



Euro Tax Flash from KPMG's EU Tax Centre

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EU reporting requirement for platform operators – state of play of domestic implementation of DAC7

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Council Directive (EU) 2021/514 (DAC7) introduces an obligation on platform operators to provide information on income derived by sellers through the platform and allows tax authorities of EU Member States to collect and automatically exchange such information.

Member States had until December 31, 2022 to transpose the rules into national law. The Directive will apply from January 1, 2023 throughout the EU and the first reporting of data will be required by January 31, 2024.

This Special Edition summarizes the most recent implementation updates of the new rules into Member States' domestic legislation, as at the date of this publication.

Background on DAC7

On March 22, 2021, the Council of the European Union adopted rules revising the Directive on administrative cooperation in the field of taxation (please refer to Euro Tax Flash [Issue 447](#)). Council Directive (EU) 2021/514 (DAC7) introduces a uniform reporting obligation for platform operators, prompted by the OECD's Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy that were published on July 3, 2020. Both the Model Rules and DAC7 require digital platforms to collect information on the income realized by sellers through the platform and to report the information to tax authorities.

In addition to the introduction of a reporting obligation for platform operators, DAC7 also includes several other changes, including measures to enhance the cooperation between tax authorities, for example with regard to joint audits. These changes will not be touched on in this edition.

Scope

The rules impact both EU platform operators, as well as non-EU platform operators, if the latter facilitate relevant activities of EU sellers/providers or the rental of immovable property located in the EU. The reporting obligation applies to both cross-border and domestic relevant activities.

Relevant activities which are required to be reported include the rental of immovable property, the performance of personal services, the sale of goods, and the rental of any mode of transport, provided they are performed for a consideration the amount of which is known or reasonably knowable by the platform operator.

Reporting platform operators are required to collect and verify data and information from certain sellers. Reporting platform operators should then report this information on an annual basis to the tax authorities of an EU Member State and to the sellers so that they are aware of which information has been provided. This information will subsequently be exchanged among tax authorities within the EU, depending on where the seller is resident or where the immovable property is located.

Information that needs to be collected and filed includes, inter alia, information about the reporting platform operator itself, information about the reportable sellers, as well as information about the consideration(s) received by the reportable sellers from the associated relevant activities and any fees, commissions or taxes withheld or charged by the platform operator.

Timing and location of reporting

The reporting platform operators falling under the reporting obligation must provide the information to the tax authorities no later than January 31 of the year following the reporting period. A reporting period corresponds to the calendar year covered by the report. The reporting obligation applies for the first time as of January 1, 2023, with a first reporting deadline of January 31, 2024.

Notwithstanding these rules, for sellers that were already registered on January 1, 2023, the deadline for complying with the collection and verification requirements is December 31, 2024.

EU entities which qualify as reportable platform operators in more than one Member State, are allowed to elect the Member State where reporting is carried out. Non-EU platform operators, which are not resident for tax purposes in an EU jurisdiction, nor incorporated or managed in a Member State, nor have a permanent establishment in a Member State, and which are required to report under DAC7 are allowed to elect the Member State in which they register for the purposes of carrying out the reporting.

Reporting relief

Considering that reporting by platform operators with respect to sellers in the sharing and gig economy is a global OECD initiative, it is possible that jurisdictions outside the EU have or will also implement similar measures based on the OECD Model Rules. Non-EU platform operators may therefore also be required to disclose information on income earned by sellers on their platform to their local tax authority.

To eliminate double reporting, DAC7 contains rules that provide relief from the reporting obligations for non-EU platform operators where the European Commission has determined that Member

States receive equivalent information from non-EU countries that apply similar reporting regimes (e.g. under the OECD's multilateral competent authority agreement (MCAA)).

Exchange of information

The disclosed information will be exchanged automatically, on an annual basis, via the EU common communication network by using an XML schema to be developed by the Commission. The automatic exchange of information will take place within two months of the end of the year for which information was filed.

Sanctions

Where reportable sellers fail to provide the information required for the due diligence after two reminders but not sooner than the expiration of a 60-day period, platform operators are required to either close their account and prevent the seller from re-registering on the platform or withhold payment to the seller as long as the seller does not provide the information requested.

The Directive leaves it to the Member States to introduce sanctions for failing to comply with the requirements of national legislation implementing DAC7. However, penalties must be "effective, proportionate and dissuasive".

Implementation

Member States had until December 31, 2022 to transpose the amendments into national law.

