

**SUPERINTENDENCY RESOLUTION APPROVING THE VIRTUAL FORM TO FILE AND/OR PAY THE VALUE ADDED TAX COLLECTED AND/OR WITHHELD AS PER ARTICLE 49-A OF THE INCOME TAX AND SELECTIVE CONSUMPTION TAX LAW CREATES THE FILING AND PAYMENT PLATFORM FOR NON-RESIDENTS; AND REGULATES THE FILING AND PAYMENT IN U.S. DOLLARS AND ITS OFFSETTING**

**SUPERINTENDENCY RESOLUTION 000294-2024/SUNAT**

Lima, December 23, 2024

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WHEREAS

Subclause 1 of article 49-A of the Value Added Tax and Selective Consumption Tax Law stipulates that non-residents providing digital services or from whom digital services are acquired through Internet, within the provisions stipulated in such law, will act as VAT withholding or collection agents.

Also, subclause 4 of such article 49-A states that the above-mentioned non-residents shall file the tax return and make the payment of the tax withheld or collected every month within the first ten working days of the following month under the form and conditions established by SUNAT through Superintendency Resolution; and they will be able to do it in local currency or U.S. dollars. In the case of the latter, its filing and payment will be conducted according to the provisions of Superintendency Resolution of SUNAT. The option to choose the type of currency for the filing and payment will be applied in the first tax return to be filed and it will be maintained until December that year. Exceptionally, such option will be applied from the moment of the tax return filing corresponding to December 2024, as set forth in the Single Supplementary Provisions of Legislative Decree 16123.

On the other hand, as per article 11-Ñ of the Value Added Tax Law and Selective Consumption Tax Regulation, the offsetting of VAT collections and withholdings unduly made or in excess to individuals not conducting business activity, filed and paid by the non-resident, as well as those undue and overpayments referred to in subsection 7 of article 49-A of such Law are conducted in the monthly tax return of the non-resident according to the form and conditions established by SUNAT through Superintendency Resolution while the exchange rate to be applied for such payments, when the amount generated in other period carried forward in local currency and the nonresident chooses to file and pay in U.S. dollars, it will be necessary to stipulate in the Superintendency Resolution the regulation of the filing and payment in such currency.

In conformity with the previous regulations, it is deemed pertinent to make available a virtual means for the above mentioned non-residents which should be placed in the SUNAT on-line transactions system so that they comply with filing the final tax return and make the payment, as well as regulating the offsetting of undue or overpayments, the form of payment and exchange rate to be applied when applicable to make the filing and payment in U.S. dollars; thus, modifying Superintendency Resolution 109-2000/SUNAT that regulates the form and conditions through which transactions can be made through Internet by means of the SOL password.

By using the powers granted by article 29 and subsection 88.1 of article 88 of the Tax Code approved by Legislative Decree 816, the Single Revised Text was approved by Supreme Decree 133-2013-EF; article 49-A of the Value Added Tax Law and Selective Consumption Tax approved by Legislative Decree 821 with Single Revised Text approved by Supreme Decree 055-99EF; subsections c) and d) of article 11-Ñ of the Single Revised Text regulation of the Value Added Tax Law and Selective Consumption Tax Law approved by Supreme Decree 29-94-EF; article 11 of the SUNAT General Law approved by Legislative Decree 501 of article 5 of Law 29816, Strengthening Law of SUNAT and subsection k) of article 10 of the First Section of the Regulation on Organization and Duties of the National Superintendency of Customs and Tax Administration approved by Supreme Decree 040-2023-EF.

