

## "GOOGLE TAX" EXPANSION ACROSS POST-SOVIET COUNTRIES

Late June this year, the lower house of the Parliament of Kazakhstan (Majilis) approved in the first reading the draft amendments to the Tax Code introducing the so-called "Google tax" (*extraterritorial online service VAT*) in Kazakhstan.

The legislation is expected to pass the final second reading in the autumn and take effect from January 2021. Kazakhstan would then join a growing list of post-Soviet and EMEA jurisdictions introducing this model of taxation of digital services at the national level.

To date, extraterritorial online service VAT has been either adopted or discussed in the majority of post-Soviet countries. In most, the "Google tax" is based on the Russian model of administration, which presumes that foreign online service providers can register as a taxpayer and pay the VAT remotely, without setting up a legal entity or even registering a bank account in the country.

Russia was a pioneer in introducing its "Google tax" in the post-Soviet space - for B2C online services is in effect from 2017 and it was expanded to B2B services in 2019. In most other post-Soviet countries, where extraterritorial cross-border VAT is either applicable or discussed, only B2C services are the target, while B2B services are either not taxed at all or administered by local companies playing the role of tax agents.

### Extraterritorial online service VAT application across post-Soviet countries

To date, the extraterritorial online service VAT has been introduced in four post-Soviet jurisdictions - **Russia** (*from 2017*), **Belarus** (*2018*), **Uzbekistan** (*Jan. 2020*) and **Moldova** (*April 2020*).

In five more countries, the respective legislation is being discussed and could be adopted in the near future. In **Kazakhstan**, **Ukraine**, **Tajikistan** and **Kyrgyzstan** the draft legislation is already prepared and passes through different stages of consideration. In **Armenia**, discussions started only recently and the draft law is not yet prepared (*although the Tax Committee already discussed it with the largest multinational tech companies - potential taxpayers*).

**Georgia**, **Azerbaijan** and **Turkmenistan** are the only three nations where the "Google tax" has been neither adopted nor yet discussed. In Azerbaijan, the need to introduce this VAT is raised from time to time, while Georgia and Turkmenistan seem unlikely to introduce it in the near future.

### "Google tax" policy coordination in the Eurasian Economic Union



Additionally, there is a growing level of coordination on extraterritorial online service VAT in the member-states of the Eurasian Economic Union (*although the legislation is only applicable in 2 of 5 its member-states - Russia and Belarus*). In September 2019, the Advisory Council for Tax Policy and Administration under the Eurasian Economic Commission [discussed the introduction of single rules of administration of the “Google tax” in the Union.](#)

The Council approved draft amendments to the EAEU Treaty expanding the existing rules of harmonization of indirect tax administration (*set out by the Art. 71 and 73 of the [EAEU Treaty](#) and the [Protocol on Procedure of Administration of Indirect Taxes and Mechanism to Control their Payments](#)*) from goods to services provided within the common market of the Union.

The key parameters of the extraterritorial online service VAT administration, including the identification of the place of supply for online services, location of the customer, as well as the list of services subject to this taxation, should be harmonized at the EAEU level. The harmonization is being discussed in order to ensure equal rules of the tax administration across all EAEU member-states, since Russian companies such as Yandex and Mail.ru Group are among the largest online service providers in the EAEU countries.

Although the harmonization at the EAEU level will not be quick, it will be an important driver of the process of adopting the national legislation in the EAEU member-states, which have not adopted it so far (*Kazakhstan, Kyrgyzstan and Armenia*).

*Below is an outline of the current status of extraterritorial online service VAT legislation across the post-Soviet jurisdictions and key parameters of taxation in each country.*



## Status of extraterritorial online service VAT legislation across post-Soviet countries

Country	Current status of the legislation	Relevant legislation / draft law	VAT rate	Who is affected?
<b>Countries where online service VAT is already adopted</b>				
<b>Russia</b>	<p>Extraterritorial online service VAT for B2C services ("Google tax") is effective from 2017.</p> <p>The legislation was expanded to B2B services from 2019, although foreign B2B online service providers are not strictly obliged to administer the VAT (<i>the tax administration by their Russian customers is allowed</i>).</p>	<p>Tax Code of the Russian Federation (<a href="#">Art. 174.2 describes the VAT administration procedure</a>).</p> <p><a href="#">Federal Law 244-FZ as of July 3, 2016</a> (<i>for B2C services</i>).</p> <p><a href="#">Federal law 335-FZ as of November 27, 2017</a> (<i>for B2B services</i>).</p> <p>Letter of the Federal Tax Service "<a href="#">On Procedure of Applying the VAT while supplying electronic services by foreign entities from January 1, 2019</a>" as of April 24, 2019.</p>	16,67% for B2C and B2B services	<p>Extraterritorial B2C online service providers are to register in the Federal Tax Service and pay the VAT from January 1, 2017.</p> <p>For B2B service providers, the model allowing companies to administer and pay the VAT via their Russian customers or intermediary entities without the need for foreign companies to register existed until Jan. 1, 2019.</p> <p>From January 2019, B2B online service providers are required to register in the Federal Tax Service as well, although the VAT could still be calculated and paid by their Russian customers (<i>according to the Federal Tax Service letter</i>).</p> <p>If the VAT is paid by a Russian customer, a foreign company is</p>



