

The first self-assessment of the Digital Services Tax could arrive in April 2021

Analysis of the Draft Order approving Form 420 for the self-assessment of the tax on certain digital services (hereinafter, DST)

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On 15 December 2020, [the Ministry of Finance published](#) a draft order approving Form 420 for the quarterly self-assessment of the tax on certain digital services, a document which will be subject to a public hearing until 30 December 2020.

Without going into the possible confusion which could be caused by having a Form with the same numbering as the one corresponding to the self-settlement of the Canary Islander IGIC (Form 420), this draft has five articles and five final provisions, and is limited to specifying the content of article 14 of Law 4/2020, on DST. In other words, it regulates the presentation of quarterly self-assessments and the collection of the tax debt in terms of its place, form and deadlines.

Given that the general deadline for the payment of the self-assessment will be extended until the last day of the month following the end of each calendar quarter, the first self-assessment of this tax will be made, if the draft order is not modified, from 1 to 30 April 2021 by electronic means.

In view of the proximity of this date, it is remarkable that a postponement of the obligation to present the first self-assessment is not contemplated, with a draft regulation and a draft order in parliamentary processing fifteen days before the entry into force of the tax, and without a guide, in a format similar to that of the French or British "DSTs", which provides greater detail and clarity in the application of the DST to specific

business cases, which is currently a widespread complaint by companies.

As a novelty, this draft Order includes a new form of payment by bank transfer for cases in which the taxpayer does not have an account opened with any credit institution acting as a collaborator in the collection process, which could be a usual case given the nature of this tax.

The draft Order also introduces the obligation, even for entrepreneurs or professionals who are already part of the tax census in Spain, to make a formal communication of their status as DST taxpayers. However, this provision will come into force from 1 April 2021.

On the other hand, the draft DST Regulation also stated that the transactions subject to registration "*must be recorded at the time when the assessment and payment of the tax relating to such transactions is made or, in any event, before the end of the legal period for making such assessment and payment in the voluntary period*", without it being very clear how the two time periods differ, which is also not clarified in this draft Order approving Form 420.

To conclude, and as we stated in [our previous Newsletters](#), nothing is expressly included in this Draft Order either in relation to the regulatory detail of the rest of the formal obligations contained in Article 13 of the Law, specifically in its sections b), e), f), g) and h). All this less than a month before the entry into force of the tax, and with the Christmas holidays in between...