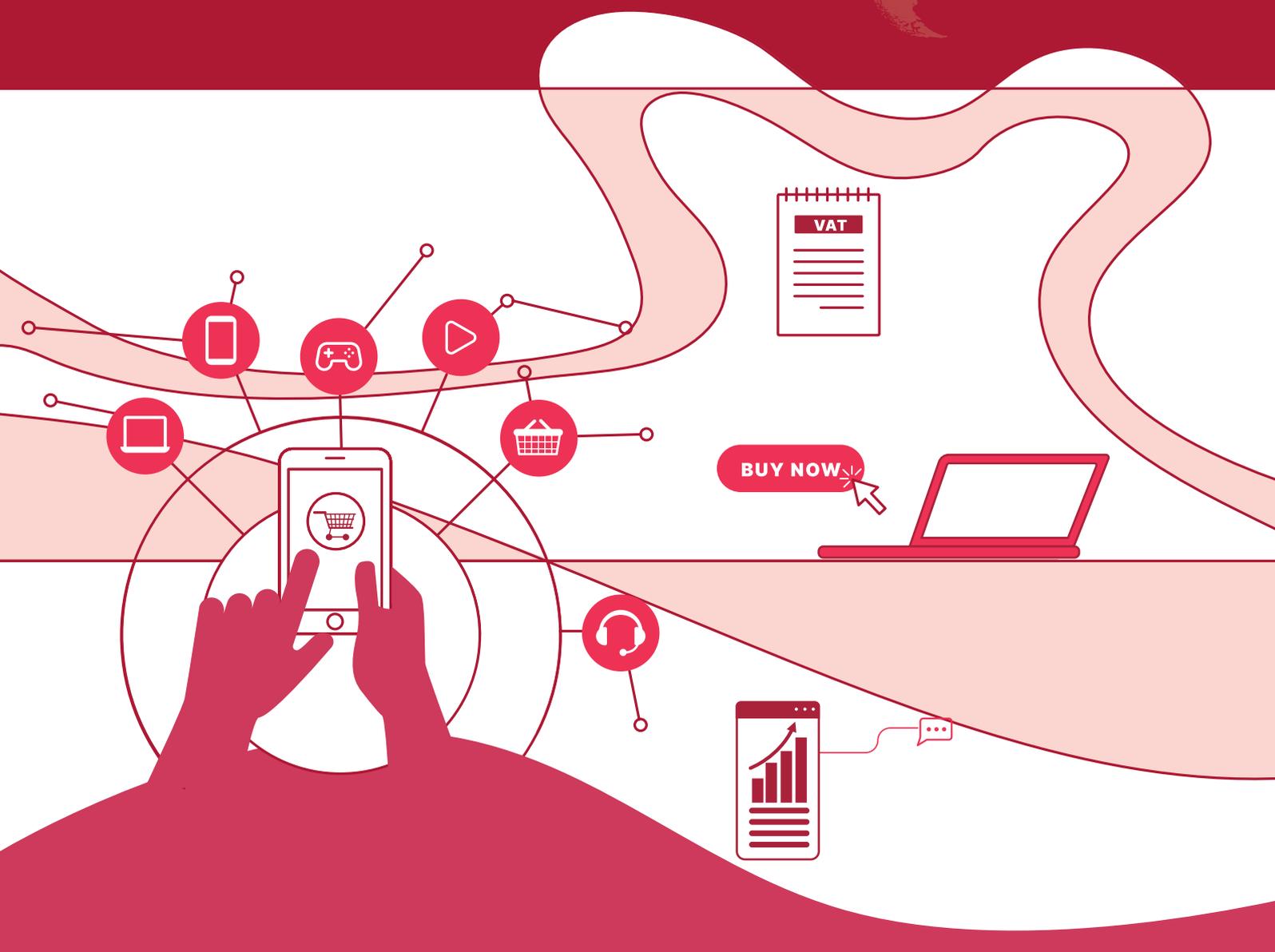


VAT Digital Toolkit for Latin America and the Caribbean

Highlights and key recommendations



VAT Digital Toolkit for Latin America and the Caribbean

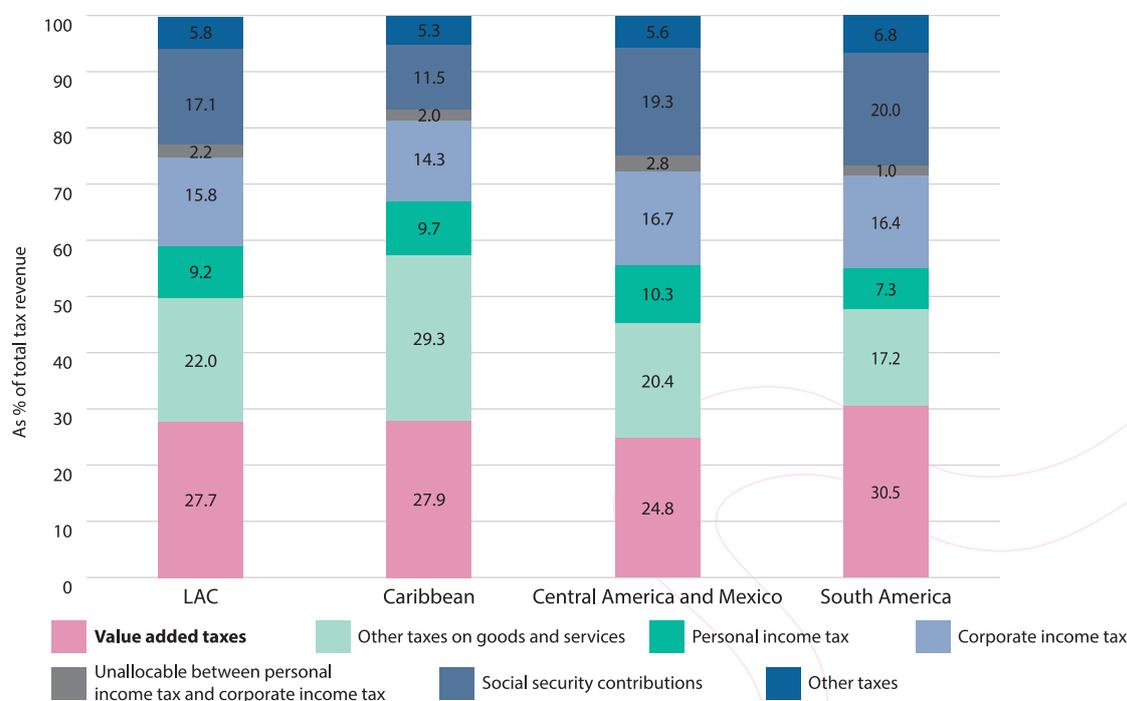
Value added tax (VAT) is the largest source of tax revenue on average in the Latin America and Caribbean (LAC) region, at 27.7% of total tax revenues in 2019. Revenue from VAT as a percentage of GDP more than doubled for LAC countries on average between 1990 and 2019, from 2.2% of GDP in 1990 to 6.0% in 2019.¹

Safeguarding these crucially important VAT revenues in an economy that is being transformed by digitalisation and globalisation is a priority for many governments in the LAC region. Most jurisdictions that employ a VAT in other regions around the world confront similar challenges. The need for reform, however, may be more urgent in the LAC region, as it is one of the fastest growing e-commerce² regions in the world and VAT reform in response to this new economic reality has remained relatively limited.

The main VAT challenges related to e-commerce are:

- The strong growth in online sales of services and digital products (applications and “in-app” purchases, streaming of music and on-demand television, gaming, ride-hailing, accommodation rental, etc.), particularly to private consumers, on which no or an inappropriately low amount of VAT is levied in the absence of effective provisions to impose VAT on such supplies under traditional VAT rules; and
- The strong growth of the volume of imports of low-value goods from online sales, on which VAT is not collected effectively under the traditional customs procedures and which therefore often enter jurisdictions untaxed. This causes rapidly growing VAT revenue losses and unfair competitive pressure on domestic businesses that cannot compete against the continuously rising volumes of VAT-free online retail sales.