IT IS HEREBY RESOLVED

## CHAPTER I

### GENERAL PROVISIONS AND APPROVAL OF THE VIRTUAL FORM AND FILING AND PAYMENT PLATFORM FOR NON-RESIDENTS

#### Article 1: Objective and Purpose

This Superintendency Resolution is aimed at:

- a) Approving the virtual form of the definitive tax return of the withheld and/or collected VAT that is subject to the use, within the country, of digital services and the import of intangible assets through internet which shall be filed through the means indicated in subsection b), and the non-residents will have the status of withholding and/or collection agents of such tax.
- b) Approving the Filing and Payment Platform for non-residents in SUNAT virtual so that they comply with filing the definitive tax returns of the tax mentioned in subsection a) and pay the tax debt in local currency, as well as obtaining the SUNAT payment number for transfer in order to make the payment outside the platform in U.S. dollars.
- c) Regulating the offsetting of VAT collections and withholdings unduly made or in excess to individuals not conducting business activity filed and paid by the VAT withholding and collection agent and for undue payments and overpayments, as well as the exchange rate to be applied for the above-mentioned offsetting and for the filing and payment of the VAT withholding and/or collection referred to in subsection a).

For such purpose, Superintendency Resolution 109-2000/SUNAT regulating the form and conditions in which tax debtors could make several transactions through

Internet by means of the SUNAT on-line transactions Systems, has been amended.

## **Article 2: Definitions**

For this Resolution purposes, the following definitions have been established:

- a) VAT withholding or collection Agents: This capacity is provided to non-residents rendering a digital service or from whom assets are acquired when using digital services and importing intangible assets through Internet when the user or importer is an individual not conducting business activity as per article 49-A of the Value Added Tax Law and Selective Consumption Tax Law.
- b) Qualified Bank: Banking entity qualified to receive the payment by using the NPS (SUNAT Payment number).
- c) Definitive Tax Return: It has been filed to determine the tax obligation, and if applicable, the tax debt.
- d) VAT: Value added tax regulated through the Value Added Tax Law and Selective Consumption Tax.
- e) Value Added Tax and Selective Consumption Tax Law: Value Added Tax and Selective Consumption Tax Law approved by Legislative Decree 821 which Single Revised Text was approved by Supreme Decree 055-99-EF
- f) NPS: SUNAT Payment number referred to in subsection e) of article 1 of Superintendency Resolution 038-2010/SUNAT.
- g) NPST: SUNAT Payment number for transfers that, as per subsection 9.2.1 of paragraph 9.2. of article 9, shall be provided by the non-resident to the bank to make the SWIFT transfer. Such number links the payment to the Taxpayers' ID number, the corresponding period and the item generating it.  
  
The NPST is generated in the Filing and Payment Platform for non-residents, it does not expire, and it can only be used to make a payment in U.S. dollars.
- h) OUR: The instruction that indicates that the responsible for making the SWIFT transfer shall pay all the fees (local and foreign fees).
- i) Balance carryforward: It is the balance from VAT collections and withholdings unduly made or in excess; and from undue payments and overpayments that have not been applied in the offsetting referred to in the first or second paragraph of subsection 7 of article 49 of the Value Added Tax Law and Selective Consumption Tax Law.
- j) SBS: Superintendency of Banking, Insurance and Private Pension Fund Administrators.
- k) Non-resident: The VAT withholding and/or collection agent.

- l) SUNAT on-line transactions: The IT system available through Internet which allows making transactions electronically between the User and SUNAT, as per subparagraph a) of article 1 of Superintendency Resolution 109-2000/SUNAT.
- m) Virtual SUNAT: The SUNAT portal in the Internet which can be accessed through <http://www.sunat.gob.pe>

### **Article 3: Virtual Form Approval**

Virtual Form 0623.VAT- Digital Economy has been approved and enabled in the Tax Filing and Payment Platform for non-residents to file and/or pay for the VAT withheld or collected by the VAT withholding or collection agent, respectively, considering the provisions of chapters II and III.

### **Article 4: Platform approval**

The Filing and Payment platform for non-residents has been approved and it will be accessed through SUNAT virtual allowing non-residents the following:

- a) Access to the virtual form to prepare the corresponding definitive tax returns.
- b) Filing definitive tax returns in local currency or US. Dollars, as applicable.
- c) Paying the tax debt in local currency.
- d) Obtaining the NPST to make the payment in US.
- e) To check the definitive tax returns filed by this means and making the corresponding payment.

