

Unofficial Translation

Procedure relating to value added tax on digital service provided by non-resident person, 2079 BS (2022)

Since the provision is made that non-resident person, providing digital service to consumer, shall deposit the tax by registering in value added tax following the amendment of Value Added Tax Act, 2052 (1996) by Finance Act, 2079 (2022), Inland Revenue Department has issued this procedure, in exercise of power conferred by Section 10b1, Sub-section (1b) of section 18 and Sub-section (7b) of Section 19 of Value Added Tax Act, 2052 (1996).

1. Short title and commencement:

- (a) This procedure may be called as "procedure relating to value added tax on digital service provided by non-resident person, 2079 (2022) ".
- (b) This procedure shall come into force immediately.

2. Definitions:

Unless the subject or context otherwise requires, in this procedure,

- (a) "Consumer" means a person who consumes services having normal place of abode in Nepal.

Provided, a person who purchases goods and services by separate arrangement for business purpose or to use in business shall not be considered as consumer.

- (b) "Act" means Value Added Tax Act, 2052 (1996).
- (c) "Tax" means the Value Added Tax to be levied as per the act.
- (d) "Tax Officer" means the Tax Officer or Chief Tax Officer or Chief Tax Administrator appointed by the Government of Nepal, and this term also includes the Section Officer, Director, Deputy Director General of the Department or any other officer so designated by the Government of Nepal as to exercise the powers of the tax officer under the act.
- (e) "Tax Period" means each Nepali month pursuant to section 18 of the act.
- (f) "Office" means Large Taxpayer Office.

- (g) “Transaction” means digital services provided by a non-resident person to consumer whose place of supply is considered Nepal if any one of the following conditions is satisfied: -
- (1) Service is received within Nepal,
 - (2) Billing address is in Nepal,
 - (3) Payment is made through accounts maintained in banks or payment instrument operated by licensed institution or entity of Nepal,
 - (4) Payment is made through debit card, credit card or similar type of payment instrument issued by banks or licensed payment provider institution or entity of Nepal,
 - (5) Service is received by using internet protocol address in Nepal,
 - (6) Service is received by using SIM card having country code of Nepal or land line telephone of Nepal.
- (h) “Non-Resident Person” means a person from outside Nepal who does not have a permanent business address or business representative or legal representative in Nepal.
- (i) “Rules” means Value Added Tax Rules, 2053 (1997).
- (j) “Consideration” means anything to be received as value for the supply of services.
- (k) “Digital Service” includes following services whose delivery essentially requires information technology and provided automatically through internet with minimal human intervention: -
- (1) Advertisement,
 - (2) Movies, television, music, over the top (O.T.T) and other similar subscription based services,
 - (3) Data storage service,
 - (4) Cloud service,
 - (5) Gaming,
 - (6) Service related to mobile application,
 - (7) Online market place service and goods and services to be provided through it,
 - (8) Supply and update of software,
 - (9) Download of data, images and similar services,

(10) Consultancy, skill development and training service,

(11) Similar services other than serial number 1 to 10.

(l) “Returns” means tax return to be submitted pursuant to schedule 3 of this procedure.

(m) “Department” means Inland Revenue Department.

(n) “Director General” means Director General of Inland Revenue Department.

(3) Provision relating to basis of taxation and rate

(a) Tax shall be paid by collecting it on transaction value of digital service.

(b) Tax rate shall be 13 percent pursuant to section 7 of the Act.

(c) Non-resident person, carrying out transaction of taxable digital services more than two million rupees within the last twelve months, shall collect value added tax by registering. However, a non-resident person who has registered for tax once the transaction threshold is exceeded will have to collect tax irrespective of transaction amount.

(d) As the service provided to Nepal other than the consumer is not covered by the digital service, the non-resident person does not have to collect value added tax on such services. If person other than consumer purchases services from outside of Nepal shall deposit tax pursuant to section 8(2) of the Act.

(4) Provision relating to tax administration

Administration of this tax is carried out by Large Taxpayer Office.

(5) Provisions relating to registration

(a) Non-resident person, carrying out transaction of taxable digital services more than two million rupees within the last twelve months, shall register as per Section 10b1. of the Act and collect value added tax from the date of registration.

(b) Non-resident person, as per clause (a), shall apply for registration to tax officer within 30 days from the day when transaction exceeds two million rupees in the format set forth in schedule-1 in case it is not registered for the purpose of digital service or in the format set forth in schedule-1a in case it is already registered in digital service tax.