Figure 1. **Average tax structure in the LAC region and sub-regions, 2019**



Source: OECD/ECLAC/CIAT/IDB (2021), *Revenue Statistics in Latin America and the Caribbean 2021*, <https://oe.cd/RevStatsLAC>

1 OECD/CIAT/ECLAC/IDB (2021), *Revenue Statistics in Latin America and the Caribbean 2021*, <https://dx.doi.org/10.1787/96ce5287-en-es>.

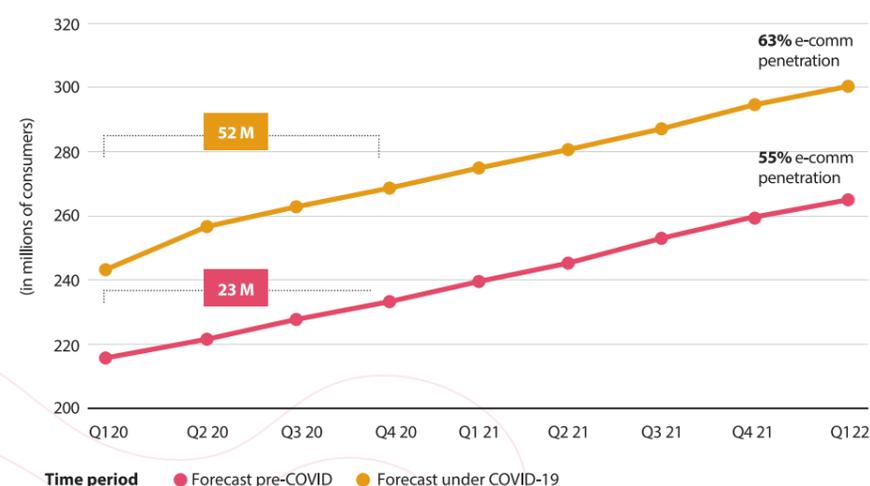
2 The terms “e-commerce” and “digital trade” are used to encompass a broad range of digitally enabled transactions in services, intangibles and (physical) goods that can be either digitally or physically delivered, involving both private individuals and businesses. These terms are used interchangeably to broadly refer to the same set of transactions.

The LAC region is one of the fastest-growing regions for e-commerce worldwide. The outbreak of the COVID-19 pandemic has been a key driver in a stronger than expected e-commerce growth in the LAC region. Millions of people opened a bank account, or an online alternative, for the first time in their lives to receive government emergency aid. At the same time, mobile phone ownership and mobile Internet access continued to increase with growing possibilities to shop and to pay online via mobile devices, while consumers in the LAC region have been encouraged to shop online in light of COVID-19 “stay-at-home” restrictions. As a result, e-commerce has been estimated to reach 63% penetration of the total population in Latin America in 2022, compared to the 45% penetration at the beginning of 2020. Online trade in goods and in digital products and services are estimated to have grown in the LAC region at the respective rates of 21% and 20%-to-30% year-on-year in 2020.³ At the same time, however, VAT receipts declined considerably in 2020, particularly during the first half of the year. Although they improved throughout the second half of the year, VAT receipts for the year declined sharply on average compared to 2019.⁴

The need for action to ensure that VAT is collected efficiently and effectively on the fast-growing volumes of e-commerce sales is high. Action is required not only to generate the revenues necessary to finance sustainable development and to strengthen the redistributive power of tax policy in the LAC region post-crisis, but also to avoid competitive distortion between online sellers and local “bricks-and-mortar” stores.

Governments worldwide have recognised that the VAT challenges of the digital economy require a globally coordinated response. Such a response is likely to maximise compliance levels at minimal cost, support effective international co-operation in tax administration and enforcement and minimise risks of trade distortion.