## **CHAPTER II**

### **TAX FILING AND PAYMENT OVERVIEW**

#### **Article 5: Definitive Tax Return Filing**

5.1 In order to file the definitive tax return, the non-residents shall:

- a) Access the platform, only through Virtual SUNAT for which you must register the details requested to access SUNAT on-line transactions, as stipulated in article 5 of Superintendency Resolution 109-2000/SUNAT.
- b) Select the corresponding virtual form, enter the period to be filed and follow the platform instructions.
- c) Fill in the boxes of the selected virtual form, considering the instructions of the platform which include the selected option referred to in paragraph 5.2 and provisions of chapter III.
- d) Since it concerns a definitive tax return in U.S. dollars, access the option that will allow you generating the NPST and if deemed relevant, generate such number this time.

5.2 The selection of the type of currency (local currency or U.S. dollars) for the filing and payment is made except for the assumption stipulated in the single temporary supplementary provision:

- a) In the definitive tax return corresponding to January of each year, even in cases where there are no withholdings or collections to file in such period nor balances carryforward, or
- b) In the first definitive tax return filed within the year if the obligation to file the definitive tax return arises after the January period of that year.

5.3 The type of selected currency remains for the filing and payment of the following periods up to the December period of that year.

#### **Article 6: Payment in local currency**

6.1 To pay the amount indicated in local currency in the definitive tax return filed through the Filing and Payment platform for non-residents, non-residents will be able to choose any of the following methods:

a) Payment through debit from bank account: If this method is chosen, the debit from the bank account of the amount payable is set to the bank selected from the list of banks pre-established in Virtual SUNAT and with which an agreement has been previously entered into to pay taxes through account debit. For such purpose, it is necessary to specify that the tax debt will be paid using this method and then follow the platform instructions.

b) Payment through credit or debit card: In this method, the issuer or operator of the credit or debit card will be required to select from the list enabled in Virtual SUNAT and with which there is a pre-registration agreement for payment services through Internet, the debit from a credit or debit card of the amount payable.

6.2 Before or after filing the definitive tax return, non-residents will be able to make the payment through Virtual SUNAT or in any of the banks enabled using the NPS, which will be obtained following the procedure established in article 8 of Superintendency Resolution 038-2010/SUNAT.

#### **Article 7: Grounds for rejection of the virtual form in the platform**

7.1 In case a virtual form of the definitive tax return in local currency (with or without payment) is filed, the grounds for rejection will be the following:

- a) Concerning payment by debiting bank's account:
  - i) The non-resident does not have a registered account
  - ii) The account does not have enough funds to pay the payable amount.
  - iii) Communication is not established with the Bank's payment service.
- b) Concerning payment through credit or debit card:
  - i) The credit or debit card used is not registered to the Internet payment service.
  - ii) The transaction made through credit or debit card is not authorized by the corresponding credit or debit card operator.
  - iv) Communication is not established with the payment service of the credit or debit card operator.
- c) When the reception of the tax return and/or payment in any of the former methods, is not made because of a system cut.
- d) When the total payment of the amount payable was made using the NPS and the NPS report is not generated because of a system cut.  
In case that any of the grounds for rejection arises, the virtual form will be considered as not submitted.

7.2 In case that the virtual form of the definitive tax return is filed in U.S. dollars, then the grounds for rejection of such virtual form will be that resulting from a system cut, the reception of the virtual form is not made and/or if the NPST was requested when conducting the filing, the NPST report would not be generated.

In case that any of the grounds for rejection arises, the virtual form will be considered as not submitted.

### **Article 8: Proof of Filing and/or Payment and NPST Report**

The proof of filing is the only evidence of the transaction made by the non-resident which is generated as a confirmation of having filed the definitive tax return.

Besides, the following aspects should be considered:

- a) When the definitive tax return is filed in U.S. dollars together with the proof of submission, the NPST report will be generated, referred to in paragraph 9.3 of article 9, if the non-resident obtains the NPST when making the filing.
- b) When, through the platform, payment is made in local currency by debiting in account or through debit or credit card, if there is no grounds for rejection, the proof of payment made will be generated.

