



DAC7: guidelines for digital platforms

Tax & Legal Alert
7 December 2023

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DAC7 has recently introduced new EU tax transparency rules obliging platform operators to disclose data on income derived by sellers via platforms. On 20 November 2023, the Italian Revenue Agency issued a provision (the 'Provision') providing in-depth guidelines⁽¹⁾ on the reporting obligations for digital platforms.

The Provision relates to Legislative Decree no. 32 of 1 March 2023, which implemented Council Directive (EU) 2021/514 in Italy, amending the 2011 Directive 2011/16/EU on Administrative Cooperation ('DAC 7').

The digital platforms in scope of the new measures are⁽²⁾ software, including websites or part thereof and apps, including mobile apps, accessible by users and allowing the sellers to be connected to other users for the purpose of carrying out the following activities carried out for consideration, directly or indirectly, to such users: (i) the rental of immovable property, including both residential and commercial property, as well as any other immovable property and parking spaces; (ii) a personal service; (iii) the sale of goods; and (iv) the rental of any mode of transport.

Platform operators with reporting obligations in Italy

The following platform operators are subject to reporting obligations in Italy⁽³⁾:

1. Platform operators resident in Italy, or incorporated under Italian law, or with its place of management in Italy;⁽⁴⁾ and that do not qualify as a qualified non-EU platform operator.⁽⁵⁾

(1) Provision no. 406671/2023.

(2) Art. 2(1)(a)(h) of Legislative Decree No. 32/2023.

(3) Article 2 of the Provision.

(4) A platform operator resident for tax purposes/incorporated/or with the place of management in a non-EU jurisdiction that has in place an agreement that requires the automatic exchange of information with the competent authorities of all Member States which are identified as reportable jurisdictions in a list published by the non-EU jurisdiction (article 2(1)(e)(f)(g) of Legislative Decree no. 2023/32).

(5) A platform operator resident for tax purposes/incorporated/or with the place of management in a non-EU jurisdiction that has in place an agreement that requires the automatic exchange of information with the competent authorities of all member States which are identified as reportable jurisdictions in a list published by the non-EU jurisdiction (art. 2(1)(e)(f)(g) of Legislative Decree No. 2023/32).

- Foreign platform operators (“FPO”): non-qualified and/or non-EU (not resident, incorporated, or with a permanent establishment in a Member State), that facilitate sales by a reportable seller, or rental of immovable properties in a Member State and are not qualified non-EU platform operators.⁽⁶⁾

Platform operators that also qualify in other EU Member States (e.g. an Italian platform operator with a permanent establishment in France) must inform the Italian Revenue Agency – by 31 January of the following year following one to which the communication refers to - of where they intend to fulfil their reporting obligations.

To comply with the DAC7 obligations, The FPOs must⁽⁷⁾:

- obtain a login for the Entratel section of the Italian Revenue Agency website;
- register in their personal area of the Italian Revenue Agency website – unless they are already registered with the tax authority of another Member State⁽⁸⁾ – and provide the following information: (i) name; (ii) postal address; (iii) email and website; (iv) ‘NIF’⁽⁹⁾ code; (v) a statement with information about the OSS identification number; (vi) the Member States in which sellers are residents; and (vii) a statement in which the platform operator its registration has not been revoked by the tax authority of a Member State. At the end of the registration process, the FPOs will receive an Individual Identification Number (‘IIN’). Û

Any platform operators⁽¹⁰⁾ who are not subject to reporting obligations, must provide certain information⁽¹¹⁾ to the Italian Revenue Agency to demonstrate that their entire business model does not include reportable sellers.

Reporting obligations

DAC7 has introduced the obligation for platform operators to (i) perform due diligence procedures; and (ii) report such information to the competent tax authority.

The information is for reportable sellers, qualifying as active sellers⁽¹²⁾, that are resident in Italy or that rent out immovable property located in Italy.

(6) See footnote 5 above.

(7) Article 5 of the Provision.