Figure 2. LAC region digital trade newcomers (in millions of consumers)



Source: EBANX/AMI data (2020), *A study on the state of cross-border e-commerce in Latin America*, <https://imgcdn.larepublica.co/cms/2020/12/16091007/EBANX-Beyond-Borders-2020.pdf>.

³ EBANX (2020), *A study on the state of cross-border e-commerce in Latin America*, <https://imgcdn.larepublica.co/cms/2020/12/16091007/EBANX-Beyond-Borders-2020.pdf>.

⁴ OECD/ECLAC/CIAT/IDB (2021), *Revenue Statistics in Latin America and the Caribbean 2021*, <https://dx.doi.org/10.1787/96ce5287-en-es>.

In response, the OECD has delivered a comprehensive internationally agreed policy framework for addressing the VAT challenges of the digital economy, reflecting broad consensus on effective and efficient solutions among tax authorities worldwide. It results from an intense and inclusive policy dialogue among tax authorities from OECD member countries and non-member economies and key international and regional organisations over the course of several years. The core standards and principles are included in the *International VAT/GST Guidelines* and in the 2015 Final Report on BEPS Action 1 *Addressing the Tax Challenges of the Digital Economy*. These standards have been complemented with detailed technical guidance on the design and implementation of mechanisms for the collection of VAT from non-resident online vendors; the VAT treatment of online marketplaces and other digital platforms; the collection of VAT on imports of low-value goods from online sales; and the VAT treatment of the sharing and gig economy. These OECD standards and recommendations have already been implemented in over 70 jurisdictions worldwide, including in the Bahamas, Barbados, Chile, Colombia, Costa Rica and Mexico. Results are very positive in terms of VAT revenue collection, compliance levels and reduction of competitive distortion between traditional “bricks-and-mortar” stores and online vendors.

The OECD policy framework for addressing the VAT challenges of digital trade is based on four main pillars

- Creating the legal basis for jurisdictions to assert the right to impose VAT on international digital trade. This includes internationally agreed standards for determining the “place of taxation” of online sales of services and digital products by reference to the location of the customer.
- Ensuring the efficient collection of VAT on online sales of goods, services and digital products from foreign vendors through simplified VAT registration and collection.
- Boosting the efficiency of VAT collection by requiring digital platform operators, which dominate global digital trade, to collect and remit the VAT on sales carried out through their platform(s).
- Enhancing VAT compliance by foreign online vendors through a modern risk-based compliance strategy and robust administrative co-operation.

The VAT Digital Toolkit for Latin America and the Caribbean provides comprehensive and detailed guidance for the policy design, implementation and operation of a comprehensive VAT strategy targeted at digital trade in the LAC region. It is based on the internationally agreed OECD policy framework and draws on expertise and best practices from jurisdictions that have already successfully implemented these standards:

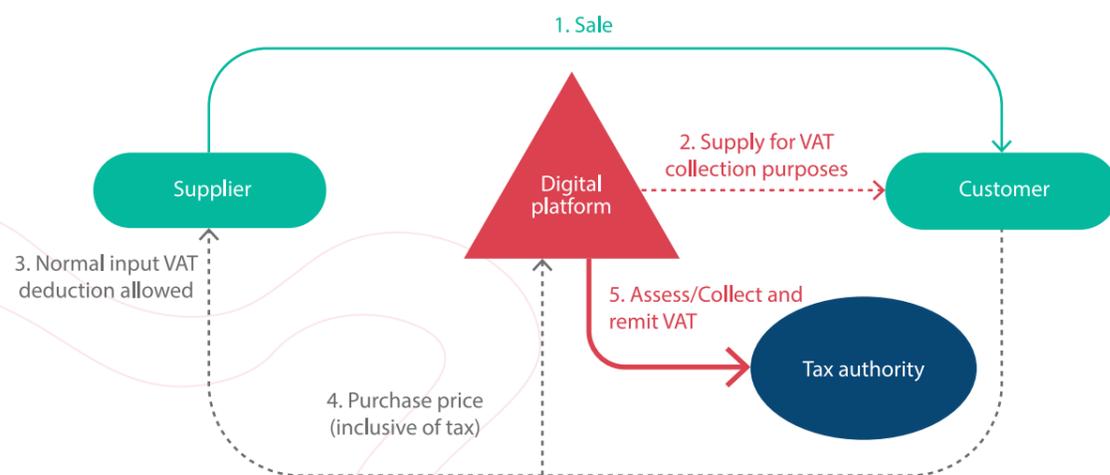
- Section 3 of the Toolkit provides detailed analysis of the various components of the recommended policy framework for the application of VAT to digital trade and the available options for implementing them into a jurisdiction’s VAT system, taking account of the specific LAC context. It focuses respectively on internationally traded services and intangibles (including digital services and products); on imports of low-value goods from online sales; and on the sharing and gig economy.
- Section 4 of the Toolkit presents detailed guidance on the key issues associated with the administrative and operational implementation of the OECD policy framework for the collection of VAT on digital trade. This includes the implementation of a simplified compliance regime for foreign online suppliers, the development of an online portal for registration and payment of the VAT and their integration into a tax authority’s existing administrative and IT framework.
- Section 5 of the Toolkit advises policymakers and administrators on the development of audit and risk management strategies for the application of VAT to digital trade.