Implementation of DAC7 into domestic legislation

As at the date of this publication, seventeen EU Member States – Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, the Netherlands, Slovakia and Sweden, had finalized the internal legislative process required for implementation of DAC7. Some Member States have also already provided guidance in respect of the application of the rules in practice.

Five countries – Italy, Luxembourg, Romania, Slovenia and Spain, have approved or published draft legislation for consultation or are discussing proposals within their Ministries of Finance. Another five countries – Cyprus, Greece, Malta, Poland and Portugal are yet to make public the text of their respective DAC7 implementation bills.

The following section provides an overview of a selection of countries that have finalized the DAC7 implementation process.

Austria

On July 19, 2022, the [bill](#) to transpose DAC7 into domestic law (hereinafter 'DPMG') was published in the Austrian Federal Law Gazette. The law entered into force on January 1, 2023. Key takeaways include:

- The provisions of DPMG are closely aligned with the text of the Directive but provide for a

broader personal and material scope to provide the possibility to exchange information with non-EU jurisdictions (e.g. under the OECD's MCAA) in the future.

- Violations of the reporting or registration requirements are considered a tax offence under the Austrian Act on Tax Offences. In case of intent, a fine of up to EUR 200,000 may be imposed and up to EUR 100,000 in case of gross negligence. Non-compliance with other due diligence procedures may be fined with up to EUR 20,000 in case of intent and up to EUR 10,000 in case of gross negligence. At present, it remains unclear if and how infringements committed simultaneously in other Member States will affect sanctions imposed in Austria.

The Austrian Ministry of Finance also published a [regulation](#) in the Federal Law Gazette providing clarifications on the personal scope, registration and reporting requirements as well as prerequisites to mitigate double reporting under DAC7. In particular, it is clarified that non-EU platform operators may register with the Austrian tax authorities via the dedicated web form [IIN-PL1](#) (first-time registration or re-registration following a revocation). Please note that in certain cases the statutory deadline for registration under DPMG is January 31, 2023. It is further expected that reporting should be carried out electronically in XML file form via "[FinanzOnline](#)" to comply with reporting requirements in Austria.

For more details, please contact KPMG in Austria ([Kirstin Krippner](#)).

Belgium

On December 30, 2022, Belgium published a [law](#) transposing DAC7 into domestic law. Key takeaways include:

- The provisions of the Belgian DAC7 law are closely aligned with the text of the Directive but provide for a broader scope, presumably, to provide the possibility to exchange information with non-EU jurisdictions under the OECD's MCAA.
- Sanctions for failure to comply with the reporting obligations vary depending on the severity and type of the default, with a maximum of EUR 50,000.

No procedural guidance has yet been issued to clarify registration and reporting requirements.

For more details, please contact KPMG in Belgium ([Kris Lievens](#)).

Croatia

On December 22, 2022, the [bill](#) to transpose DAC7 into domestic law was published in the Official Gazette. Key takeaways include:

- The provisions of the Croatian DAC7 law are closely aligned with the text of the Directive.
- If platform operators breach their due diligence and reporting obligations, they may face a fine of up to EUR 26,540 for each case of breach. Responsible individuals may face a fine of up to EUR 2,650.

On January 10, 2023, [draft guidance](#) was published for public consultation that will clarify

registration and reporting requirements.

For more details, please contact KPMG in Croatia ([Tomislav Borosak](#)).

Czech Republic

On December 7, 2022, the bill to transpose DAC7 into domestic law was [published](#) in the Official Gazette. Key takeaways include:

- The provisions of the Czech DAC7 law are closely aligned with the text of the Directive.
- If platform operators breach their due diligence and reporting obligations (including document retention), they may face a fine of up to EUR 60,000 for each case of breach. Entrepreneurs (both legal entities and individuals) may face a fine of up to EUR 20,000 for trading on non-cooperating platforms. Individuals may face a fine of up to EUR 2,000.

The Czech tax authorities issued [guidance](#) in form of a Q&A document providing clarifications on common issues in relation to, for example, the scope of DAC7 as well as the administration of the rules.

For more details, please contact KPMG in the Czech Republic ([Vaclav Banka](#)).

Denmark

On September 6, 2022, the Danish Minister of Taxation [issued](#) an Executive Order implementing DAC7 into Danish law. The provisions of the Danish DAC7 law are closely aligned with the text of the Directive.

Platform operators can be imposed penalties or in worst case face criminal procedures if acted intentional or grossly negligent.

