

THIS DOCUMENT IS A FREE TRANSLATION OF THE SII DIRECTIVE No. 107. THEREFORE, IT IS NOT AN OFFICIAL DOCUMENT. OFFICIAL SII DOCUMENTS BEAR THE SIGNATURE OF THE COMMISSIONER OF THE SII.

DEFINES THE PROCEDURE TO DECLARE AND PAY VAT FOR TAXPAYERS WITHOUT DOMICILE OR RESIDENCE IN CHILE UNDER THE SIMPLIFIED TAX REGIME OF PARAGRAPH 7° BIS OF TITLE II OF THE VAT LAW.

SANTIAGO, NOVEMBER 14th, 2024

DIRECTIVE NO. 107.-

IN VIEW OF:

The provisions of articles 6° letter A) No. 1, 18 No. 3 letter b), 36, 36 bis, 50, 51, 53, 126, 128 and 164 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 3°, 5°, 8° letter n), 9° letter a), 11 letter e), 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; in articles 59, 59 bis, 74 No. 4 and 79 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 of 2022, No. 22 of 2022 and No. 46 of 2022; and No. 105 of 2024.

WHEREAS:

1° That, the articles of Paragraph 7 bis, of Title II, of the VAT Law, regulate the simplified tax regime under which taxpayers without domicile or residence in Chile who provide services or sell tangible goods to persons domiciled or resident in the country who are not VAT taxpayers, must register.

2° That, article 35 E of the VAT Law establishes that taxpayers subject to the regime established in Paragraph 7 bis must declare in a simplified form and pay the taxes accrued in a tax period until the 20th day of the first month following the end of said tax period. The filing of the tax return and payment of VAT will be made electronically, through the portal or the digital mechanism that the Chilean Tax Administration enables, being authorized for this purpose to provide and request information in languages other than Spanish.

In accordance with the first paragraph of article 35 D of the VAT Law, taxpayers under the simplified tax regime must charge VAT on the remuneration or any other form of consideration received for the taxed services, which will be calculated by applying to the said remuneration or other form of consideration the VAT rate of article 14 of the VAT Law.

The tax payable will be determined considering the sum of VAT that was charged for the services provided in the respective tax period, which may be one month or three consecutive months, at the taxpayer's option.

3° That, in accordance with article 35 C of the VAT Law, taxpayers subject to the simplified tax regime will not be entitled to input VAT and will be exempt from issuing tax documents for their operations.

4° That, article 35 F of the VAT Law establishes that the Chilean Tax Administration's Commissioner, through a general directive, will establish the necessary procedures for determining and paying VAT in foreign currency that taxes services provided by taxpayers without domicile or residence in Chile. Exceptionally, through a directive issued for this purpose, when the transaction is carried out in foreign currency the Chilean Tax Administration's Commissioner may authorize that the assessment and payment of the tax can be made in Chilean local currency.

5° That, Directive No. 67 of 2020, modified by Directive No. 21 of 2022, defines the procedure under which taxpayers without domicile or residence in Chile registered under the simplified tax regime and who provide services included in article 8°, letter n) of the VAT Law, can file and pay VAT that levies their transactions.

6° That Law No. 21.713 made several amendments to the VAT Law, including the elimination in Paragraph 7 bis, of Title II, of the VAT Law, of all references made to article 8°, letter n), of the VAT Law.

7° That, for its part, the amendments introduced by Law No. 21.713 incorporated in articles 3° bis, 4° and 35 A of the VAT Law establish new rules to determine the place of taxation for remote sellers non domiciled or resident in Chile selling low value goods, which come into force twelve months after the publication of said law in the Official Gazette. Therefore, non-domiciled or resident sellers will not be required to register in the simplified tax regime until said date, which will be instructed on a subsequent directive.

8° That, as set forth above and in accordance with the latest modifications introduced by Law No. 21.713, it becomes necessary to adjust Directive No. 67 of 2020, modified by Directive No. 21 of 2022, for its application to all taxpayers without domicile or residence in Chile who supply all kinds of services taxed with VAT or perform other transactions that the VAT Law considers as a supply of services.