Core recommendations of the VAT policy framework targeted at digital trade, presented in Section 3 of the Toolkit

- To introduce VAT rules that determine the place of taxation for supplies of services and intangibles to private consumers by reference to the jurisdiction of the consumer's usual residence. This allows a jurisdiction to impose VAT on these supplies, including sales of digital services and digital products, to private consumers that have their usual residence in its territory irrespective of whether or not the supplier is located in that jurisdiction.
- To identify clear criteria and indicia for determining and evidencing a consumer's usual residence, by reference to data that are normally available to online suppliers in their normal course of business (including bank card and/or other payment data, billing address, and IP address).
- To introduce a requirement, for non-resident suppliers of services and intangibles to private consumers, to register and to account for the VAT on these supplies in the taxing jurisdiction.
- To enhance and facilitate compliance for these non-resident suppliers by introducing a registration and collection regime that limits obligations to what is strictly necessary for the effective collection of the VAT, supported by online processes.
- To implement a requirement for digital platform operators to collect and remit the VAT on the sales made through their platform by non-resident online suppliers ("full VAT liability regime"). This can be complemented with reporting requirements, including requirements addressed to sharing and gig economy activities, thus creating considerable opportunities for greater visibility of informal economy activity.

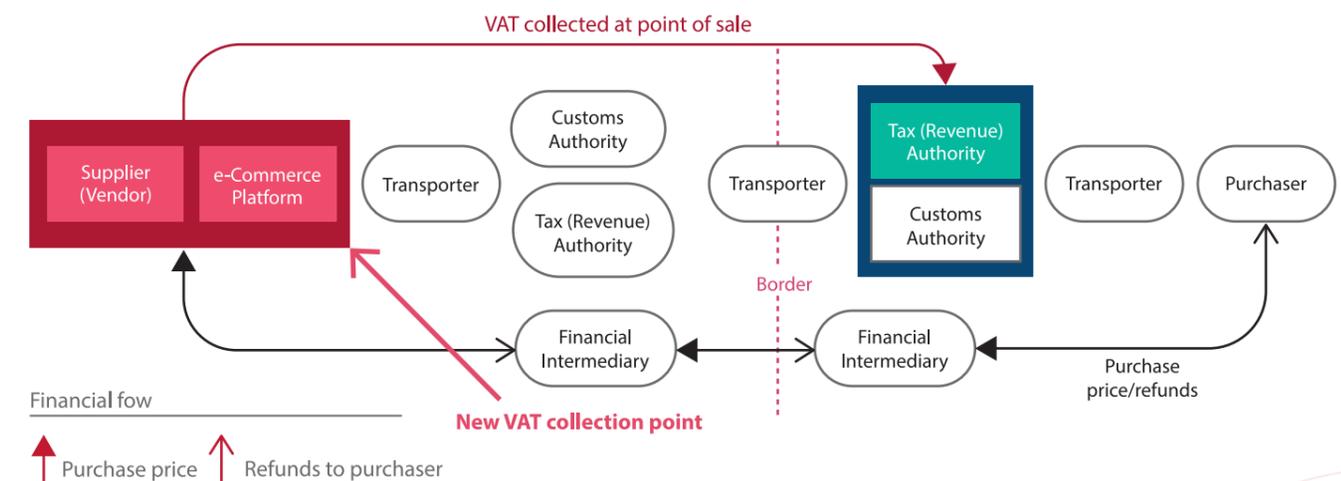
- To extend this regime to low-value imported goods, requiring non-resident suppliers and/or digital platforms to collect the VAT on these goods when they are sold to private consumers and to remit the VAT to the tax authorities in the jurisdiction to which they are imported. This significantly enhances the efficiency of VAT collection, by relieving customs authorities of the task of collecting tax at the border and by considerably reducing opportunities for fraud from undervaluation of imports.
- To consider implementing a withholding obligation for financial intermediaries, specifically on payments to non-compliant non-resident suppliers as a backstop solution and disincentive to non-compliance. This is particularly relevant for LAC jurisdictions, given the widespread use of such VAT withholding regimes.
- To strive for international consistency in designing and administering the above measures to impose and collect VAT on international digital trade. Greater consistency will facilitate compliance for foreign businesses and digital platforms with multi-jurisdictional obligations by greatly reducing the financial costs and administrative burdens of compliance, thus ultimately safeguarding and enhancing revenues for governments.

Figure 3. Basic operation of the full VAT liability regime for digital platforms



Note: the sequence of numbers assigned in the diagram is for identification only. It is not intended to indicate the timing of a specific step in chronological order.
Source: OECD (2019), *The Role of Digital Platforms in the Collection of VAT/GST on Online Sales*, <https://doi.org/10.1787/e0e2dd2d-en>.

Figure 4. Overview of VAT collection for imports of low-value goods under a simplified registration and collection regime



Source: OECD/WBG/CIAT/IDB (2021), *VAT Digital Toolkit for Latin America and the Caribbean*, OECD, Paris, <https://www.oecd.org/tax/consumption/vat-digital-toolkit-for-latin-america-and-the-caribbean.htm>.

Section 4 of the Toolkit presents detailed guidance for the administrative and operational implementation of the recommended VAT policy framework targeted at digital trade.

These core recommendations include the following in particular:

