

CESOP obligations for PSPs



With effect from 1st January 2024, Payment Service Providers ('PSPs') face new record keeping and reporting obligations. These obligations are introduced with the aim to combat VAT fraud associated with e-commerce.

Who is impacted by the CESOP?

The new rules impact PSPs as defined under Directive (EU) 2015/2366 ('PSD II') namely credit institutions, electronic money institutions, post-office giro institutions and payment institutions when they provide payment services. Persons exempt in terms of Article 32 of PSD II are also impacted by the new record keeping and reporting obligations.

In which scenarios do PSPs have the obligation to maintain records and make these records available to the VAT Authorities?

PSPs are required to maintain records and report when they provide payment services that:

- i. qualify as 'cross-border payments'; and
- ii. where in a calendar quarter the number of cross-border payments per payee per Member State exceeds 25.



The PSP of the Payer is exonerated from the obligation to maintain records and reporting if at least one of the PSPs of the Payee is based within the EU.

This means that:

There are no reporting obligations for PSPs with respect to transactions where both the Payer and the Payee are based within the same EU Member State or where the Payer is based outside the EU.

In all the other circumstances, the PSP of the Payee providing payment services in respect of cross-border transactions is required to record and report the transactions. Where the PSP of the Payee is based outside the EU, this obligation shifts onto the PSP of the Payer.



A payment is cross border when the Payer is located in a MS and the Payee is located in another country (EU or non-EU)



The number of cross-border payments is calculated by reference to the payment services provided by the PSP per Payee per Member State

What are the record keeping obligations under CESOP?

PSPs that provide payment services in respect to more than 25 cross-border payments per payee per quarter and that have the obligation to maintain records and report, are required to keep records containing the following information in electronic format for a period of three calendar years from the end of the calendar year of the date of the payment:

A

BIC or other code that unambiguously identifies the PSP

B

Name of the payee, as it appears in the records of the PSP

C

If available, any VAT ID Number or other national tax number of the payee

D

IBAN or similar unique identification that gives the location of the payee

E

BIC that unambiguously identifies and gives location of the PSP acting on behalf of the payee where the payee receives funds without having a payment account

F

If available, address of payee as it appears in the records of the PSP

G

Details of the cross-border payment and any related refund namely;

- The date and time of payment or of the payment refund.
- The amount and currency of the payment /payment refund.
- MS of origin of the payment received by or on behalf of the payee, the MS of destination of the refund as appropriate, and the information used to determine the origin or the destination of the payment or the payment refund.

- Any reference which unambiguously identifies the payment.
- Where applicable, information that the payment is initiated at the physical premises of the merchant.

In addition to maintaining the records, PSPs will be required to make such records available to the tax authorities of the relevant MS through the CESOP system.

KPMG's Observations

While the growth of e-commerce facilitated the sale of goods and services across various Member States, it has also provided fraudulent businesses with the opportunity of gaining an unfair market advantage by evading their VAT obligations. Since the vast majority of online purchases made by consumers are executed through PSPs, CESOP is aimed at PSPs as they have access to information which once communicated to the tax authorities enables the said authorities to detect fraudulent businesses and control VAT liabilities.

In-scope PSPs should ensure that they have systems in place that capture the information necessary to fulfil these new recording and reporting obligations effective as from 1st January 2024.

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