The proof of filing and payment and the NPST report can be printed, saved and/or sent to the e-mail indicated by the non-resident.

### **Article 9: Payment in U.S. dollars**

#### **9.1. Payment Method**

To pay the amount payable in U.S. dollars in the definitive tax return, non-residents shall make a SWIFT transfer from abroad to the corresponding bank account of Banco de la Nacion, considering the provisions of paragraph 9.2. Once that transfer is made, the payment will be effective on the date when the payment is verified in the corresponding Peruvian bank account.

#### **9.2. Procedure**

9.2.1 To make a SWIFT transfer from abroad to the corresponding bank account of Banco de la Nacion in order to pay the withheld or collected VAT referred to in article 49-A of the Value Added Tax Law and Selective Consumption Tax Law, non-residents shall provide the bank in charge of making the transfer, the required data considering the details of the NPST report obtained as per paragraph 9.3 and the type of instruction regarding the payment of local and foreign fees ("OUR").

9.2.2 If the provisions of subsection 9.2.1 are met and SUNAT is informed through a communication prepared by Banco de la Nacion on the verification of the payment in the corresponding bank account, SUNAT will communicate the non-resident with the details identifying such non-resident, the NPST with the related item, the total amount paid for the transfer and the date when payment is made. Such communication is sent to the email address referred to in paragraph d) of article 1 of Superintendency Resolution 014-2008/SUNAT.

When conducting the wire transfer and the “OUR” has not been indicated, the amount paid is the result obtained after discounting from the transfer amount, the fee of Banco de la Nacion and/or Intermediary and if the NPST is not indicated, the payment will be charged based on the rules established in the third paragraph of article 32 of the Tax Code.

### 9.3. Methods and procedure to obtain the NPST

#### 9.3.1 Methods to obtain the NPST

Non-residents that, as per paragraph 5.2 of article 5, decide to file and pay the tax debt in U.S. dollars, will obtain the NPST:

- a) Upon completion of the filing of the definitive tax return, only if generated when making the filing, which is kept in the NPST report, that in this case, is generated together with the proof of filing of such tax return. If the tax return has more than one item, a corresponding NPST report will be generated with the corresponding NPST for each item.
- b) Before or after filing the definitive tax return. For such purpose, the provisions of subparagraph 9.3.2.

#### 9.3.2 Procedure to obtain the NPST before or after filing the definitive tax return.

To obtain the NPST in an opportunity other than the filing of the definitive tax return, it is necessary to:

- a) Access SUNAT on-line transactions as established in article 5 of the Superintendency Resolution 109-2000/SUNAT.
- b) Select in the platform the option that indicates the payment and enter the details requested.
- c) Generate the NPST by following the indications of the platform to obtain the corresponding NPST report for each indicated item.

#### 9.3.3 NPST Report

### **Article 10: Concerning Supplementary and Rectifying Definitive Tax Returns**

To file the supplementary or rectifying definitive tax returns regarding the items contained in the original definitive tax returns, the following should be considered:

- a) If the supplementary or rectifying tax return has more than one item, each replaced or rectified item represents an independent tax return. In this case, it would be necessary to replace or rectify more than one item at the same time.
- b) It is necessary to enter all the details of the item replaced or rectified, even the information that is not desired to be replaced or rectified.

## **CHAPTER III**

### **SPECIAL MATTERS FOR FILING PURPOSES**

#### **Article 11. Virtual Form 0623-VAT- DIGITAL ECONOMY**

For filing the definitive tax return and/or payment of VAT withholdings and/or collections through Virtual Form 0623- VAT-Digital Economy, within the first ten working days (10) of the month following the month when the tax obligation arose, the VAT withholding or

collection agent shall take into account in addition to the provisions of Chapter II, the following aspects:

- a) The withholding or collection agent files the total amount of VAT collections and/or withholdings conducted during the period by using the corresponding form, they are not required to file when there is no withholding or collection.