(8) As per article 14 of Legislative Decree no. 32/2023.

(9) Tax identification number.

(10) I.e. the platform operators that have demonstrated upfront and on an annual basis to the competent authority to which otherwise would have had to report that platform’s entire business model is such that it does not have reportable sellers.

(11) Provided by article 4.1. of the Provision, i.e. legal name, tax code, Member State of residence, fiscal domicile, email, self-declaration attesting the exclusion from the reporting obligation and year for which the exclusion applies.

(12) Platform users, either individuals or entities, that are registered at any time during the reportable period on the platform and carry out a relevant activity that either provides a relevant activity during the reportable period or is paid or credited consideration in connection with a sale during the reportable period (article 2(1)(o) of Legislative Decree no. 32/2023).

Non-reportable sellers are (i) casual or one-time sellers of goods (with less than 30 sales not exceeding an annual consideration of EUR2,000; or (ii) rentals made by entities that provide rentals at a high frequency (at least 2,000 rentals per year per immovable property).

Qualifying platform operators must:

- carry out due diligence procedures to (i) identify which sellers to include in the communication; and (ii) verify the correctness of the information collected.

The sellers’ data to be collected and verified is:⁽¹³⁾

Individual reportable sellers	Entity reportable sellers
Full name	Legal name
Main address	Main address
NIF code or place of birth	NIF code
VAT no. if available	VAT no. if available
Date of birth	Business registration number
	The existence of any permanent establishment in a Member State

Platform operators will close the account of sellers who do not provide this information. These sellers will not be able to re-register on the platform and the platform operator may withhold payment of any sales⁽¹⁴⁾. These conditions should be part of the agreement between platform operators and sellers. The due diligence procedures can be delegated to a third-party provider⁽¹⁵⁾.

- send the following information⁽¹⁶⁾ to the Italian Revenue Agency:
 - the tax code, or INN, of the entity submitting the communication;
 - the email of the entity submitting the communication;

(13) Article 4(1) and (2) of Legislative Decree no. 32/2023.

(14) Article 12(1) of Legislative Decree no. 32/2023.

(15) Article 9 of Legislative Decree no. 32/2023.

(16) Article 6 of the Provision and articles 10 and 11 of Legislative Decree no. 32/2023.

c. the following details:

Any relevant activity different from the rental of immovable properties:	Rental of immovable properties
Name, registered office address and NIF code of the platform operator	
Business name of the platform	
Information about reportable sellers	Information about reportable sellers
Financial account identifier, if known	Financial account identifier, if known
If different from the name of the seller, the name of the holder of the financial account to which the consideration is paid, if known	Where different from the name of the seller, the name of the holder of the financial account to which the consideration is paid or credited, if known
Each Member State in which the seller is resident	Each Member State in which the seller is resident
	The address of each property listing, if available
Total consideration paid during each quarter of the reportable period	Total consideration paid during each quarter of the reportable period
Number of relevant activities in respect of which it was paid or credited	Number of rental days and type of each single property, if available
Any fees, commissions or taxes withheld or charged by the platform operator during each quarter of the reportable period.	Any fees, commissions or taxes withheld or charged by the platform operator during each quarter of the reportable period.

d. The sellers' Italian tax code, if available.

Timeline of the reporting obligations

The platform operators must:

- perform the due diligence procedures by 31 December of each reporting period;
- communicate the relevant information by 31 January of the following year.

Therefore, the 2023 reporting deadline is **31 January 2024**.

The information must be uploaded via the XML format to the Entratel section of the Italian Revenue Agency website.

Fixed penalties apply in the event that platform operators fail to submit the communication or submit an incomplete communication⁽¹⁷⁾.

(17) Article 12 of Legislative Decree no. 32/2023: (i) administrative penalty between EUR3,000 and EUR31,500 for omitted communication and (ii) administrative penalty between EUR1,000 and EUR10,500 for inaccurate communication.

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Tax & Legal Alert / KPMG in Italy / 7 December 2023

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