TERMS OF THE DIRECTIVE:

1° According to the rules indicated below, taxpayers without domicile or residence in Chile who are registered in the simplified tax regime must file the tax return and pay VAT that levies services that they provide to persons domiciled or resident in the country who are not VAT taxpayers:

1. Submission of the tax return and payment of VAT

1.1. Prior registration in the simplified tax regime

Taxpayers without domicile or residence in Chile who provide paid services taxed with VAT (not exempted) to persons domiciled or resident in the country who are not VAT taxpayers, must register in the simplified tax regime.

Registration allows authenticated access to the Digital VAT Portal (hereinafter, "portal") enabled on the Chilean Tax Administration website (www.sii.cl), where the tax return Digital VAT Form (F129) (hereinafter "Digital VAT Form (F129)") can be filed and submitted, and also allows communication with the Chilean Tax Administration via the mailbox ivasd.chile@sii.cl.

Registration can be done at any time, up to before the due date for submitting the tax return and completing the payment, without prejudice to the fact that if the tax return or payment is late, legal surcharges will apply.

1.2. Submission of the Digital VAT Form (F129)

Once registered, taxpayers can enter the Declaration and Payment menu of the portal and access the Digital VAT Form (F129) in which they must complete the fields regarding the number of transactions, taxable base, and rebates¹.

The other fields of the Form are automatically completed using the information provided by the taxpayer on the simplified tax regime registration Form (hereinafter "registration Form") or are shown automatically upon entering the declaration, not being editable by the taxpayer.

Taxpayers who, during a specific tax period, have not rendered services or have only provided services that are non-taxable or exempt from VAT are not required to submit the Digital VAT Form (F129).

Nor are taxpayers required to submit the Digital VAT Form (F129) if in a given period they have only provided services taxed with VAT² to users who are local VAT taxpayers, without prejudice to reporting the list of such VAT taxpayers to the Chilean Tax Administration as indicated in point 1.2.2 of this directive.

1.2.1 VAT tax base

The VAT tax base that should be declared in the Digital VAT Form (F129) is the total amount received as remuneration or any other form of consideration, whatever its nature, that was paid for the services used by persons who are not VAT taxpayers in Chile, in the respective tax period.

Taxpayers registered in the simplified tax regime must charge VAT on the remuneration or any other form of consideration for the services subject to VAT provided to persons who are not VAT taxpayers in Chile. VAT will be calculated by applying to said consideration the VAT rate of article 14 of the VAT Law.

VAT that must be filed in the Digital VAT Form (F129) and, consequently, paid, is determined by adding VAT that was charged for the services provided in the respective tax period.

¹ For discounts, cancellations, rescissions or termination of services.

² And who are not subject to any exemption.

1.2.2. Consideration paid by Chilean VAT taxpayers

Services provided to Chilean VAT taxpayers are excluded from the VAT's tax base and shall not be declared on the Digital VAT Form (F129), provided they have informed their service provider without domicile or residence in Chile of their VAT taxpayer's status.

The beneficiary of the service who is a local VAT taxpayer is solely responsible to communicate his VAT taxpayer status and indicate his local Tax ID number or RUT to the taxpayer without domicile or residence in Chile³. In the absence of such communication, the taxpayer without domicile or residence in Chile must charge VAT on the remuneration or other form of consideration, declare it on the Digital VAT Form (F129) and pay it to the tax authorities.

In accordance with article 11 letter e) of the VAT Law, the Chilean VAT taxpayer and beneficiary of a service provided by a taxpayer without a domicile or residence in Chile, by the sole ministry of the law, assumes the status of taxable person, and as such is exclusively responsible for VAT compliance that levies such services. Consequently, he must issue the corresponding purchase invoice, declare and pay VAT charged and withheld it in Form No. 29, without any intervention of the taxpayer without a domicile or residence in Chile that rendered the services. The VAT stated on the purchase invoice may grant him the right to VAT credit, to the extent that said beneficiary meets the requirements for it.

A taxpayer without a domicile or residence in Chile who has been informed by the beneficiary of the service about his VAT taxpayer status must periodically send to the Chilean Tax Administration, in the month following the tax period and until the last day of said month, a list of the local VAT taxpayers who have not been charged VAT based on said information, according to the instructions available on the portal.

1.2.3. Consideration paid for services subject to Withholding Tax of article 59 of the Income Tax Law.

Taxpayers without domicile or residence in Chile who, in addition to services subject to VAT, provide services subject to Withholding Tax of article 59 of the Income Tax Law (hereinafter "LIR"), shall not charge VAT to the beneficiary of such service⁴, excluding the consideration paid by them from the taxable base indicated in section 1.2.1.