				required to submit a "zero" tax return to the Federal Tax Service.
<b>Belarus</b>	Extraterritorial online service VAT for B2C services ("Google tax") is effective from <b>January 2018</b> .	<a href="#">Tax Code of the Republic of Belarus</a> (Articles 98, 103, 108).  The <a href="#">clarification</a> for foreign online service suppliers is available at the website of the Ministry of Taxes of Belarus	20%	All B2C extraterritorial online service providers.  <i>If the online service is supplied to a legal entity or an individual entrepreneur in Belarus, local companies play a role of tax agents on behalf of online service suppliers and should administer the tax.</i>
<b>Uzbekistan</b>	Extraterritorial online service VAT for B2C services ("Google tax") is effective from <b>January 2020</b> .	<a href="#">Tax Code of the Republic of Uzbekistan</a> (Articles 132, 290)	15%	Companies supplying extraterritorial B2C online services to residents of Uzbekistan  <i>If payment for the service is provided through a locally registered intermediary entity, the latter plays a role of the tax agent and is responsible for tax administration</i>
<b>Moldova</b>	Extraterritorial online service VAT for B2C services ("Google tax") is effective from <b>April 2020</b> .	<a href="#">Tax Code of Moldova</a>	20%	All B2C extraterritorial online service suppliers
<b>Countries where online service VAT is being discussed</b>				
<b>Kazakhstan</b>	Draft amendments to the Tax Code	Draft amendments to the Tax Code of the	12%	Companies providing extraterritorial B2C



	<p>introducing extraterritorial online service VAT approved in the first reading by the Majilis of Kazakhstan in June 2020.</p> <p>The second reading and final adoption of the law is expected by November. The legislation is to take effect from <b>January 2021</b></p>	<p>Republic of Kazakhstan (<i>Article 426-1</i>)</p>		<p>online services to the residents of Kazakhstan.</p> <p>If the payment for the service is provided through a locally registered intermediary entity, the latter plays a role of the tax agent and is responsible for tax administration.</p> <p><i>The administration model is expected to be similar to that existing in Russia for B2C services</i></p>
<b>Ukraine</b>	<p>Draft law introducing extraterritorial online service VAT was submitted to the Rada in December 2019 by MPs from the ruling "Sluha Narodu" faction</p> <p>The draft law has not been considered since that time, but could be adopted and enforced by <b>January 2021</b></p>	<p><a href="#">Draft amendments to the Fiscal Code of Ukraine</a></p>	20%	<p>Companies providing extraterritorial B2C online services to residents of Ukraine</p> <p>If payment for the service is provided through a locally registered intermediary entity, the latter plays a role of the tax agent and is responsible for tax administration</p> <p><i>The list of services does not include "online intermediaries" (aggregators) for now, but they could be included later.</i></p>
<b>Kyrgyzstan</b>	<p>The need to introduce a "Google tax" based on the Russian model has</p>	<p>Draft law "<a href="#">On introducing changes to Certain Legislative Acts</a></p>	2% of the Compan	<p>Companies providing extraterritorial B2C</p>



	<p>been discussed in Kyrgyzstan for more than 2 years.</p> <p>In December 2019 the Ministry of Economy opened public consultations on E-Commerce draft law, which presumes the introduction of VAT for extraterritorial online B2C services.</p> <p>The draft law has been on hold for the last 6 months, but in June, the Government <a href="#">confirmed</a> that the "Google tax" amendments are being prepared, taking into account the experiences of Russia and Uzbekistan.</p>	<p><a href="#">of the Kyrgyz Republic in the Sphere of E-Commerce"</a></p>	<p>y's revenue s in Kyrgyzst an</p>	<p>online services to residents of Kazakhstan.</p> <p>According to the current wording of the "e-commerce draft law", a company is required to open a bank account in order to pay the tax (<i>a condition which does not exist in other countries</i>).</p> <p>But in the future, we expect the administration model to be closer to that of Russia and other EAEU countries.</p>
<b>Tajikistan</b>	<p>In March 2020, the Tax Committee of Tajikistan suggested introducing the VAT for extraterritorial online services, referring to the experience of Russia, Belarus and other countries.</p> <p>"Google tax" was included in the draft of the new Tax Code of Tajikistan, currently reviewed by the Government.</p>	<p>The draft law is not available yet</p> <p>Key provisions are <a href="#">available in the media</a>.</p>	<p>15%</p>	<p>Companies providing extraterritorial B2C online services to residents of Tajikistan.</p> <p>In case the payment for the service is provided through a locally registered intermediary entity, the latter play a role of the tax agent and is responsible for tax administration.</p>



	The new Code could be adopted in <b>September 2020</b> and take effect from <b>January 2021</b> .			
<b>Armenia</b>	<p>Armenia did not consider introducing Google tax until very recently.</p> <p>In June 2020 the State Revenue Committee held a conference with representatives of leading international tech companies (<i>Microsoft, Google, Facebook, Booking.com, Netflix, Amazon, Spotify</i>) and stated that it will soon develop a legislative initiative in order to introduce "Google tax" in Armenia, without disclosing key parameters.</p>	The draft law not yet released	Still unknown	Most probably, Armenia will adapt the Russian tax administration system, based on the EAEU efforts to harmonize the extraterritorial online service VAT across the EAEU countries.
<b>Countries where online service VAT has not yet been discussed</b>				
<b>Azerbaijan</b>	<p>There is some level of public discussion about the need to introduce "Google tax" in Azerbaijan, but no practical implications to date.</p> <p>However, 18% VAT for online services (<i>including cross-border ones</i>) is administered and paid by local</p>			



	residents, including private persons.			
<b>Georgia</b>	No discussion about the need to introduce extraterritorial VAT ( <i>probably due to specifics of Georgia's liberal economic model</i> ).			
<b>Turkmeni stan</b>	No discussion about the need to introduce extraterritorial VAT.			

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For further information and advice please contact [info@kesarev.com](mailto:info@kesarev.com)

### About Kesarev

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