

## Platforms - record keeping

As of January 1, 2020, pursuant to [Section 18 \(\(paragraph\) 11\) UStG \(Added Tax Act\) 1994](#), new recording obligations for platforms apply if they support other entrepreneurs in delivering goods or services. The collective name “platform” includes electronic interfaces such as portals, websites or electronic marketplaces.

It should be noted that, from 1 January 2021, platforms that support certain deliveries of goods become legally liable to tax due to legal fiction, which in turn means that the general recording obligations under [Section 18 UStG \(Added Tax Act\) 1994](#) apply to them.

In addition to the obligation to record, liability will also be introduced for breaches of due diligence for “participating” platforms from January 1, 2021 ([Section 27 \(1\) UStG \(Added Tax Act\) 1994](#)).

The legal basis for the changes mentioned are [§ 3 Paragraph 3a](#), [§ 18 Paragraph 11 and Paragraph 12 UStG 1994](#) as well as the due diligence duty [UStV \(VAT Regulation\) BGBl \(Federal Law Gazette\) . II No. \(number\) 315/2019](#) and [Art \(items\) 54b ff. VO \(regulation\) \( EU \(European Union\) \) 282/2011](#). Further information, formal requirements and requirements can be found on this page and in [margin no. \(margin note\) 2594](#) and [margin no. \(margin note\) 3461-3463](#) of the sales tax guidelines 2000.

### Record-keeping requirements for platforms that support sales without being tax debtors themselves (Section 18 (11) UStG (Added Tax Act) 1994)

#### For which sales are the recording obligations?

If a platform acts as a support for other entrepreneurs, it must keep not only the general records relevant to them as taxpayers in accordance with [§ 18 UStG \(Added Tax Act\) 1994](#) but also records in accordance with [§ 18 paragraph \(paragraph\) 11 UStG \(Added Tax Act\) 1994](#) about the sales generated by other entrepreneurs.

Specifically, the obligation to record applies to the following sales:

- Deliveries of goods that end domestically if the buyer is a non-entrepreneur or another person listed in [Art. \(items\) 3 para \(paragraph\) .4 UStG \(Added Tax Act\) 1994](#) ( e.g. (for example) small business owners)
- Services that are provided domestically if the recipient of the service is a non-entrepreneur.

#### When does a platform become “supportive”?

A platform acts as a support if, through its use, it enables a seller or service provider to come into contact with customers and subsequently to sell objects or provide services.

A supportive activity is provided if the platform is direct or indirect

- determines the conditions for the sale of the goods or the provision of a service, or
- is involved in authorizing the settlement with the customer or
- is involved in the order or service provision.

In contrast, the mere is considered "not supportive"

- Processing of payments,
- Listing of goods / services on the platform or

- Advertising for goods / services or
- Forwarding or brokering customers to other platforms without the forwarding electronic interface itself being included in the subsequent sales.

### What records does the platform have to keep?

The records must contain the information specified (VAT Regulation) in the Due Diligence (VAT Regulation) Ordinance (UStV (VAT Regulation) VO BGBl. (Federal Law Gazette) II No. (number) 315/2019) and in Art. (items) 54c ( (paragraph) 2) of Regulation (regulation) ( EU (European Union) ) 282/2011. this includes

- the name, postal address and email address or website of the service provider
- the service provider's VAT identification number or national tax number (if available)
- the provider's bank account or virtual account number (if available)
- a description of the goods or services
- the remuneration paid for the service or (respectively) the value of the goods or services
- the place at which the delivery of goods ends or, (respectively) in the case of services, information to determine the place of performance
- Time at which the delivery of goods or services is carried out or, if information is not available at this time, the time of the order
- the unique order or transaction number

If a platform supports the rental of land for residential or camping purposes or accommodation in furnished living rooms and bedrooms, the postal address, the length of stay or rental known to the platform and the number of people staying overnight must also be recorded. If the platform does not know the number of people staying overnight, the number and type of beds booked must be recorded.

If it turns out that incorrect information was transmitted to the platform by the seller / service provider, this has no consequences for the platform if it neither knew nor could have known about the incorrectness of the information (Art. 5c of Regulation (regulation) ( EU (European Union) ) 282 / 2011).

For information regarding the technical specifications (supplementary description of the XML and XSD structure for the recording and due diligence requirements) see:

Requirements and structures for the transmission of recording obligations

### Do the records have to be submitted to the tax authorities?

The records are to be submitted electronically by January 31 of the following year if the total value of the sales to be recorded exceeds EUR 1,000,000 in the calendar year. All other platforms have to submit the records electronically only at the request of the tax authorities.

### How should the records be transmitted?

The records are in accordance with the in the VO to § 18 para (paragraph) . 12 UStG (Added Tax Act) 1994 BGBl. II No. 377/2019 .