The beneficiary of the service subject to Withholding Tax is solely responsible for informing the taxpayer without domicile or residence in Chile that the service is subject to Withholding Tax, indicating his local Tax ID or RUT.

With the sole communication received, the taxpayer without domicile or residence in Chile is released from the obligation to charge VAT for such services, being the payer of the service subject to Withholding Tax the sole responsible for filing and paying the said tax, in accordance with the provisions of article 74 No. 4 and 79 of the Income Tax Law. In the absence of such communication, the taxpayer without domicile or residence in Chile must charge VAT on the remuneration or other form of consideration, declare it on the Digital VAT Form (F129) and pay it to the tax authorities.

On the other hand, the taxpayer without domicile or residence in Chile to whom the beneficiary of the service has communicated that the service received is subject to Withholding Tax, must periodically send to the Chilean Tax Administration, within the

³ Without prejudice to the above communication, this Service provides on its website information on the activities declared by taxpayers and their status as VAT taxpayers.

⁴ Services subject to the Withholding Tax under article 59 of the LIR are exempt from VAT, pursuant to article 12, letter E, No. 7 of the VAT Law. The above is without prejudice to the fact that if a Withholding Tax exemption applies, such services will be subject to VAT, and the provisions of point 1.2.3 will not apply.

month following the respective tax period, a list of the taxpayers and their local Tax ID or RUT to whom VAT was not surcharged based on the above.

1.2.4. Deductions for discounts, cancellations, rescissions or terminations of the service

When a discount has been applied to the price of the service after VAT has been surcharged to the beneficiary of this service, or there has been some cause that puts an end to the provision of the service (such as terminations, cancellations or rescission) the taxpayer without domicile or residence in Chile may discount and deduct VAT that was charged from the VAT payable in the corresponding tax period, provided that the VAT has been previously refunded to the beneficiary of the service.

The deduction can be made in the same tax period in which the VAT refund has been made to the beneficiary of the service, or in subsequent tax periods if in said tax period no services have been provided, or they have only been provided services to beneficiaries who are VAT taxpayers, or they have only provided services not taxed or exempt from VAT. If a remainder is generated, because the deduction is greater than the amount of VAT payable in the tax period, it may be carried forwards and deducted in the immediately following tax period and so on until it is completely extinguished.

1.3. Currency to declare the Digital VAT Form (F129) and pay VAT

The Digital VAT Form (F129) and the respective payment of VAT must be made in the currency chosen by the taxpayer without domicile or residence in Chile when registered in the simplified tax regime, which can be United States dollars, euros or Chilean local pesos.

VAT payment can be made only once the Digital VAT Form (F129) has been submitted, distinguishing whether the taxpayer has chosen to declare the tax return and pay VAT in foreign currency or in Chilean local pesos:

a) VAT payment in foreign currency: once the Digital VAT Form (F129) has been completed, it must be sent by pressing the button enabled on the Form itself, which will direct the taxpayer to the payment page.

This page contains information fields that must be filled out to pay through a SWIFT transfer.

The payment date considered is the date indicated in field 32 A of the SWIFT protocol of the transfer.

While the payment is not validated by the General Treasury of the Republic, it will remain in a "debt" status, being the responsibility of the taxpayer without a domicile or residence in Chile to follow the User Guides posted on the portal for an effective and correct identification of the payment made via SWIFT transfer.

b) VAT payment in Chilean pesos: this will be done following the User Guides posted on the portal.

Taxpayers can modify the currency 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 balance to be paid for VAT, interest or fines. To do this, under "Modify Data" option of the portal, the nonresident or domiciled taxpayer can be informed if there is an outstanding balance and its amount. Once this modification is accepted, it will begin to apply on the tax period (monthly or quarterly) that begins in January 1st of the same year.

When the nonresident or domiciled taxpayer has modified the currency, all subsequent declarations of Digital VAT Form (F129), its amendments and VAT payments must be made in the new currency. The amendment of the Digital VAT Form (F129) of a period prior to the currency change must be done in the new currency, considering the exchange rate in force on the date in which the original Digital VAT Form (F129) was submitted.

