



Implementation of DAC7 in Greece | EU reporting obligations for platform operators and joint audits

Directive 2011/16/EU (commonly referred to as DAC) had established procedures for the administrative cooperation between EU member states in the field of taxation. Since its adoption it has been amended several times to introduce obligations such as reporting followed by information exchange between EU member states' tax authorities of financial account information (DAC2), cross-border arrangements (DAC6) etc.

Law 5047/2023, published on 7 September, amends Law 4170/2013 which had firstly implemented the DAC into domestic law, towards transposing the most recent amendments under Directive 2021/514/EU. The object of the relevant amendments is the further regulation of the framework of administrative cooperation between the Greek tax authorities and the other EU member states' tax authorities, the establishment of joint audits, the imposition of obligations to platform operators for the provision of information which is

necessary for capturing the taxable base and the safeguarding of personal data protection in relation to all exchanges of information under these rules.

An addition is that the information communicated between member states under these rules can be used for the assessment, administration and enforcement of the laws concerning also now VAT and other indirect taxes.

To ensure the effectiveness of the exchanges of information between the Greek tax authority and the tax authority of another EU member state and to prevent unjustified refusals of requests, as well as to provide legal certainty for both tax administrations and taxpayers, the new provisions impose to each tax authority that requests information to demonstrate the foreseeable relevance of the requested information, by providing, among others, the tax purpose for which the information is sought.

Another amendment is the inclusion of other financial claims (a term not

included in the relevant Directive) and royalties in the categories of income subject to mandatory automatic exchange of information under the relevant rules, in the context of the declared goal of strengthening the fight against tax fraud, tax evasion and tax avoidance.

EU reporting obligations for platform operators

Apart from changes in the existing framework of administrative cooperation, a new EU information exchange area imposing obligations to Greece, as well as certain non-EU platform operators facilitating activities in Greece, is introduced in this framework through Law 5047/2023. Operators affected are legal persons and entities that contract with users registered on platforms to make available to them such platforms in order for users to carry out (a) rentals of immovable property including parking spaces; (b) personal services; (c) sale of goods and (d) rentals of any mode of transport, all for consideration the amount of which is known to the relevant platform operator.

Platform operators are, subject to certain exceptions set out in the law, imposed with the obligation to carry out due diligence procedures and fulfill specific reporting requirements specified in the law concerning the above-mentioned users (reportable sellers). The first information must be reported in respect of calendar years as from 1 January 2023.

As regards non-Greek-resident reportable sellers, Greek tax authorities thereafter communicate, by means of automatic exchange, information specified in the law as to the reportable seller to the tax authorities of the EU

member state in which the reportable seller is resident and, where the reportable seller provides immovable property rental services, also to the tax authority of the member state in which the immovable property is located.

The new legislation grants authority for the issuance of Ministerial Decisions setting out the prerequisites for requesting information from platform operators and other procedures for the implementation of the new rules.

The fines imposed on platform operators for infringements as to the new obligations range from Euros 100 to 5,000 depending on the infringement, with a maximum total cap of Euros 500,000 per audit. In case of repetition of infringements, the fines can be multiplied under conditions set in the law up to a maximum of four times depending on the number of repetitions.

Pre-existing domestic legislation in relation to the right of the Greek tax authorities to request information from sharing economy platform administrators and relevant infringement implications (which can extend to blocking access to relevant websites) are not affected by the transposition of the EU rules and is extended to cover platforms through which goods and services are provided in Greece.

EU joint audits

Law 4170/2013 is also supplemented, through law 5047/2023, with a number of provisions that clarify the framework and the main principles that should apply when the competent authorities of Member States choose to resort to a so-called joint audit. Such audits can be conducted jointly by the competent authorities of

one or more member states and the Greek tax authorities, in relation to one or more persons of common interest to such authorities. The provisions on joint audits do not affect the processes that would take place in Greece in relation to assessing tax or the process of appeal or settlement or relevant remedies available to taxpayers.

Under the new legislation, the final report of a joint audit should reflect the findings on which the competent authorities concerned agreed. The mutually agreed findings of the final report of a joint audit should be taken into account in the relevant instruments issued by the competent authorities of the participating member state or states and of Greece following that joint audit. The new legislation authorises the potential issuance of a Ministerial Decision setting out rules for safeguarding the relevant procedures and for providing for other relevant issues.

Contact us



Maria Zoupa

Partner

m.zoupa@zeya.com



Daphne Cozonis

Partner

d.cozonis@zeya.com



Alex Karopoulos

Partner

a.karopoulos@zeya.com

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280 Kifissias Ave., 152 32 Halandri, Athens, Greece
newsletters@zeya.com
 Tel.: (+30) 210 696.70.00 | Fax: (+30) 210 699.46.40

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