

Belgium; European Union

Belgian Federal Service for Finance Publishes FAQs on DAC7

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The Belgian Federal Service for Finance has published frequently asked questions (FAQs) about the legislation implementing the [Amending Directive to the 2011 Directive on Administrative Cooperation \(2021/514\)\(DAC7\)](#).

A number of important clarifications include the following points:

- the term "platform" includes any software, including a website or part thereof and applications, including mobile applications, that are accessible to users and allow merchants to connect with other users to perform a relevant activity, directly or indirectly, for the benefit of such other users. It also includes all arrangements for the collection and payment of consideration for the relevant activity. The term refers to both websites and applications regardless of the medium (PC, smartphone, game console, etc.) on which the platform is used;
- the term "platform" does not include software that only enables one of the following activities:
 - making payments in connection with a relevant activity (by means of online payment software);
 - simply referring to, offering, or advertising a relevant activity to users (advertisement platforms); and
 - redirecting or transferring users to another platform;
- the fact that the platform operator and the seller are related entities is not a reason for a reporting exclusion;
- if after an audit it appears that an operator does not qualify as an excluded platform operator, penalties from EUR 2,500 to EUR 25,000 (EUR 5,000 to EUR 50,000 in case of fraudulent intent) can apply;
- platform operators who do not meet the registration obligations are subject to a penalty of EUR 25,000. This penalty will be increased by 50% for each subsequent offence;
- the tax administration may deregister platform operators who fail to meet their notification obligations. Continuing such activities beyond this point will incur a penalty of EUR 50,000. This penalty is increased by 50% for each repeated offence;
- the term "registered seller" includes both the cases in which a user has created a profile or account on a platform and the cases in which a contractual relationship is entered into with the platform operator;
- the rental and subletting of real estate covers both residential and commercial real estate and parking space; also the rental of part of a property (for example a room or a garden shed) is considered a relevant activity;
- a personal service does not exist when the activity performed is purely incidental compared to other activities and is only of secondary importance;
- the reporting obligation of platform operators does not apply to the sale of intangible assets such as the sale of cryptocurrencies or cryptoassets, copyrights and debt claims;
- the address of an individual seller is his principal residence, as well as the address of the head office of a seller who has the status of an entity on 31 December of the year to which the reporting relates or the latest address known to the reporting platform operator;
- the tax identification numbers can be identified through [here](#) and [here](#);
- a seller is deemed to be resident in the country where the TIN was issued, and where, according to the information provided by the seller, a permanent establishment exists where relevant activities are carried out;
- the reporting platform operator must keep a record of all steps taken and of all information used for the execution of the due diligence procedures and his reporting obligations to the Belgian competent authority. All data must be kept for 10 years and 36 months by excluded operators;
- information received can be used for the collection of income taxes, VAT, various duties and taxes, inheritance and gift taxes, as well as registration, mortgage and court fees; and
- information on the registration can be obtained from spoc.dpi@minfin.fed.be and other information from infodac7.db-cd@minfin.fed.be.

For the full text of the clarifications, see [here](#) (in Dutch) and [here](#) (in French).

Note: DAC7, in short, obliges digital platforms to collect, verify and report information on sellers who use their platform to sell defined goods or provide services (e.g. rentals of immovable property), and also seeks to generally strengthen, for example (e.g. through a joint audit framework, data breach procedures) the exchange of information and cooperation between Member States.

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