If an imputation of VAT or legal surcharges paid in excess is requested after having changed the currency, once the request has been accepted by the Chilean Tax Administration, the imputation will be made in the new currency, considering the exchange rate in force on the date in which the Digital VAT Form (F129) was submitted.

If a refund of VAT or legal surcharges paid in excess is requested after having changed the currency, once the request has been accepted by the Chilean Tax Administration, it will be made in the original currency prior to the change.

1.4. Deadline for submitting Digital VAT Form (F129) and paying VAT

Taxpayers not domiciled or resident in Chile must choose the tax period when registering for the simplified tax regime, being able to choose between a tax period of one month (monthly) or of three consecutive months (quarterly).

In both cases, VAT accrued during the tax period must be declared and paid between the 1st and the 20th of the month immediately following the end of the respective tax period. If the declaration and/or payment is made afterwards, interest, inflation adjustments (when applicable) and fines will be applied.

The payment date considered is the date indicated in field 32 A of the SWIFT protocol of the transfer.

The taxpayer may modify the tax period 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 balance of VAT, interest or fine. Once said modification is accepted, it will begin to apply on the tax period (monthly or quarterly) that begins in January 1st of the same year.

For this purpose, under “Modify Data” option of the portal, the nonresident or domiciled taxpayer will be informed if there is an outstanding balance to be paid and its amount. If the taxpayer has modified the tax period, the Digital VAT Form (F129) must be completed and submitted by the 20th of the month following the end of the tax period. Thus, if the new tax period is monthly, the Digital VAT Form (F129) must be submitted by February 20th of the year in which it was modified; If it is quarterly, it must be submitted by April 20th of the year in which it was modified.

1.5. Query on the status of the Digital VAT Form (F129)

The status of Digital VAT Form (F129) and VAT payments can be checked in the portal, under the “Check Status” or “Check Debt” tab.

2. Input credit and issuance of tax documents

As stipulated in article 35 C, of Paragraph 7° bis, of Title II, of the VAT Law, taxpayers without domicile or residence in Chile registered in the simplified tax regime cannot deduct input VAT and are not required to issue tax documents such as invoices for their operations.

3. Amendment of the tax return Digital VAT Form (F129)

Taxpayers without a domicile or residence in Chile that mistakenly declared a lower tax base in the Digital VAT Form (F129) or declared a discount, cancellation, termination etc., that did not meet the requirements of article 35 G of the VAT Law, resulting in both cases in a lesser VAT payable, can amend the original Digital VAT Form (F129) within the period established in article 36 bis of the Tax Code, paying any VAT difference.

Conversely, taxpayers without a domicile or residence in Chile that incorrectly declared in the Digital VAT Form (F129) a tax base higher than it should have been resulting in a higher VAT payable, can amend the original Digital VAT Form (F129). The above may be done through the “Amendments to the F129 tax return to reduce the taxable base” option under the “Contact” tab of the portal.

Amendments of the Digital VAT Form (F129) made once expired the due date contemplated in article 35 E of the VAT Law to declare and pay VAT, will be subject to interest, inflation adjustments (if applicable) and fines.

Finally, the taxpayer that paid VAT, interest, inflation adjustments (if applicable) or fines in excess, may request a refund or imputation in accordance with Directive No. 22 of 2022. This may be done through the “Request on refunds or imputations” option under the “Contact” tab of the portal.

4. USER GUIDES

The User Guides for the correct fulfillment of the obligation to declare and pay VAT are available on the portal.

2° Non-compliance with the obligation to register in the simplified tax regime by a taxpayer without a domicile or residence in Chile that provides services subject to VAT, or non-compliance with any other obligation that falls on taxpayers registered in said regime, may be reported through the “Report a non-compliant business” option under the “Contact” tab of the portal.

In accordance with article 164 of the Tax Code, the informant will not be considered as a part of the legal procedures that the Chilean Tax Administration may initiate.

3° This resolution will be effective as of December 1st, 2024. Directive No. 67 of 2020 shall be revoked as of the same date.

Taxpayers registered in the simplified tax regime must file and submit Digital VAT Form (F129) and pay VAT in accordance with the provisions of this directive.

Declarations of Digital VAT Form (F129) and payments made by taxpayers without domicile or residence in Chile in accordance with the procedure established in Directive No. 67 of 2020, will be maintained without prejudice to being subject to the terms set forth in this directive.