# The Digital Economy And Recent Taxation Implications – The Case Of Egypt

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## Introduction:

The last decade has witnessed unprecedented growth of digital economy and an endless demand of online shopping that has magnified due to continuously developing technologies and the pandemic of the past two years. In response to this demand, many companies across Egypt have resorted to adapting digital operating platforms such as websites and mobile applications.

Opting to digital platforms has not only ensured the survival of businesses during the pandemic, but it also extended their reach to a vaster number of international clientele at more competitive prices. According to a study conducted by MasterCard, e-commerce purchases has become a regular investment for the everyday consumer. When looking into consumer behaviour and spending in Egypt, the study revealed that nearly 72% of consumers in Egypt are shopping online since the onset of the COVID 19 pandemic.

## E-commerce Taxation

The rising rate of online shopping in Egypt during the pandemic has drawn the authorities' attention to the issue of taxation of e-commerce activities. In this regard, e-commerce companies were merely subject to Law no. 91 of 2005 (the "**Income Tax Law**"). Article 49 thereof provides that juridical persons residing in Egypt, with respect to all profits, whether realized in Egypt or abroad along with non-resident juridical persons, with respect to the profits realized through a permanent establishment in Egypt shall be subject to taxation at the rate of 22.5% of the net annual profits.

Therefore, up until the issuance of the 2021 Minister of Finance Decree, e-commerce companies were subject to income tax on their profits, however, said activities were not subject to Value Added Tax ("**VAT**").

To balance this tax discrepancy and achieve fair competition between companies selling through digital platforms and companies selling in traditional means, the Ministry of Finance has decided to levy Value-Added Tax on digital economy companies through the issuance of Decree no. 285 of 2021 (the "**Decree**").

Primarily, the Decree includes companies providing deliveries via online purchases to the list of goods and services that are subject to taxation in accordance to Law no. 67 of 2016 (the "**Value Added Tax Law**"). In accordance with Article (16) of the Value Added Tax Law, companies selling taxable goods or perform taxable services with their sales turnover exceeding EGP 500,000 (five hundred thousand Egyptian pounds) within 12 calendar months are obligated to register with the Egyptian Tax Authority ("**ETA**") within 30 days from the date of the sales turnover reaching the aforementioned registration threshold.

Not only did Egypt levy VAT on e-commerce companies, it has also levied VAT on content creators such as bloggers and YouTubers if their revenues exceed EGP 500,000 (five hundred thousand Egyptian pounds) per annum.

The ETA has established an e-commerce unit to monitor and target tax evasion committed by e-commerce companies and content creators. In accordance to the Value-Added Tax Law "*whomever commits evasion of the VAT and Schedule Tax shall be punished by a term of imprisonment of not less than (3) three years and not exceeding (5) five years and/or a fine of not less than (EGP 5,000) five thousand Egyptian pounds and not exceeding (EGP 50,000) fifty thousand Egyptian pounds*". In addition to the newly established e-commerce unit, the ETA has established an electronic invoice system in accordance with Decree no. 188 of 2020, to facilitate the achievement of tax justice and lay the foundations for a sophisticated tax system comparable to developed countries.

According to the Head of ETA, as of 2022, there are 31,000 companies registered with the electronic invoicing system, and more than 6,700 companies of these companies have uploaded electronic documents to the actual operating environment of the electronic invoice system. Up to this date, said system receives more than 650,000 electronic invoices per day and is expected to reach one million electronic invoices per day by the end of March 2022. The latter anticipates that by the end of the current year, 2002, all companies operating in Egypt will have a company profile on the electronic invoice system and will be able to pay their taxes online through this system.

While Egypt's decision to levy VAT on e-commerce businesses was targeting internal unification of its regulations across all types of businesses and aiming to achieve Egypt's 2030 vision, it also aligns with the G7's (United Kingdom, Canada, France, Germany, Italy, Japan, and the United States) strategy to impose a global tax of at least 15% on multinational companies' profits such as Amazon, Apple, Facebook, and Google.

# Ecommerce Licensing

With the increase of digital platforms in Egypt, the Press and Media Law no. 180 of 2018 (the "**Press and Media Law**") has aimed to regulate the establishment of such platforms from a licensing perspective. The said law has provided that it is prohibited to establish or manage websites in the Arab Republic of Egypt, or to manage offices or branches of websites operating from outside the Republic without obtaining a license from the Supreme Media Council ("**SMC**").

In order to obtain this license, the applicant is required to fill and submit the required form signed either by the owner of the company or by its legal representative. The fees for the issuance of said license is EGP 50,000 (fifty thousand Egyptian pounds). Failure to

acquire the required license results in a fine of not less than EGP 1,000,000 (one million Egyptian pounds) and no more than EGP 3,000,000 (three million Egyptian pounds), which would be doubled for reoccurrence.

The list of SMC licenses obtained by companies in order to establish or manage a digital platform whether a website or an application, shall be shared with the ETA. Accordingly, the ETA will investigate said list and in case of any are not registered in the latter and have not submitted tax filings and paid due taxes, the companies in question shall be charged with tax evasion.

Similarly, the ETA shall share its list of registered digital platforms with the SMC, where both lists are to be compared, and non- licensed platforms are to be addressed.

# Practical Note

From a practical standpoint, having databases of companies registered at both authorities and similar governmental entities, targets the minimization of tax evasion cases related to e-commerce platforms and companies of the like.

The Al Tamimi & Company Tax Practice Team has advised a number of national and international companies operating in Egypt on the implications of the Minister of Finance Decree on their digital activities. Based on our experience, it is highly advisable that companies based and/or operating in Egypt seek advice on the requirement to register in the ETA and file their taxes in a timely manner along with obtaining the SMC license so as to avoid any civil or criminal liability.

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