The Danish tax authorities published [guidance](#) providing clarifications on the application of the DAC7 reporting requirements as implemented into Danish law. The guidance provides general information about the reporting framework under DAC7 and an overview of the registration, notification and reporting requirements for Danish, EU and non-EU reporting platform operators.

For more details, please contact KPMG in Denmark ([Birgitte Tandrup](#)).

Estonia

On December 29, 2022, the bill to transpose DAC7 into domestic law was published in the Official Gazette (Riigi Teataja). Key takeaways include:

- The provisions of the Estonian DAC7 law are closely aligned with the text of the Directive.
- Failures to comply with the obligations may be sanctioned with a non-compliance levy of up to EUR 3,300 in accordance with the Tax Information Exchange Act (the levy may not exceed EUR 1,300 in the first event of non-compliance and EUR 2,000 in the second event). In addition, a fine of up to EUR 1,200 (individuals) and EUR 3,200 (legal person)

may apply in accordance with the Taxation Act.

No procedural guidance has yet been issued to clarify registration and reporting requirements.

For more details, please contact KPMG in Estonia ([Ave Rego](#)).

Finland

On December 29, 2022, the Finnish President ratified the law transposing DAC7 into domestic legislation. Key takeaways include:

- The provisions of the Finnish DAC7 law are closely aligned with the text of the Directive. As an expansion to the scope of the Directive, the obligation to provide information would also apply to situations where platform operators have no material activities to report in a reporting period. In this instance, platform operators are required to file so-called “nil” reports.
- The law provides that the annual reports should be submitted to the Finnish tax authorities electronically in XML file form.
- Sanctions for failures to comply with the due diligence and reporting obligations vary depending on the severity of the default and are capped at EUR 15,000.

No further procedural guidance has yet been issued to clarify registration and reporting requirements.

For more details, please contact KPMG in Finland ([Pauliina Laine](#)).

France

On December 31, 2021, the Finance Law for 2022 was published in the French Official Gazette, which included the transposition of DAC7. Key takeaways include:

- The provisions of the French DAC7 law generally follow the text of the Directive. As a deviation from the Directive, platform operators must also report sellers established in a country which signed with France an agreement enabling automatic exchange of information covered by DAC7. In addition, platform operators are required to inform the sellers about their tax and social security obligations and that the information which is communicated to the tax authorities can be transferred to any other tax administration if France has signed an agreement with that jurisdiction.
- Failures to comply with due diligence and reporting requirements can be sanctioned with a penalty of up to EUR 50,000 and with being publicly named on a list of non-cooperative operators under certain conditions.

The French tax authorities published a [decree](#) providing procedural guidance on how to comply with the DAC7 reporting requirements, including the requirement to file the annual report electronically either by the platform operator or via a third-party designated to fulfil this obligation.

For more details, please contact KPMG in France ([Marie-Pierre Hoo](#)).

Germany

On December 28, 2022, the bill to transpose DAC7 into domestic law was [published](#) in the Official Gazette. The bill entered into force on December 29, 2022. Key takeaways include:

- The provisions of the German DAC7 law generally follow the text of the Directive.
- Failures to comply with the obligations may be sanctioned with an administrative penalty of up to EUR 50,000 (non-compliance with registration obligations), up to EUR 30,000 (non-compliance with reporting obligations) and up to EUR 5,000 (other compliance failures).
- Upon request, German tax authorities provide a binding assessment if a platform qualifies as such and if relevant activities are performed on the platform. The inquiry costs EUR 5,000 and may take up to 6 months of processing time.

No procedural guidance has yet been issued to clarify registration and reporting requirements.

For more details, please refer to a dedicated [report](#) or contact KPMG in Germany ([Jens Schuld](#)).

Ireland

DAC7 was transposed into national law as part of the Finance Act 2021 and the Finance Act 2022. Key takeaways include:

- The provisions of the Irish DAC7 law are closely aligned with the text of the Directive.
- Penalties of EUR 19,045 apply to a platform operator who does not provide the correct relevant information to the Irish tax authorities, with a further penalty of EUR 2,535 for each day where a return has not been made. These penalties may not apply where an incorrect return is made due to the failure of the reportable seller to provide the information and the platform operator has adequate procedures to address these failings.

The Irish tax authorities issued [clarifications](#) in relation to registration and compliance requirements for digital platform operators.

For more information, please contact KPMG in Ireland ([Lorraine Mulligan](#)).