The above mentioned form is also submitted in the period when, as per subsection a) of paragraph 5.2 of article 5, it is necessary to choose the type of currency or to meet the provisions of subsections e) and f) if choosing to offset in the assumptions indicated in such subsections.

- b) The determination of each of the items contained in the tax return is independent.
- c) Regarding transactions conducted in a currency other than local currency, if the filing and payment is submitted in local currency.

- i) The exchange is made using the weighted average exchange rate (sell) published by the SBS in the website or in the Official Gazette El Peruano corresponding to the date when, at most the filing and payment shall be made or the date when the payment is made, whichever occurs first.
- ii) In the case of the balance carryforward previously filed in U.S. dollars, the exchange is made considering the period when such balance was generated using the exchange rate indicated in section i) corresponding to the maximum date when the filing of such period should have been made.

- d) Regarding transactions made in a currency other than U.S. dollars, if you file the tax return and pay in U.S. dollars:

- i) The exchange is made using the exchange rate (buy) in the country to which the currency belongs on the maximum date when the filing and payment shall be made or on the date when the SWIFT transfer is made, whichever occurs first, published by the SBS or at an institution with similar duties in the country, including the Central Bank, as applicable; otherwise, the exchange rate (buy) depending on what was published by such institution.

ii) In the case of the balance carryforward previously filed in local currency, the exchange is made considering the period when such balance was generated, using the exchange rate indicated in section i), corresponding to the maximum date when the tax return of such period should have been filed.

- e) To offset the VAT collections and withholdings unduly made referred to in the first paragraph of subsection 7 of article 49-A of the VAT Law and Selective Consumption Tax Law with the VAT collections or withholdings filed, it will be necessary to consider the provisions of article 11-N of the regulation of such law and follow the instructions of the platform to i) indicate in the corresponding tax return the refunded amount to individuals not conducting business activities and ii) offsetting such amount with the collections or withholdings that were made on such month or if it was not depleted, in the following months.
- f) If it opts for offsetting undue payments or overpayments of the VAT referred to in the second paragraph of subsection 7 of article 49-A of the VAT Law and Selective Consumption Tax Law to the payment of VAT collections or withholdings that should be made, it would be necessary to consider provisions



of Article 11-Ñ of the regulation of such Law and continue following the instructions of the platform to i) indicate in the corresponding tax return the undue payments or overpayments, and ii) offsetting those amount to the payments necessary to be made for such month, or if it is not depleted, in the following months.

- g) The schedule is not applied for compliance with tax obligations with monthly maturity referred to in Superintendency Resolution 000281-2022/SUNAT/ nor the substitute, if it were the case.

## **FINAL SUPPLEMENTARY PROVISIONS**

### **First. Effectiveness**

This Resolution comes into force as of January 1, 2025

### **Second. Tax Code Approvals**

The following tax codes shall be approved

- a) 1042- VAT Digital Economy Withholdings
- b) 1043- VAT Digital Economy Collections

## **RECTIFYING SUPPLEMENTARY PROVISIONS**

### **Unique. Amendments in the Superintendency Resolution 109-2000/SUNAT**

Subsections 65 and 66 are included in article 2 of the Superintendency Resolution 109-2000- SUNAT, under the following terms:

“Article 2: SCOPE”

(...)

65. Generate the SUNAT Payment number for transfers (NPST)

66. Access the Filing and Payment Platform for non-residents to conduct transactions available and enabled in such platform.

## **TRANSITORY SUPPLEMENTARY PROVISION**

### **Unique. Moment when the type of currency is chosen**

The type of currency is chose in December 2024 for filing and payment purposes of the VAT withheld and/or collected in that period since it concerns the non-residents referred to in the single transitory supplementary provision of Legislative Decree 1623.

It is hereby ordered that it be recorded, notified and published

(SIGNED) VICTOR MEJIA NINACONDOR

National Superintendent

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