### How long must the records be kept?

The records must be kept for ten years at the end of the year in which the sales were effected.

### What are the consequences if the platform violates its recording obligation?

In the event of a breach of the recording obligations outlined here and the associated breach of due diligence, the platform is liable for the sales tax resulting from the sales to be recorded (for more information, see [margin no. \(margin note\) 3461 ff sales tax guidelines 2000](#)).

For platforms that are not themselves taxpayers, stricter due diligence regulations apply from a total value of EUR 1,000,000. This total value is calculated from the sales according to [§ 18 Abs \(paragraph\) 11 UStG \(Added Tax Act\) 1994](#) are to be recorded. As of January 1, 2021, sales for which the platform is legally liable to tax due to legal fiction must also be included.

If the total value is exceeded, the platform is also liable if it

- the records are sent to the tax authorities late or
- Services with a total value of over EUR 35,000 per calendar year are supported and the service provider does not submit any of the following evidence to the platform
  - his domestic [UID \(Tax identification number\)](#) ,
  - When using a one-stop-shop, his foreign [UID together \(Tax identification number\)](#) with information about the member state of identification,
  - other evidence to show that the service provider is meeting its tax obligations.
- Deliveries of goods with a total value of more than 10,000 euros per calendar year are supported and the supplier of the platform does not transmit any of the following information
  - his domestic [UID \(Tax identification number\)](#) ,
  - When using a one-stop shop, its foreign [UID \(Tax identification number\)](#) or IM identification number together with information about the member state of identification,
  - other evidence to show that he is meeting his tax obligations.

## **Obligation to keep records for platforms that become legally liable to tax as of 1 January 2021 due to legal fiction**

### **For which sales does a platform become a tax debtor?**

From January 1, 2021, platforms will also become taxpayers if they support the following sales (for the term “support” see above):

- Import mail order sales ( [section 3 \(8a\) UStG \(Added Tax Act\) 1994](#) ), in which the individual value per shipment does not exceed 150 euros;
- Deliveries of goods within the Union territory by an entrepreneur not established in the EU to a non-entrepreneur.

However, the platform does not become a tax debtor for deliveries of goods for which the customer is an entrepreneur or for services that are supported by a platform.

### **What records should be kept if a platform is a tax debtor?**

If the platform becomes a tax debtor by virtue of legal fiction, the general recording obligations in accordance with [Section 18 \(1\) UStG 1994](#) apply . See [margin no. \(margin note\) 2521](#) to [margin no. \(margin note\) 2593](#) of the sales tax guidelines 2000.

## **Due diligence for participating platforms from January 1, 2021**

### **When is a platform considered to be involved?**

A platform participates in mail order sales if it does

- redirect to the supplier's webshop or website,
- receive a revenue-based fee for this and
- the total value of the sales that the suppliers achieve through the forwarding through the platform exceeds 1,000,000 euros

A platform participates in a service if it

- forward to the web shop or website of a service provider,
- receive a revenue-based fee for this and
- the total value of the revenues that the service providers achieve due to the forwarding through the platform exceeds 1,000,000 euros.

Platforms are liable from January 1, 2021 for mail order sales and services to non-entrepreneurs in which the respective platform is involved, but only if they violate your due diligence.

#### **For which sales and from which sales limit does the duty of care apply?**

The duty of care applies to intra-Community mail order sales, import mail order sales and sales from services to non-entrepreneurs if the statutory sales limits are exceeded and the platform is considered to be involved.

For mail order sales, the limit here is EUR 10,000, for services to non-entrepreneurs EUR 35,000, whereby only those charges that entrepreneurs receive from forwarded customers with an Austrian IP address for these goods deliveries or services must be taken into account for the calculation.

#### **When is there a breach of due diligence?**

In the case of mail order sales, a platform involved violates its duty of care if it does not receive any of the following evidence from the supplier

- his domestic UID (Tax identification number) ,
- When using a one-stop shop, its foreign UID or IM identification number together with information about the member state of identification,
- other evidence proving that he is meeting, receiving or having his tax obligations met.

In the case of services to non-entrepreneurs, a platform involved violates its duty of care if it does not receive any of the following evidence from the service provider

- his domestic UID (Tax identification number) , or
- when using a one-stop shop, his foreign UID together (Tax identification number) with information about the member state of identification, or
- other evidence proving that the service provider is meeting, receiving or having his tax obligations met.

#### **Related Links**

- **UStR 2000, Rz 3461-3463**
- **MOSS, EU-OSS, IOSS**

- **Information regarding the technical specifications (supplementary description of the XML and XSD structure for the recording and due diligence obligations in the area of e-commerce and mail order)**
- **VAT due diligence VO BGBl. II No. 315/2019**
- **VO to § 18 Abs. 12 UStG 1994 BGBl. II No. 377/2019**

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