



Japan Tax Bulletin

The new consumption tax rules for cross-border electronic transactions

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The tax treatment of cross-border electronic service transactions under the Consumption tax law is scheduled to change from October 1, 2015. As this change will take place during a business year for most taxpayers, it is important that they are aware of the impact it may have on their business.

1. *Place of Performance*

Currently, cross-border services are deemed to be rendered in the place of supplier's office or address unless it is clear that the services are rendered overseas or the place of performance is expressly provided for by the regulations for specified types of cross-border services.

Under the new rule, cross-border digital services are deemed to be performed in the place of recipient's office or address.

Whether or not recipient's address is in Japan is determined based on objective and reasonable criteria. For example, the address a customer gives for an internet purchase is compared to the country of issue information of the credit card they use.

2. *Electronic services*

Electronic services include advertising on the Internet, providing cloud services, business consulting via telephone and email as well as providing e-books, music and software via telecommunication networks. The following transactions are included in electronic services:

- Provision of e-books, digital newspapers, music, videos, software via the Internet.
- Services allowing customers to use software and databases in the Cloud.

- Services providing customer with storage space to save data in the Cloud.
- Distribution of advertisements via the Internet.
- Services allowing customers to access shopping and auction sites on the Internet.
- Services allowing customers to access to online marketplaces to sell game software and other products.
- Provision of accommodation and restaurant booking through a website
- English lessons provided via the Internet.

3. *Reverse charge mechanism for B2B electronic services*

B2B electronic services are subject to a reverse charge mechanism where the recipients in Japan are required to file a tax return and pay taxes. The recipient can claim an input tax credit in their tax return for the purchase of B2B electronic services.

Whether or not transactions are B2B is determined with reference to the nature of services and the terms and conditions. For example, the distribution of advertisements on the Internet and the provision of online marketplaces to sell application software including games are treated as B2B transactions due to the nature of the business. Transactions treated as B2B transactions due to their terms and conditions include services such as the provision of cloud services, which are negotiated on an individual basis and obviously intended for business use under the contract. Foreign business providers providing B2B electronic transactions are required to notify the recipients of services prior to transactions that the transaction is subject to a reverse charge mechanism.

4. *Tax filing requirement for foreign service providers for B2C transactions*

Foreign service providers providing B2C transactions are required to file a tax return and pay taxes in Japan. B2C transactions include the provision of electronic services generally provided for consumers or services intended for business use that are not effectively restricted to solely business customers. Therefore, B2C transactions can include electronic services received by businesses.

Foreign service providers are exempt from filing a tax return and paying taxes where the taxable sales amount in the base period was JPY 10 million or less. Foreign service providers are required to appoint a tax agent for filing the tax return and paying taxes where they do not have any office, address or domicile in Japan.

Japanese businesses receiving cross-border B2C electronic services are not allowed to claim input tax deductions for the purchase of the transactions. However where foreign service providers are "registered foreign service providers", Japanese businesses are allowed to claim an input tax credit for the purchase. Foreign service providers may file an application to be a "registered foreign service provider" on or after July 1, 2015.



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