

## **German tax authorities publish FAQs on how to apply reporting obligations for digital platforms (DAC 7)**

The guidance from the German tax authorities includes 16 pages and follows shortly after the DAC 7 implementation law entered into force on January 1, 2023.

On 2 February 2023, the German tax authorities published a set of frequently asked questions (FAQs) regarding the reporting obligations for digital platform operators, which were implemented into domestic law in December 2022 under the Platform Tax Transparency Act and are based on [Council Directive \(EU\) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation](#) (referred to as "DAC 7"). The rules are effective as from 1 January 2023.

The rules extend to digital platforms existing EU tax transparency rules governing the exchange of information and administrative cooperation between member states, and introduces an obligation for digital platform operators to collect and report information on income derived by sellers offering certain services through those platforms.

The FAQs (on 16 pages) provide guidance on the application of the rules by digital platform operators and certain definitions of technical terms used in the newly introduced law. The guidance follows the structure of the law and answers questions in the area of definitions, procedural provisions, reporting obligations, and due diligence obligations for digital platform operators. In addition, the guidance answers questions regarding information obligations of digital platform operators vis-à-vis its own users. Further information regarding the electronic data transfer (interface and data format) to the federal tax office will be communicated over the course of 2023, with the first data reporting by digital platform operators required by 31 January 2024.

The FAQs confirm that there is no exception from the general reporting obligations for internal group platforms. In addition, it is confirmed that in order to be exempt from the reporting obligations under the minimum threshold rules, both the transactional threshold of less than 30 transactions and the remuneration threshold of less than EUR 2,000 per reporting period have to be met. In order to determine the number of transactions, the number of legal transactions has to be taken into account and not the number of items sold.

Digital platform operators that are resident outside of the EU generally have a reporting obligation if they operate within the EU. This reporting obligation, however, does not apply if there is a qualified administrative assistance agreement in place with the country where the digital platform operator is resident, the digital platform operator is reporting the required information to the third-country tax authority, and the third-country tax authority is actually exchanging this information with the EU ("qualified third country"). The guidance from the tax authorities refers to the website of the federal tax office for a list of qualified third countries (however, the website does not yet show the list). There are several other references in the FAQs that refer to information on the website of the federal tax office (again, however, the website does not yet show such information).

The guidance from the tax authorities provides additional clarification for affected digital platform operators and is a welcome development. There still are open questions, and digital affected platform operators should monitor further information that will be provided by the tax authorities over the course of 2023. Although the first reporting for digital platform operators is not due until 2024, action should be taken now to ensure that the required data is readily available and the reporting process is implemented on time.

English translation: The German tax authorities on 31 March 2023 issued an English translation of the FAQ's, the English version of the guidance can be found [here](#).

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