

DAC7 - Reporting obligation for digital platforms

by Adina Zdru, Tax Partner

In the context of the enormous increase in digital trade, the EU has also turned its attention to platform operators. Online platforms outside the EU, in particular, were previously difficult or impossible to identify for taxation purposes.

As an implementation of the **DAC 7 Directive**, Romania introduced reporting obligations on January 31, 2024 with Ordinance 16/2023.

Scope of the reporting obligation

Digital platform operators must report information and income from active sellers (individuals or businesses) generated through the use of their platform for tax purposes. Reportable activities include, for example, sales, rentals and services arranged through the platform in question, commonly referred to as “**relevant activities**”.

Based on the information received, the tax administration determines whether the seller is registered in Romania and has fulfilled the tax reporting and payment obligations with regard to the income received.

A platform operator in Romania is obliged to report relevant activities that take place via its platform if it

- is resident for tax purposes in Romania or in the EU, **or**
- ☐ is not resident for tax purposes in Romania or the EU, but **alternatively**:
 - is established in accordance with the legislation of Romania or another EU country
 - has the registered office of the management, including the actual management, in Romania
 - has a permanent establishment in Romania or an EU country and is not a platform operator outside the EU subject to reporting requirements, or
 - is not based in Romania or another EU country and is neither administered nor has a permanent establishment there.

This means that platform operators who are based or registered for tax purposes within the EU, as well as those who are based in third countries but arrange the performance of relevant activities in the EU, have a reporting obligation, as described above.

A platform is any software (e.g. website, app) that is accessible to users and enables sellers to connect with them in order to carry out a relevant activity directly or indirectly for these users. However, software that only enables the processing of payments, listing or advertising or the redirection/transfer of users to another platform in connection with the relevant activities is not considered a platform.

A platform operator is a company that makes an entire platform or part of it available to sellers on the basis of contracts.

Reporting location

A platform operator, subject to the reporting obligation, must generally comply with the reporting obligation in a single EU Member State.

Platform operators based in Romania must generally submit the declaration in Romania.

Platform operators based in the EU who meet the criteria for the reporting obligation in several EU member states must choose an EU member state in which to report and inform the other states accordingly. This also applies to platform operators based outside the EU; they must register for tax purposes in an EU member state in order to be able to submit the report.

Corresponding forms are provided by the Romanian tax administration ANAF for this purpose.

Content of the message

DAC7 reporting requires the collection and verification of the following information about each vendor in particular:

- For individuals: full name, address (main residence), tax number, VAT number (if available), date of birth
- For companies: official name, address (registered office, tax number, including from other Member States, VAT number (if applicable), commercial register number, any permanent establishments, whereby activities are carried out in other Member States.

Persons domiciled in Romania or another member state who offer a property for rent within the EU must also be registered. State institutions are excluded from the obligation to register.

Due to tax due diligence, a platform operator must identify the sellers who are relevant for the fulfillment of the reporting obligation.

Reporting deadlines, sanctions

Platform operators must submit the above notifications to the competent authorities by January 31 of the following year. The necessary information must be obtained from the sellers for this purpose.

Failure to submit a DAC7 declaration or submitting an incorrect or incomplete declaration is punishable by a fine of between RON 20,000 and RON 100,000.

Conclusion

The above reporting obligation affects practically all online trading platforms in connection with which the tax authorities are directly interested in identifying the income generated by sellers. Only time will tell whether/to what extent the measure will have the desired success.

Contact and further information:



STALFORT Legal. Tax. Audit.
Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro

www.stalfort.ro