



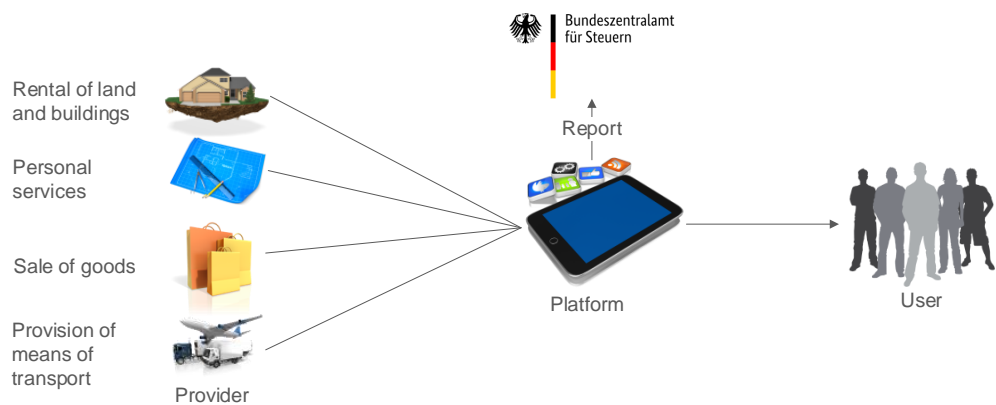
VAT NEWSLETTER

Platform Tax Transparency Act: Federal Central Tax Office publishes updated FAQ, data set and manual on technical implementation

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1 Background

The Platform Tax Transparency Act (PStTG), which came into force on 1 January 2023, establishes extensive reporting obligations for operators of digital platforms, insofar as so-called "relevant activities" are offered there by third-party providers.



From 31 January 2024, affected platforms are obliged to submit corresponding reports to the Federal Central Tax Office. Since the beginning of the year, affected platforms have been collecting the relevant data for 2023 and are currently implementing processes to meet the requirements of the PStTG. Failure to comply is punishable with a fine. The implementation of the legal requirements has so far been hampered by unresolved practical and technical application issues,



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which could not be fully answered even by the Federal Ministry of Finance' letter of 2 February 2023 (cf. KMLZ VAT Newsletter 08 | 2023). The information on the electronic interface and the data set has, to date, also been too imprecise. After previously providing both initial information on the data set and a catalogue of frequently asked questions (FAQ), on 11 August 2023 the Federal Central Tax Office published the draft of the official data set including an accompanying "communication manual" for the technical implementation of the reporting obligations, as well as updated FAQ.

2 Updated questionnaire (FAQ)

The FAQ now clarify the application variants (2.15) and the scope of the information pursuant to sec. 10 para 1 of the PStTG (2.16). Depending on the circumstances, the Federal Central Tax Office sees the possibility of querying the existence of several platforms within the meaning of sec. 3 para 1 of the PStTG, within the scope of a single application. According to this, it shall also be permissible to check the existence of further relevant activities within the scope of an information on the prerequisites of sec. 3 para 1 PStTG. Furthermore, the Federal Central Tax Office emphasises the terminological autonomy of the PStTG (cf. sec 2 of the PStTG) and considers the VAT principles of the commissionaire scheme as non-applicable (2.20). Finally, the formalistic character of the PStTG is emphasised by rec. 2.17 and 2.18. These recs. link the obligation to report to the status of provider within the meaning of sec. 4 para 2 of the PStTG. Consequently, the possibilities of circumventing the reporting obligations are also limited, for example with regard to the design of supply routes (2.19).

3 Draft of the official data set and communication manual

The draft of the official data set is now available. The final official data set will be published soon. The draft communication manual explains details on the technical implementation of the electronic data set and thus supplements the information already published. In addition to general explanations on the purpose and content of reporting, the communication manual contains detailed specifications on the reporting procedure. Furthermore, special cases such as retransmission, (partial) correction or deletion of data records, according to the OECD DPI XML schema, are also dealt with.

4 Consequences for the practice

After some technical details on the implementation of the reporting obligations become known in recent months, the Federal Central Tax Office is now concentrating on creating more clarity for the platform operators concerned through the communication manual. The platform operators now have six months to create the necessary technical framework conditions and adapt their processes. This period should definitely be used for in-depth preparation in view of the liability risks in the event of incorrect reporting. It seems that many platform operators are not sufficiently aware of these liability risks. In particular, the widespread precautionary approach" to report more information than necessary in the tax procedure, can result in fines for false reporting in the context of the PStTG.

The updated FAQ does contribute to legal clarity. This applies, for example, with regard to the scope of application of the information pursuant to sec 10 para 1 of the PStTG and the formalistic approach of the PStTG to the question of who is a provider subject to the reporting obligation. The Federal Central Tax Office also clarifies, once again, that the VAT treatment is, in general, irrelevant for the application of the PStTG. However, other questions relevant to practice - for example, the concept of remuneration or borderline cases regarding the definition of relevant activity (cf. KMLZ VAT Newsletter 08 | 2023) - remain unresolved. These questions, which are elementary for the reports, can only be answered to a limited extent by way of information pursuant to sec 10 para 1 of the PStTG. It would therefore be welcome if the tax authorities would use the coming months to clarify these and other questions.