Lithuania

On December 22, 2022, Lithuania [published](#) the law transposing DAC7 into domestic law. The rules apply with effect from January 1, 2023. Key takeaways include:

- The provisions of the Lithuanian DAC7 law are closely aligned with the text of the Directive.
- The reporting operators have an obligation to register the platforms within Lithuanian tax authorities for identification purpose.
- If the reporting operator does not fulfil the obligation to provide information about sellers, after two consecutive reminders (no later than within 90 days, but no earlier than 30 days

after the second reminder) the Internet access service provider can be issued an order (required approval of Vilnius Administrative Court) to cancel Internet access to the digital platform operator's website.

- When the seller does not provide requested information to the reporting operator, the operator has an obligation to cancel seller's account or suspend the payments.
- Sanctions for failures to comply with the reporting obligations vary depending on the severity of the default and are capped at EUR 6,000.

On December 23, 2022, the Lithuanian tax authorities issued [procedural guidance](#) on registration and reporting requirements.

For more details, please refer contact KPMG in Lithuania ([Julius Matuzevicius](#) or [Lina Grainiene](#)).

Netherlands

On December 20, 2022, the upper house of the Dutch Parliament adopted the 2023 Tax Plan [package](#) and various other tax bills, including the transposition of DAC7. The bill was published in the Official Gazette on December 27, 2022. Key takeaways include:

- The provisions of the Dutch DAC7 law are closely aligned with the text of the Directive.
- Failures to comply with the obligations may be sanctioned with an administrative penalty of up to EUR 900,000 where the failure is due to the intent or gross negligence of a platform operator. The applied penalties should be proportionate and consider the facts and circumstances of each case, which could therefore result in penalties below the maximum cited above. There may also be aggravating circumstances, such as repeat offenses.

The Dutch tax authorities issued a [decree](#) implementing data collection and due diligence obligations.

For more information, please refer to a dedicated [report](#) or contact KPMG in the Netherlands ([Lieke Mutsaers](#)).

Slovakia

On July 4, 2022, the Slovak President signed a [law](#) transposing DAC7 into domestic law. Key takeaways include:

- The provisions of the Slovak DAC7 law are closely aligned with the text of the Directive.
- The electronic forms to register in Slovakia for reporting are made available.
- Failure to comply with the obligations may be sanctioned with a fine of up to EUR 10,000 and can be imposed for each case of breach.

Further procedural guidance is to be issued to further clarify registration and reporting requirements.

For more information, please refer to a dedicated [report](#) or contact KPMG in Slovakia ([Zuzana](#)

[Blazejova](#)).

Sweden

In December 2022, the Swedish Parliament adopted the [law](#) transposing DAC7 into domestic law. Key takeaways include:

- The provisions of the Swedish DAC7 law are closely aligned with the text of the Directive.
- An initial penalty of SEK 2,500 (approximately EUR 225) per reportable seller may apply in case the deadline for the respective obligation has expired. Additional penalties of SEK 5,000 (approximately EUR 450) per reportable seller may be imposed twice if the failures to comply with the obligations are not corrected (i.e. sanctions of up to SEK 12,500 (approximately EUR 1,123) can apply).

In December 2022, the Swedish tax authorities also [issued](#) guidance providing clarifications on the Swedish implementation of DAC7.

For more information, please refer to a dedicated [report](#) (in Swedish) or contact KPMG in Sweden ([Joanna Mörk](#)).

ETC comment

Platform operators should consider whether they fall within scope of DAC7, and to what extent their business models are caught by the new due diligence requirements and reporting obligation.

In-scope platform operators – whether based in the EU or in a non-EU jurisdiction – are advised to monitor closely how individual Member States decide to implement specific provisions of DAC7 and when further procedural guidance is issued to clarify registration and reporting requirements.

Where platform operators have presence in multiple EU Member States, or where an election will need to be made for a non-EU platform operator to register in a single EU Member State, careful consideration should be given to the registration and choice of an EU Member State where ultimately the required information will be reported to the local tax authorities.

Furthermore, in-scope platform operators should further consider the technical data requirements of the due diligence requirements and reporting obligation in more detail. Data management plays an essential role in meeting the new requirements under DAC7. Consideration should be given to questions such as: To what extent is all the reportable data available? Do sellers still have to provide additional data so that the reporting obligation can be complied with? How should the verification of data be organized? In terms of data management, these and other questions play a role in complying with the new reporting obligation. Get in touch with your KPMG tax advisors for information on how KPMG can assist in answering these questions and dealing with the relevant obligations.

Should you have any queries, please do not hesitate to contact [KPMG's EU Tax Centre](#), or, as appropriate, your local KPMG tax advisor.



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