

DAC7

New tax reporting obligations for digital platforms proposed from 2022

On July 15, 2020, the European Commission (“EC”) proposed a new Tax Package. The package amongst others aims to combat tax abuse and help tax authorities keeping up with a constantly evolving economy. The COVID-19 pandemic adds urgency to the need to protect public finances and generate tax revenues.

As part of the new Tax Package, the EC has proposed to amend the Directive on Administrative Cooperation. The amendment (“DAC7”) proposes changes to the existing provisions on exchange of information and administrative cooperation. DAC7 – if adopted and implemented by EU Member States - creates a new obligation for both EU and non-EU platform operators to disclose financial information and due diligence on its users to the tax authorities in the EU. It also extends the scope to the automatic exchange of information with respect to information to be reported by digital platform operators.

DAC7 should allow tax authorities to have comprehensive data to correctly assess Direct Tax and Indirect Tax due across EU Member States.

Practical implications

1. For whom is this relevant

Both EU and non-EU digital platform operators and sellers on those platforms.

2. What is the issue

The digital nature of platforms allows sellers of goods and services to make use of such digital platforms for carrying out their activity, while potentially not reporting turnover and income generated across the EU Member States. Tax authorities can now insufficiently establish, monitor and collect the correct amount of Direct Tax and Indirect Tax due. As a consequence, the Member States suffer from unreported turnover, income and accordingly loss of tax revenues.

Such a situation also gives rise to conditions of unfair tax competition against individuals or businesses that do not carry out their activities via digital platforms, which distorts the operation of the EU internal market.

3. What do I have to do now

Since digital platform operators should report the income generated by sellers on their platforms with relevant activities including the rental of immovable property, the provision of personal services, the sale of goods, the rental of any mode of transport, and investment and lending in the context of crowdfunding, you have to establish whether you are a digital platform covered by DAC7. If so, you have to assess how the reporting obligation under DAC7 will impact you and how you should implement the reporting obligation across your organization. You will for example have to address the legal and commercial side, including seller due diligence (also seems to create a responsibility to assess the correctness of the seller’s EU VAT status); systems and processes; tax authority procedures; documentation and controls.

How can Meijburg & Co help you?

Although DAC7 currently has the status of proposal, we expect that it will go live on January 1, 2022. We would recommend to assess whether you are a digital platform covered by DAC7, to identify what data is required to meet the reporting obligations and how to retrieve the required data from your internal systems. With this assessment, we would also recommend to take into account other tax measures that are being introduced with similarities to DAC7, such as the new EU VAT rules for e-commerce in 2021 and 2024. To help you make a start, please find below our “quick reference card” for a high-level DAC7 assessment. Various specifics and exceptions apply, which we are happy to further address in a DAC7 assessment together with you.

