.chile@sii.cl if the request to abandon the simplified tax regime is accepted. If denied, the corresponding founded resolution will be issued.

5° Taxpayers without domicile or residence in Chile may be excluded by the Chilean Tax Administration from the simplified tax regime if any of the following situations occur:

a) The taxpayer without domicile or residence in Chile has been included in the list of 'Taxpayers Subject to VAT Withholding'. Exclusion from the simplified tax regime will remain in effect as long as the taxpayer remains included in this list and will be eligible to register again in the simplified tax regime once outstanding VAT as well as interest and fines has been paid.

b) The taxpayer without domicile or residence in Chile has not submitted any tax return Digital VAT Form (F129) for 36 or more consecutive months and, during the same period, has not received payments from Chile from Chilean customers who are not VAT taxpayers.

c) The taxpayer without domicile or residence in Chile at the time of registration did not meet the legal requirements to register in the simplified tax regime or, after registration, incurs in a cause that disqualifies them from remaining in the said regime.

In the cases above, exclusion will be adopted by means of a founded resolution, which will be communicated to the contact persons provided at registration via the email box ivasd.chile@sii.cl.

6° The obligations arising from this directive replace obligations established in article 51 of the VAT Law and those set forth in Paragraph 2 of Title IV of Book I of the Tax Code, for taxpayers without domicile or residence in Chile registered in the simplified tax regime.

7° Inquiries made by taxpayers without domicile or residence in Chile, including those regarding access issues to the portal, must be directed through the email box ivasd.chile@sii.cl by the registered contact persons, or by a duly authorized representative through an apostilled power of attorney granted by the taxpayer without domicile or residence in Chile.

8° The authority to issue resolutions that deny the abandonment of the simplified tax regime according to provision 4°, and those that order the exclusion from it according to provision 5°, is delegated to the Chief of the Audit Division of the Chilean Tax Administration. The resolutions issued under this delegated authority, must state that they have been issued under the mentioned delegation.

9° This directive will take effect as of November 1st, 2024. Therefore, the taxpayers mentioned in provision 1° who are not currently registered must, from this date forward, register in the simplified tax regime.

This directive replaces Directives No. 55 of 2020 and No. 21 of 2022 as of the date indicated in the previous paragraph.

Taxpayers already registered under the simplified tax regime as of the effective date of this directive, in accordance with the procedure specified in Directive No. 55 of 2020, amended by Directive No. 21 of 2022, will maintain their registration and corresponding user number, without prejudice to being subject to the terms set forth in this directive.

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