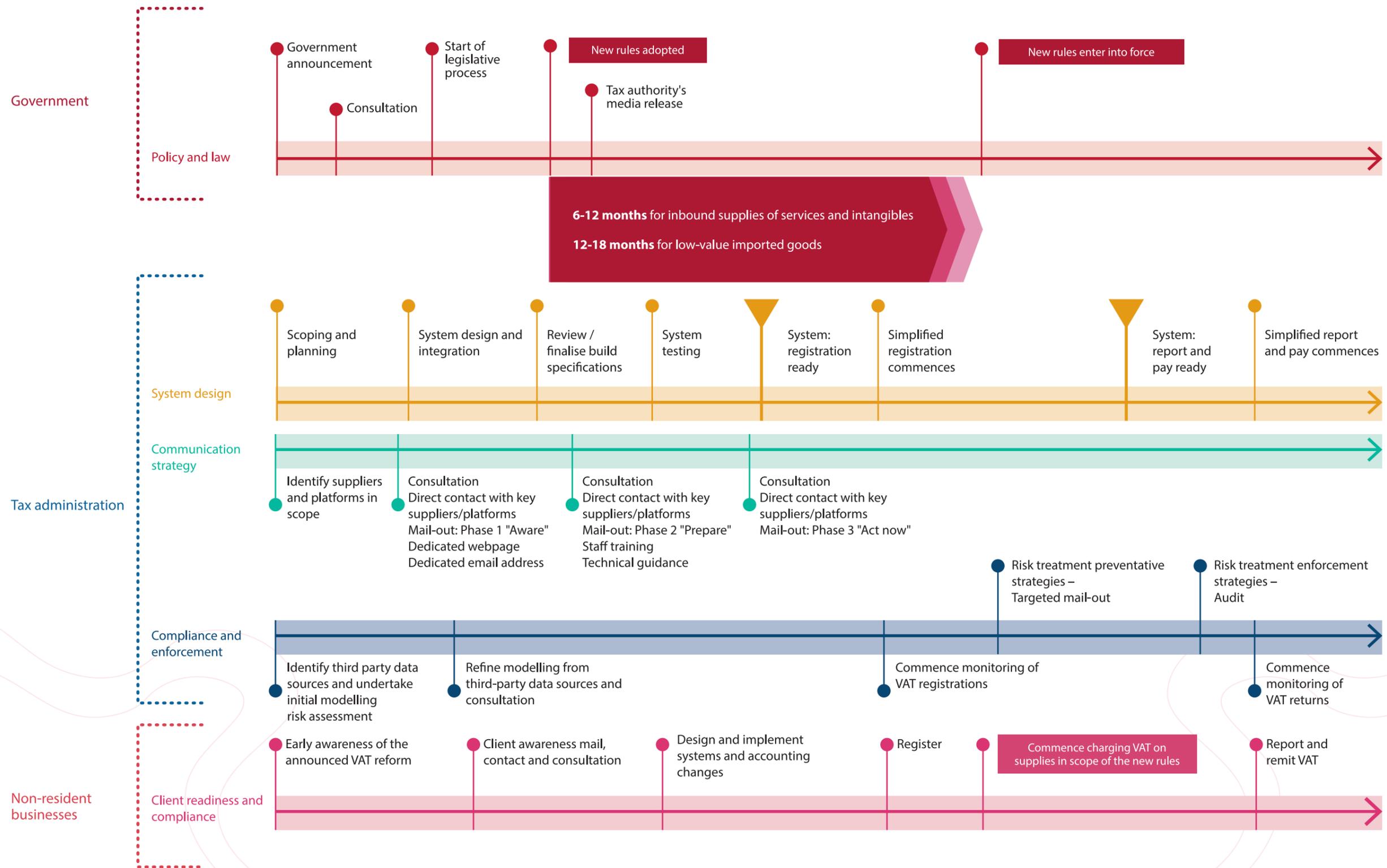
- To sequence the implementation of the reform, focusing first on the collection of VAT on services and intangibles from non-resident online suppliers (including digital services and digital products) and subsequently extending these obligations to VAT on imported low-value goods. VAT reform for imports of goods from online sales is more complex, particularly due to the connection with customs processes.
- To adopt a project-based approach for the development of the operational and IT infrastructure that is necessary to support the implementation of the reform, with an appropriate governance structure to ensure effective project management and project delivery. Section 4 includes a detailed roadmap for project design and implementation.
- To implement an online portal through which non-resident suppliers carry out their key VAT compliance obligations, particularly registration, return filing and payment of the VAT due. Section 4 provides detailed technical guidance on the design and operation of each of the components of such an online portal, including its integration in tax authorities' existing infrastructure. It also includes a detailed discussion of the interaction with customs processes, including the approach to ascertaining the "VAT paid" status of low-value goods from online sales at the time of importation.
- To limit the operation of this regime to the collection of VAT, without the availability of input VAT recovery for non-resident suppliers under this regime ("pay-only" regime).
- To consider utilising the open-source software for the implementation of a simplified compliance regime for non-resident suppliers in line with OECD guidance, which the Inter-American Center of Tax Administrations (CIAT) has developed.
- To consult with the international business community from the outset and throughout a jurisdiction's reform to implement the recommended policy framework for the application of VAT to digital trade.
- To provide appropriate lead-time for implementation to tax administrations and non-resident online suppliers. A lead-time of 6-12 months between adoption of the reform and entry into force is considered appropriate for VAT reform directed at online sales of services and intangibles. A lead-time of 12-18 months is generally considered appropriate for VAT reform targeted at imports of low-value goods. Close alignment with the recommended OECD framework can considerably shorten these lead-times, as online businesses and tax authorities can leverage solutions and technology that have already been implemented in jurisdictions that have adopted a similar approach.

