

THE ONLINE GAMING OPERATORS ESTABLISHED IN CEUTA DO NOT SUPPORT VAT FOR THE SERVICES RECEIVED FROM ADVERTISING, AS WELL AS THE SERVICES THAT ARE PROVIDED TO THEM ELECTRONICALLY, INSTEAD THEY SUPPORT 0.5% OF IPSI.

On December 12, 2018, the Autonomous City of Ceuta sent the GENERAL DIRECTORATE OF STATE TAXES a request for a report, for indirect taxation purposes, of ADVERTISING services and of ELECTRONICALLY PROVIDED of a legal person based in the City of Ceuta and the scope of the closure rule in its eventual application.

In response to our request, a report has been received from the GENERAL DIRECTOR OF TAX, dated June 28, 2019, with the following conclusions:

A) In relation to the Value Added Tax.

Seventh: By virtue of all the above, the advertising services that are the object of the consultation will not be subject to the Value Added Tax as they are recipients of online gambling operators that exclusively carry out exempt operations in the territory of application of the Tax.

On the other hand, the services provided electronically subject to consultation will not be subject to Value Added Tax when, in accordance with the provisions of Article 24 ter of Implementing Regulation (EU) No. 282/2011, the gaming operator in line is not presumed established in the territory of application of the Tax for the purposes of its receipt.

B) In relation to the Tax on Production, Services and Importation in CEUTA (...)

*Consequently, advertising services and services provided electronically whose recipient is an online gambling operator established in the Autonomous City of Ceuta are subject to the Tax on Production, Services and Importation.
Ceuta, July 3, 2019.*

TAX CONSIDERATIONS TO THE REPORT ISSUED BY THE GENERAL DIRECTOR OF STATE TAXES, REGARDING THE RULES OF LOCATION OF VAT and IPSI APPLICABLE TO ONLINE GAMING OPERATORS ESTABLISHED IN THE AUTONOMOUS CITY OF CEUTA.

This report determines that the special closing rule, regarding the effective use and enjoyment of services, contained in article 70, two of Law 37/1992, on Value Added Tax (LIVA), is not applicable. to advertising services or services provided electronically, whose recipients are online gambling operators who exclusively carry out operations exempt from it and are established outside the territory of application of VAT.

This means that, as a consequence of the exemption provided for in article 20.One.19° of the LIVA, even though online gambling operators are considered businessmen or professionals for tax purposes, since when carrying out exclusively exempt operations, they do not originate the right to deduct the tax burden that they would bear, their performance is equated with that of a final consumer.

Such circumstances imply applying the general rules of location of services, contained in 69.One.1° of the LIVA, commonly known as “b2b” operations, being the advertising services and the services provided electronically, whose recipient is a online gambling operator established in the Autonomous City of Ceuta, subject to the Tax on Production, Services and Import, whose current tax rate is 0.5%.