- (c) Even if the annual turnover is estimated to exceed two million rupees, it can be registered voluntarily. Accordingly, value added tax shall collect from the date of registration.
- (d) Non-resident person shall scan and upload following documents of digital copy along with the application for registration.
 - (1) Notarized copy in English language of the company registration certificate registered in the country of residence.
 - (2) Notarized copy in English language of tax registration identification number received in the country of residence.
 - (3) Letter relating to the authorized person designated for tax purposes and a notarized copy of the person's passport in English.
 - (4) Photo of authorized person designated on behalf of non-resident person.
 - (5) Specimen of authorized person designated on behalf of non-resident person.
 - (6) Authorized letter, if any citizen of Nepal is designated for tax purpose and notarized copy of citizenship or passport of such person.
- (e) Office shall issue a registration certificate in the format as prescribed in schedule -2 within 7 days of the receipt of the application. Non-resident person shall be informed, with reasons, if it couldn't be registered for any reason.
- (f) Tax Officer may impose a fine of twenty thousand rupees for each time to non-resident person for failure to register as per this procedure.

(6) Provision relating to billing and accounting of transaction

- (a) Non-resident person, registered as per this procedure, may issue tax invoice electronically. Approval from the department is not required for this purpose.
- (b) The non-resident person shall issue an invoice for the supply of services at the time of providing the service or receiving the consideration for the service provided whichever is earlier.
- (c) If non-resident person receives the consideration, for the supply of services, in a convertible foreign currency, from the consumer, transaction shall be accounted in Nepali Rupees equivalent to the foreign currency according to the rate of exchange published by the Nepal Rastra Bank on the day of transaction.

(7) Provision relating to submission of return

- (a) Non-resident person shall file the return, pursuant to Section 18 of the Act, within twenty-five days of the next month of the expiry of tax period to Tax Officer through online in the format set forth in Schedule -3 of this procedure.
- (b) In case, non-resident person fails to file return in specified time, fine shall be imposed 0.05 percent of the tax payable per day or one thousand rupees per tax period, whichever is higher, pursuant to Sub-section 1(h) of Section 29 of the Act.

(8) Provision relating to payment of tax

- (a) Non-resident person shall pay tax, in accordance with the submitted tax return, at revenue heading 33316 through online.
- (b) In case, tax is not paid within the stipulated time limit, an interest of fifteen percent shall be charged, pursuant to section 26 of the Act.
- (c) In case, tax is not paid within the stipulated time limit, additional fee of ten percent shall be charged, pursuant to Sub-section (2) of section 19 of the Act.

(9) Provision relating to audit and tax assessment of transaction

- (a) If the tax officer has a reason to believe that the amount of tax was understated by the non-resident person, tax may be assessed pursuant to section 20 of the act.
- (b) If it is found that tax liability is suppressed by reducing or hiding or concealing transaction amount, fine and punishment shall be enforced pursuant to sub-section (2) of section 29 of the act.
- (c) Tax assessment process shall be as per the provisions of the act.

(10) Provision relating to appeal

- (a) Non-resident person, not satisfied with the decision of tax assessment made by the tax officer, may file an application to the Director General for administrative review in accordance with section 31a. of the act.
- (b) Non-resident person may make an appeal to the revenue tribunal pursuant to section 32 of the act, if not satisfied with the decision of Director General.

(11) Provision relating to cancelation of registration

- (a) If non-resident person closed down the transaction or intended to deregister with any reason, shall cancel the registration pursuant to section 11 of the act.

- (b) Application shall be filed to Tax Officer online for deregistration in the format as set forth in schedule -4.
- (c) The registration shall not be cancelled unless tax liability, to be paid, is not cleared by non-resident person.
- (d) Office shall cancel the registration within three months of the receipt of the application and it is to be informed to non-resident person.

