



VAT NEWSLETTER

Annual Tax Act 2024: amendments to the Platform Tax Transparency Act (PStTG)

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1 Background

The Platform Tax Transparency Act (PStTG) implements the so-called DAC7 Directive and provides comprehensive reporting obligations for digital platforms. The reporting of provider-related data by platform operators is intended to create cross-border tax transparency and thus serves to ensure uniform taxation of supplies via digital platforms (see KMLZ VAT Newsletter 31 | 2022, 08 | 2023 and 01 | 2024). The first report for the calendar year 2023 had to be filed by 31 March 2024.

The practical application of the PStTG raises numerous questions. These concern, for example, the term of consideration and the subsumption of relevant activities within the meaning of sec. 5 para. 1 sentence 1 of the PStTG. In this respect, the requirements laid down in the DAC7 Directive leave the national legislator little room for flexibility. However, reporting platform operators must also deal with procedural challenges that fall within the competence of the EU Member States. This concerns, for example, the correction of "incorrect" reports, which must always be made immediately, ie without undue delay, in accordance with sec. 13 para. 1 sentence 2 of the PStTG. Corrections are required for returned goods, for example, insofar as they retroactively affect the consideration originally paid or credited. A high volume of returned goods around the reporting deadline can therefore force platform operators to make a large number of corrections in order to avoid fines, within the meaning of sec. 25 para. 1 no. 5 of the PStTG. In contrast to Germany, other EU Member States grant practical relief by allowing collective corrections, for example on a quarterly basis.

Further legislative action is required when dealing with providers in the legal form of a civil law partnership (GbR). These are legal entities, within the meaning of sec. 14 para. 3 of the PStTG, which do not have a commercial register number – a



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mandatory requirement according to the wording of the law (sec. 14 para. 3 no. 5 of the PStTG). The reform of partnership law and the creation of the GbR register, which came into force on 1 January 2024, made it necessary to clarify the provision in this respect.

2 Overview of the amendments to the law

As things stand, hopes for far-reaching amendments to the law will not be fulfilled. The draft bill only provides for minor changes to the PStTG. In addition to an adjustment to the definition of a “Governmental Entity” (sec. 6 para. 3 of the PStTG), as required under Union law as from the 2024 reporting period (sec. 29 sentence 2 of the PStTG as amended), the powers of the Federal Central Tax Office (BZSt) to monitor due diligence procedures are to be extended (sec. 9 para. 10 sentence 2 of the PStTG as amended).

- Amendment to the term of “Governmental Entity”

The core of the amendments to the law concerns an adjustment of the term “Governmental Entity”, within the meaning of sec. 6 para. 3 of the PStTG. At present, this also includes institutions that are under the control of a state or at least one political subdivision. The possibilities for controlling such institutions depend, in principle, on the legal possibilities for exerting influence on the managing bodies. A majority of voting rights is usually sufficient. In contrast, the DAC7 Directive requires that the institution must be wholly owned by the state. The legislator is now correcting this inadequate implementation of the DAC7 Directive by the PStTG as part of the Annual Tax Act 2024 (draft). According to sec. 29 sentence 2 of the PStTG (as amended), this new term of entity applies from the 2024 reporting period. Sec. 29 sentence 2 of the PStTG (as amended) also contains a transitional regulation according to which it is not necessary to correct reports for the 2023 period.

- Adjustments to data access

Pursuant to sec. 9 para. 10 sentence 1 of the PStTG, the BZSt checks compliance with the reporting and due diligence procedures imposed on the reporting platform operators under the PStTG. To date, sec. 147 para. 5 and 6 as well as secs. 193 to 203a of the German Fiscal Code and sec. 12 of the EU Administrative Assistance Act applied accordingly in this context. The new version of sec. 9 para. 10 sentence 2 of the PStTG extends the reference to sec. 147 of the German Fiscal Code to its paragraph 7. The aim is for the BZSt to fulfil its tasks in an efficient manner. In future, the processing and storage of data provided in accordance with sec. 147 para. 6 of the German Fiscal Code will therefore also be permitted, in principle, on the tax authorities’ mobile data processing systems, regardless of where they are used.

3 Practical advice

There will be no immediate need for action for the majority of platform operators as a result of the currently planned amendment to the law. The amendments fall short of the practical requirements and expectations of the platform economy. At the same time, the legislative procedure is still at an early stage. It is therefore to be hoped that the legislator will take appropriate account of the experience gained from the first reporting period and the feedback from platform operators in the ongoing legislative process. In our experience, some platform operators have not yet filed a report for the 2023 calendar year, not least due to the technical requirements for the electronic interface at the BZSt. Reports that have not yet been submitted should be submitted quickly. The **DAC7 Reporting Tool** developed by KMLZ can provide support as a convenient solution for creating and submitting reports.