Section 5 of the Toolkit provides guidance on a comprehensive risk management strategy to support VAT collection on digital trade.

These recommendations include the following in particular:

- To maximise compliance levels by providing clear instructions to non-resident suppliers on their VAT obligations in the taxing jurisdiction and by communicating it in English and in the language(s) of the jurisdiction's main trading partners, in addition to the jurisdiction's local language(s). Online trade is dominated by a relatively limited number of large online vendors and digital platforms that have been found to be largely compliant with obligations under VAT regimes for non-resident suppliers based on OECD guidance. Close alignment with OECD guidance facilitates compliance for online vendors that typically face obligations in multiple jurisdictions, and thus maximises compliance levels and VAT revenues.
- To provide clear guidance in particular on the scope of the VAT regime for non-resident suppliers (including on types of services and intangibles in scope; low-value imported goods; business-to-business and/or business-to-consumer specifics); on the determination of the customer's status where this is relevant for the operation of the regime; on indicia and criteria for determining and evidencing the customer's location; and on applicable VAT rate(s) and exemptions.
- To make extensive use of third-party data for identifying the taxpayer population in scope of the regime for non-resident suppliers and detecting non-registration, to monitor compliance and to support a risk-based compliance management strategy. These can include data from banks and financial intermediaries; from stakeholders in the goods trade (including postal operators and express couriers); and from the use of "e-discovery solutions" and "Internet scraping" tools (web harvesting and web data extraction).
- To enhance tax authorities' enforcement capacity in respect of VAT compliance by non-resident suppliers by making effective use of the available opportunities for international administrative co-operation. In particular, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters is the most comprehensive multilateral instrument available for all forms of administrative co-operation between jurisdictions in the assessment and collection of taxes, including VAT. The co-operation can encompass exchange of information, including automatic information exchanges, and assistance in the recovery of foreign tax claims.

Figure 5. Indicative project implementation timeline



Source: OECD/WBG/CIAT/IDB (2021), VAT Digital Toolkit for Latin America and the Caribbean, OECD, Paris, <https://www.oecd.org/tax/consumption/vat-digital-toolkit-for-latin-america-and-the-caribbean.htm>.

For more information



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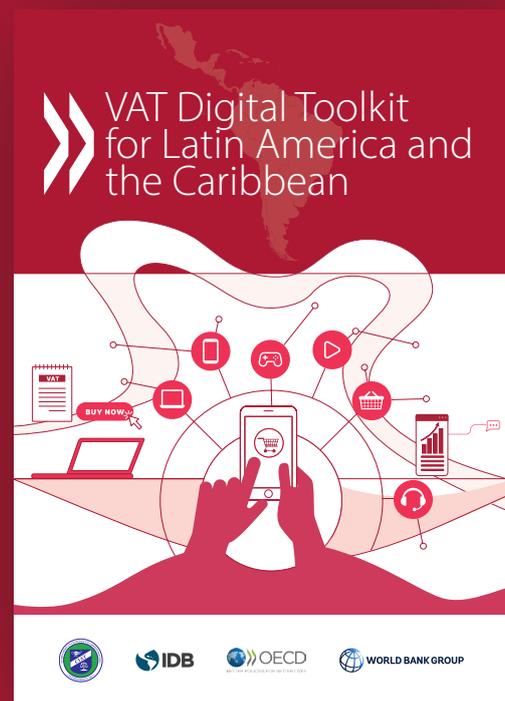
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Further reading:

OECD/WBG/CIAT/IDB (2021), *VAT Digital Toolkit for Latin America and the Caribbean*, OECD, Paris, <https://www.oecd.org/tax/consumption/vat-digital-toolkit-for-latin-america-and-the-caribbean.htm>.