Schedule – 1
(Relating to Section 5(c) of the Procedure)
Government of Nepal
Ministry of Finance
Inland Revenue Department

Application for Registration in Value Added Tax (For Non-resident Person)

(a) General Information of Non-resident person:-		
1.	Types of persons	(P) Ltd./Limited/Partnership/ Public Organization/Others
2.	Legal name	
3.	Business registration number of resident country	
4.	Address	
5.	Address for letter correspondence	
6.	Taxpayer identification number for tax purpose in resident country	
7.	Email address	
8.	Telephone number (including country's code)	
9.	Mobile number (including country's code)	
10.	Estimate annual transaction (in Rs.)	
11.	Name of authorized person	

(b) Details of the Authorized Person:-			
1.	First Name	Middle Name	Last Name
2.	Gender		
3.	Designation		
4.	Date of birth		Day / Month/Year
5.	Nationality		

6.	Passport number	
7.	Name of the passport issuer country	
8.	Taxpayer identification number for tax purpose in resident country	
9.	Name of the taxpayer identification issuer country	
10.	Email address	
11.	Mobile number (including Country's code)	

(c) Details of Nepali Representative (If Nepali citizen is nominated as a representative for tax purpose):-

1.	First Name	Middle Name	Last Name
2.	Address		
3.	Gender		
4.	Date of birth		Day / Month/Year
5.	Citizen or Passport number		
6.	Permanent account number		
7.	Email address		
8.	Mobile number		

(d) Types of Digital Services (Please select):-

1.	Advertisement	
2.	Movies, television, music, over the top (O.T.T) and other similar subscription based services	
3.	Data storage service	
4.	Cloud service	
5.	Gaming	
6.	Mobile application	

7.	Online market place service and goods and services to be provided through it	
8.	Supply and update of software	
9.	Download of data, images and other similar services	
10.	Consultancy, skill development and training service	
11.	Similar services other than serial number 1 to 10	

(e) Scan copy of documents to be uploaded:-	
1.	Certificate of company registration in country of residence
2.	Certified copy of taxpayer identification number issued from country of residence
3.	Nomination letter for authorized person
4.	Passport of authorized person
5.	Photo of authorized person
6.	Scan copy of signature of authorized person
7.	Letter, if representative is nominated
8.	Citizen or passport of representative

(f) Declaration	
I certify that documents and information provided as above is correct, true and complete.	
Signature of authorized person:	Place:
Designation:	Address:

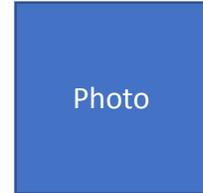
Schedule – 1(a)
(Relating to Section 5(b) of the Procedure)
Government of Nepal
Ministry of Finance
Inland Revenue Department

Application for Registration in Value Added Tax (For Non-Resident Person)

1. Taxpayer Information			
Permanent Account Number		Name	
Address		Types of transaction	
Transaction amount up to now (In. NRs.)		Estimated annual transaction amount (In NRs.)	

Declaration	
I certify that documents and information provided as above is correct, true and complete.	
Signature of authorized person:	Place:
Designation:	Address:

Schedule – 2
(Relating to Section 5(e) of the Procedure)
Government of Nepal
Ministry of Finance
Inland Revenue Department



Permanent Account Number Certificate

Permanent Account Number:	
Office:	

Registration date in Digital Service Tax:	
Registration date in Value Added Tax:	

Taxpayers' name :
Types of taxpayers : Non-resident person (Types)
Address :
Transaction : Supply of digital services (Types)

.....
Signature of Taxpayer
(Self-generated signature from the Registration Application)

.....
Signature of Tax Officer

Schedule – 3
 (Relating to Section 6(e) of the Procedure)
 Government of Nepal
 Ministry of Finance
 Inland Revenue Department

Value Added Tax Return (For Non-resident Person)

Nepali Year		Nepali Month	
Permanent Account Number		Name	
Address		Income Year	

Amount in NRs.

Details	Transaction Amount	Tax Amount
Sales	XXX	XXX
Other adjustment (To adjust missing / mistaken amount of previous period)		(+/-) XX
Tax to be paid		XXXX

Sales Details (can be uploaded in excel file)					
S. N.	Invoice no.	Name of Consumers	Total Sales Amount	Taxable Sales Amount	TAX Amount

I certify that information provided as above is correct, true and complete.

Signature of authorized person:

Place:

Designation:

Address:

Schedule – 4
(Relating to Section 9(a) of the Procedure)
Government of Nepal
Ministry of Finance
Inland Revenue Department

Application for cancelation of registration (For Non-Resident Person)

1. Taxpayer Details			
Permanent Account Number		Name	
Address			

2. Taxpayer details of current period	
Date of Submission of return for current period	
Tax liability	
Tax payment date	
Voucher date	

Reasons for cancelation of registration

Taxpayers' declaration	
I certify that information provided as above is correct, true and complete.	
Signature of authorized person:	Place:
Designation:	Address: