

**Act Implementing Council Directive (EU) 2021/514 of 22 March 2021 Amending
Directive 2011/16/EU on Administrative Cooperation in the Field of Taxation and
Modernising Tax Procedural Law¹**

As of 20 December 2022

The Bundestag has adopted the following Act with the consent of the Bundesrat:

Article 1

**Act on the Reporting Obligation and the Automatic Exchange of Information in Tax
Matters by Reporting Platform Operators (Platform Tax Transparency Act)²**

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¹ This Act serves to transpose Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation (OJ L 104 of 25 March 2021, p. 1).

² This working translation of the *Gesetz über die Meldepflicht und den automatischen Austausch von Informationen meldender Plattformbetreiber in Steuersachen (Plattformen-Steuertransparenzgesetz – PStTG)* is provided by the Language Service of the Federal Ministry of Finance. Only the German text of this Act is authentic.

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General provisions

Subdivision 1

Scope of application

Section 1 – Scope of application

(1) This Act governs the reporting obligation of platform operators and the automatic exchange of information on the basis of Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64 of 11 March 2011, p. 1; Mutual Assistance Directive) in the version of Council Directive (EU) 2021/514 (OJ L 104 of 25 March 2021, p. 1).

(2) The provisions of the Fiscal Code³ apply, unless otherwise stipulated in this Act.

Subdivision 2

Definitions

Section 2 – Definitions

The definitions contained in sections 3 to 7 apply to this Act.

Section 3 – Platform; platform operator

(1) A platform is any system based on digital technology that allows users to contact each other via the internet by means of software and to conclude transactions aimed at

1. the performance of relevant activities (section 5) by sellers for other users, or

³ *Abgabenordnung*

2. the collection and payment of a consideration in connection with a relevant activity.

A platform is also deemed to exist if the operator of the system concludes transactions with sellers or other users that are aimed at number 1 or number 2 in the first sentence. Without prejudice to the first and second sentences, the system in question is not deemed to be a platform if, inter alia, the software only enables:

1. the processing of payments that are carried out in connection with a relevant activity;
2. the listing of a relevant activity or advertising for a relevant activity by users, or
3. redirecting or forwarding users to a platform.

(2) Any legal entity that undertakes to make a platform completely or partly available to a seller is deemed to be a platform operator.

(3) An excluded platform operator is deemed to be a platform operator that

1. in relation to the Federal Central Tax Office pursuant to section 11, or
2. in relation to the competent authority of another Member State of the European Union in accordance with the legal provisions applicable in that Member State

has provided proof that the platform it operates cannot be used by reportable sellers.

(4) A reporting platform operator is deemed to be a platform operator that is not an excluded platform operator and which

1. has its registered office or place of management

- a) in Germany,
- b) outside Germany, but
 - aa) is registered under the law of the Federal Republic of Germany, or
 - bb) has a permanent establishment in Germany and is not a qualified platform operator (section 7 (1)), or

2. is not a qualified platform operator, and

- a) is not resident for tax purposes in another Member State of the European Union in accordance with the legal provisions applicable in that Member State,
- b) does not fulfil the conditions corresponding to number 1 in any other Member State of the European Union, and
- c) operates a platform that
 - aa) enables the performance of relevant activities by reportable sellers, or
 - bb) enables the performance of relevant activities pursuant to section 5 (1) sentence 1 no 1, if the immovable property is located in a Member State of the European Union.

Section 4 – User; seller

(1) A user is defined as any natural person or legal entity that makes use of a platform. The platform operator is not a user.

(2) A seller is defined as any user that is registered on a platform at any time during the reportable period and that is able to offer a relevant activity.

(3) An existing seller is defined as any seller that is registered on a platform on 1 January 2023. If a legal entity only becomes a reporting platform operator at a point in time after 1 January 2023, then all sellers that are already registered at this point in time are considered to be existing sellers.

(4) An active seller is defined as a seller that performs a relevant activity during the reportable period, or to whom a consideration that is connected to a relevant activity is paid or credited during the reportable period.

(5) An excluded seller is defined as any seller that

1. is a governmental entity,
2. is a legal entity whose shares are regularly traded on an established securities market, or is a related entity of a legal entity whose shares are regularly traded on an established securities market,
3. is a legal entity which during the reportable period, using the same platform, performed relevant activities pursuant to section 5 (1) sentence 1 no 1 in relation to a property listing (section 6 (7)) in over 2,000 cases, or
4. during the reportable period, using the same platform, performed relevant activities pursuant to section 5 (1) sentence 1 no 3 in fewer than 30 cases and was paid or credited less than 2,000 euros as consideration in total as a result.

A seller that only fulfils the conditions of sentence 1 no 3 or no 4 is only defined as an excluded seller with regard to the relevant activities specified in those provisions.

(6) A reportable seller is defined as an active seller that is not an excluded seller and which

1. is resident in Germany or has performed relevant activities pursuant to section 5 (1) sentence 1 no 1 in relation to immovable property located in Germany, or
2. is resident in another Member State of the European Union or has performed relevant activities pursuant to section 5 (1) sentence 1 no 1 in relation to immovable property located in another Member State of the European Union.

A seller is deemed to be resident in the Member State of the European Union in which it has its registered office or, in the case of natural persons, their residence. If the tax identification number that has been collected from the seller pursuant to sections 17 and 18 was issued by a Member State of the European Union, then the seller is deemed to also be resident in the Member State of the European Union that issued the tax identification number. If information about a permanent establishment has been collected from the seller pursuant to section 17 (2), the seller is deemed to also be resident in the Member State of the European Union in which the permanent establishment is located. Notwithstanding the second to fourth sentences, a seller is deemed to be resident in each Member State of the European Union that has been confirmed as a country in which the seller is resident by an identification service made available pursuant to section 17 (5).

Section 5 – Relevant activity; consideration

(1) A relevant activity is defined as any of the following activities if they are performed in return for a consideration:

1. the temporary granting of usage and other rights of any kind to immovable property;
2. the provision of personal services;
3. the sale of goods;
4. the temporary granting of usage and other rights of any kind to means of transport.

The activity of a seller that acts as a non-self-employed employee of the platform operator or of a related legal entity of the platform operator is not deemed to be a relevant activity.

(2) A consideration is defined as any form of compensation that is paid or credited to a seller in connection with a relevant activity, net of any fees, commissions or taxes withheld or charged by the platform operator. The amount of the consideration is known or ought to be known to the platform operator; the platform operator is assumed to have access to the knowledge possessed by all its related legal entities and contracted service providers. With regard to determining whether a consideration exists, it is irrelevant who pays the compensation.

(3) A personal service is defined as any time- or task-based activity performed by one or more individuals, acting either independently or on behalf of a legal entity, after it has been requested by a user. It is irrelevant whether the activity is provided to the user virtually or at a physical location. An activity that is performed independently, in terms of time and content, from being requested by a particular user or a group of particular users, is not deemed to be a personal service.

(4) Goods are defined as all tangible objects.

(5) Means of transport are defined as all motorised and non-motorised movable objects that enable the individual transport of persons or goods on land, on water or in the air.

Section 6 – Other definitions

(1) A legal entity is defined as a legal person, an association or a pool of assets.

(2) A related legal entity is deemed to be related to another legal entity if

1. it controls the other legal entity or is controlled by it, or
2. the two legal entities are under common control.

Control is deemed to exist if a legal entity or a natural person holds directly or indirectly more than 50% of the capital, membership rights, participation rights, or voting rights of a legal entity, with indirect and direct holdings being added together. In the case of an indirect participation, the fulfilment of the requirement for the holding of more than 50% of the rights of the other legal entity pursuant to the second sentence is determined by multiplying the rates of holding in the subordinate legal entities. In this context, a legal entity or a natural person holding more than 50% of the voting rights is deemed to hold 100% of the voting rights.

(3) A governmental entity is defined as the government, a political subdivision or an agency of a state, or a body that is under the control of a state or one or more political subdivisions.

(4) A tax identification number is defined as

1. a taxpayer identification number issued by a Member State of the European Union or a functional equivalent in the absence of a tax identification number,
2. in the case of the Federal Republic of Germany
 - a) the business identification number pursuant to section 139c of the Fiscal Code,
 - b) if a business identification number has not been issued, then the identification number pursuant to section 139b of the Fiscal Code, or
 - c) if neither a business identification number nor an identification number has been issued, then the tax number issued by the local tax office.

(5) An identification number for VAT purposes is defined as an individual VAT identification number issued by a Member State of the European Union pursuant to Article 214 of Council Directive 2006/112/EC. In the case of the Federal Republic of Germany, the identification number for VAT purposes is the VAT identification number issued by the Federal Central Tax Office pursuant to section 27a of the VAT Act⁴.

(6) The reportable period is defined as the calendar year for which the reporting pursuant to Division 2 is carried out.

(7) A property listing includes all immovable property units located at the same street address, owned by the same owner and offered on a platform by the same seller for the performance of relevant activities pursuant to section 5 (1) sentence 1 no 1.

(8) The financial account identifier is defined as the unique identifying number or reference available to the platform operator of the respective bank account or a similar payment services account to which the consideration is paid or credited.

(9) An identification service is defined as an electronic procedure that a Member State of the European Union or the European Union makes available to a platform operator for the purpose of directly confirming a seller's identity and tax residence.

(10) A third country is defined as any country or jurisdiction that is not a Member State of the European Union.

Section 7 – Qualified platform operator, qualified third country, qualified agreement, qualified relevant activity

(1) A qualified platform operator is defined as a platform operator that

1. is resident in a qualified third country, and
2. in relation to which all the relevant activities whose performance is enabled by the platform that it operates are qualified relevant activities.

A residence in a qualified third country is deemed to exist if the platform operator

⁴ *Umsatzsteuergesetz*

1. is resident for tax purposes in a qualified third country in accordance with the legal provisions applicable there, or
2. it is not resident for tax purposes in a qualified third country in accordance with the legal provisions applicable there, but
 - a) it is incorporated under the laws of a qualified third country, or
 - b) it has its place of effective management in a qualified third country.

(2) A qualified third country is defined as a third country

1. between which and all Member States of the European Union a qualified agreement exists, and
2. which has publicly designated all Member States of the European Union as reportable jurisdictions.

(3) A qualified agreement is an effective agreement between the competent authorities of a Member State of the European Union and a third country that requires the automatic exchange of information with a competent authority of a Member State of the European Union equivalent to the information to be reported pursuant to section 14. Equivalence as referred to in the first sentence is based on the determinations made by the European Commission by means of implementing acts pursuant to Article 8ac (7) of the Mutual Assistance Directive.

(4) A qualified relevant activity is defined as any relevant activity in relation to which an automatic exchange of information is required in accordance with a qualified agreement.

Subdivision 3

Procedural requirements

Section 8 – Competent authorities

For the purposes of this Act, the competent authority is the Federal Ministry of Finance, insofar as the Federal Central Tax Office is not competent under section 5 (1) sentence 1 no 5g of the Fiscal Administration Act⁵ or this Act stipulates otherwise.

Section 9 – Responsibilities of the Federal Central Tax Office

(1) The Federal Central Tax Office receives information transmitted to it by reporting platform operators pursuant to section 13 and by competent authorities of the other Member States of the European Union pursuant to Article 8ac (2) of the Mutual Assistance Directive, and stores this information.

(2) The Federal Central Tax Office forwards the information it has received on reportable sellers pursuant to section 4 (6) sentence 1 no 1 to the competent *Land* revenue authority for the purpose of carrying out the taxation procedure. Section 88 (4) sentence 1 of the Fiscal

⁵ *Finanzverwaltungsgesetz*

Code applies with the proviso that unreasonable effort is deemed to exist with regard to attributing the data to a particular taxpayer or to a particular tax office, if it is not possible to carry out the attribution using the available automated procedures. Section 88 (4) sentence 2 of the Fiscal Code does not apply.

(3) The Federal Central Tax Office forwards the information it has received on reportable sellers pursuant to section 4 (6) sentence 1 no 2 to

1. the competent authorities of all Member States of the European Union in which the respective reportable seller is deemed to be resident, and
2. the competent authorities of all Member States of the European Union in which the immovable property is located, if the reportable seller has performed relevant activities pursuant to section 5 (1) sentence 1 no 1.

The transmission takes place at the end of the second month of the calendar year following the reporting period. No consultation of participants pursuant to section 117 (4) sentence 3 of the Fiscal Code takes place.

(4) The Federal Central Tax Office is authorised to evaluate the information that has been transmitted to it pursuant to subsection (1) for the purposes of fulfilling the tasks legally conferred upon it. This does not affect any analysis of the information carried out by the competent *Land* revenue authority. Section 19 (2) of the EU Mutual Assistance Act⁶ remains unaffected.

(5) The Federal Central Tax Office retains the information that has been transmitted to it pursuant to subsection (1) for a period of 15 years as of the time the information was received. Following the end of the retention period, the Federal Central Tax Office must delete the data at the end of the year. If the Federal Central Tax Office receives notification of a change before the time specified in the second sentence, the period pursuant to the first sentence starts at the time when the notification of the change is received.

(6) The Federal Central Tax Office publishes on its website

1. notifications from competent authorities of other Member States of the European Union that have been made pursuant to Article 8ac (2) (h) of the Mutual Assistance Directive. Pursuant to Article 8ac (2) (h) of the Mutual Assistance Directive, the Federal Ministry of Finance notifies the competent authorities of all other Member States of the European Union that the competent authority of the Federal Republic of Germany does not intend to use the financial account identifier;
2. determinations by the European Commission pursuant to section 7 (3) sentence 2;
3. a list of the identification services that are made available by the Member States of the European Union or by the European Union, and
4. a list of the electronic interfaces made available free of charge by Member States of the European Union and by the European Union for the purposes of checking the validity of tax identification numbers or identification numbers for VAT purposes.

(7) The Federal Central Tax Office carries out the procedure to register reporting platform operators pursuant to section 3 (4) no 2 in accordance with section 12, including the

⁶ *EU-Amtshilfegesetz*

associated notifications to the European Commission and to the competent authorities of the other Member States of the European Union. The Federal Central Tax Office takes into account the European Commission's implementing acts pursuant to Article 8ac (4) (3) of the Mutual Assistance Directive when doing so.

(8) The Federal Central Tax Office informs the competent authorities of all other Member States of the European Union about every determination that the Federal Central Tax Office has made pursuant to section 11 in relation to an excluded platform operator pursuant to section 3 (3), as well as about any change to such a determination.

(9) For the purposes referred to in subsections (7) and (8), the Federal Central Tax Office uses the central directory pursuant to Article 8ac (6) of the Mutual Assistance Directive.

(10) The Federal Central Tax Office checks compliance with the reporting and due diligence obligations imposed on reporting platform operators pursuant to this Act. Section 147 (5) and (6) and sections 193 to 203a of the Fiscal Code, and section 12 of the EU Mutual Assistance Act, apply accordingly.

(11) The Federal Central Tax Office takes measures pursuant to sections 26 and 27 to enforce the obligations pursuant to this Act.

Section 10 – Information

(1) The Federal Central Tax Office may, upon application and on the basis of precisely defined circumstances, provide information about

1. whether the conditions pursuant to section 3 (1) are met,
2. whether the conditions pursuant to section 5 (1) are met.

This information is only provided if the applicant has a particular interest in such information.

(2) The request is to be submitted in written or electronic form. The request must include:

1. the exact designation of the applicant;
2. a comprehensive and complete description of the circumstances;
3. a description of the applicant's particular interest;
4. a detailed description of the applicant's own legal viewpoint;
5. the formulation of specific legal questions;
6. a declaration regarding whether and, if appropriate, in which other Member States of the European Union the applicant has requested corresponding information in accordance with the legal provisions applicable there and, if appropriate, the content of the information that has been provided to the applicant;
7. the affirmation that all the information needed to provide the information and to assess the circumstances has been provided and is true.

(3) The Federal Central Tax Office should make a decision on the request within six months of the request being received; if the Federal Central Tax Office is unable to make a decision on the request by this deadline, it must notify the applicant of this, stating the reasons why.

(4) The information provided by the Federal Central Tax Office is binding in relation to the question of whether obligations exist pursuant to this Act, provided the circumstances that have actually been realised do not deviate from the circumstances that the information was based on. The information is not binding if it contradicts the applicable law to the disadvantage of the applicant. The binding effect of the information ceases to exist as of the point in time that the legal provisions upon which the information is based are rescinded or amended. Without prejudice to sections 129 to 131 of the Fiscal Code, information may be rescinded or amended with future effect if it turns out that the information provided was not correct.

(5) The Federal Central Tax Office charges a fee for processing the request, which is to be set before the information is provided. The fee is to be paid by the applicant within one month following notification that the fee has been set. The fee is €5,000. The fee may be waived in full or in part where its collection would be unreasonable in individual cases. In particular, the fee may be reduced where a request for the provision of information is withdrawn before notification of the information has been made.

Section 11 – Procedure for determining an excluded platform operator

(1) Upon application by a platform operator, the Federal Central Tax Office determines that it is an excluded platform operator if the platform operator has provided proof that the platform it operates cannot be used by reportable sellers. The determination may only be made for one reportable period at a time.

(2) The Federal Central Tax Office extends a determination upon application for a subsequent reportable period if the platform operator proves that the circumstances upon which the original determination was based have not changed in the meantime and are not expected to change in the course of the subsequent reportable period.

(3) Platform operators that are generally obliged to report to the Federal Central Tax Office pursuant to section 13 (1) to (4) are entitled to submit a request for a determination or an extension of a determination. The request pursuant to subsection (1) is to be submitted at the latest by 31 October of a year for the current reportable period, and the request pursuant to subsection (2) is to be submitted at the latest by 31 October of a year for the following reportable period, with the requests to be submitted in electronic or written form.

(4) The request must include:

1. the exact designation of the applicant and, if applicable, all other platform operators of the same platform;
2. the address of the registered office and the electronic addresses, including the internet addresses, of the applicant and, if applicable, all other platform operators of the same platform;
3. every tax identification number and identification number for VAT purposes that have been issued to the platform operator;
4. the reasons why the applicant is generally obliged to report to the Federal Central Tax Office;
5. a declaration regarding whether and, if appropriate, in which other Member States of the

European Union the applicant or another operator of the same platform is obliged to report in accordance with the legal provisions applicable there;

6. a specification of the reportable period for which the determination or the extension of a determination is being requested;
7. a declaration regarding whether and, if appropriate, in relation to which competent authorities of other Member States of the European Union, the applicant or another operator of the same platform in accordance with the legal provisions applicable there has provided proof, or intends to provide proof, for the reportable period specified pursuant to number 6, that the platform it operates cannot be used by reportable sellers;
8. a description of the circumstances, including the contractual, technical and administrative safeguards, that reliably prevent the platform that is the subject of the request from actually being used by reportable sellers.

The necessary documents must be included with the request.

(5) The Federal Central Tax Office may exchange with the competent authorities of other Member States of the European Union information that is required to investigate the circumstances and to decide on the request; no consultation of the applicant pursuant to section 117 (4) sentence 3 of the Fiscal Code takes place.

(6) The Federal Central Tax Office may withdraw a determination or the extension of a determination or revoke it for the future if the conditions pursuant to subsection (1) or (2) are not fulfilled or are no longer fulfilled.

(7) The Federal Central Tax Office charges fees for the processing of a request, which must be set before the determination is issued or extended. The fee is to be paid by the applicant within one month following notification that the fee has been set. The fee is 5,000 euros for each request for a determination and 2,500 euros for each request for the extension of a determination.

(8) An excluded platform operator for whom a determination or the extension of a determination has been made must notify the Federal Central Tax Office without delay of any changes to the information pursuant to subsection (4) sentence 1 nos 1 to 8.

Section 12 – Registration

(1) Reporting platform operators must carry out a one-time registration with a competent authority of a Member State of the European Union without delay once the conditions of section 3 (4) no 2 have been met.

(2) If a reporting platform operator decides to register with the Federal Central Tax Office, it must notify the Federal Central Tax Office of the following information in electronic form:

1. the exact designation of the reporting platform operator;
2. the address of its registered office;
3. the electronic addresses, including the internet addresses, of the reporting platform operator;

4. any tax identification number that has been issued to the reporting platform operator;
5. a declaration with information about the identification of the reporting platform operator for VAT purposes pursuant to sections 18i and 18j of the VAT Act or pursuant to a comparable provision of another Member State of the European Union pursuant to Title XII Chapter 6 Sections 2 and 3 of Council Directive 2006/112/EC;
6. all Member States of the European Union in which
 - a) the reportable sellers pursuant to section 4 (6) are deemed to be resident, or
 - b) the immovable property is located in relation to which the reportable sellers have carried out, via the platform, relevant activities pursuant to section 5 (1) sentence 1 no 1.

The Federal Central Tax Office allocates a registration number to the reporting platform operator subject to subsection (8) sentence 1.

(3) Reporting platform operators to whom the Federal Central Tax Office has allocated a registration number must notify the Federal Central Tax Office without delay of any changes to the information specified in subsection (2) sentence 1.

(4) The Federal Central Tax Office notifies the competent authorities of all other Member States of the European Union of the registration number that it has allocated to a reporting platform operator, as well as the information specified in subsection (2) sentence 1 and all changes to this information.

(5) The Federal Central Tax Office sends a request to the European Commission to delete the registration of a reporting platform operator to which it has allocated a registration number from the central directory pursuant to Article 8ac (5) of the Mutual Assistance Directive if

1. the platform operator informs the Federal Central Tax Office that the conditions pursuant to section 3 (4) no 2 (c) are no longer fulfilled,
2. the Federal Central Tax Office has reason to believe that the conditions pursuant to section 3 (4) no 2 (c) are no longer fulfilled, even though no notification pursuant to number 1 has been made,
3. the platform operator no longer fulfils the conditions of section 3 (4) no 2, or
4. the Federal Central Tax Office has revoked the registration pursuant to subsection (7).

(6) The Federal Central Tax Office informs the European Commission without delay about any reporting platform operator that fulfils the conditions pursuant to section 3 (4) no 2 (c) and that is not registered with the Federal Central Tax Office or another competent authority of a Member State of the European Union pursuant to subsection (1).

(7) If the Federal Central Tax Office has allocated a registration number to a reporting platform operator and the reporting operator does not comply with its reporting obligation pursuant to section 13 (1) and (4), the Federal Central Tax Office revokes the registration that has been issued. The revocation takes place at the earliest after the expiry of 30 days and at the latest after the expiry of 90 days after the reporting platform operator has been reminded of the reporting obligation for the second time without success and they have been notified that the registration will be revoked. Sections 25 to 27 remain unaffected.

(8) If the Federal Central Tax Office pursuant to subsection (7), or another competent authority of a Member State of the European Union in accordance with the legal provisions applicable in that Member State, has revoked the registration of a reporting platform operator, then this reporting platform operator will only be allocated a registration number by the Federal Central Tax Office on request if it provides an appropriate security to the Federal Central Tax Office. The provision of the security must create the expectation that the reporting platform operator will comply with its reporting obligation, including, if appropriate, reporting obligations for past reportable periods that have not yet been fulfilled. Sections 241 to 248 of the Fiscal Code apply accordingly. The provided security must be returned to the reporting platform operator as soon as the reporting platform operator has complied fully and correctly with the reporting obligation for past reportable periods, if applicable, and for the next reportable period. Sections 25 to 27 remain unaffected.

Division 2

Reporting obligations

Section 13 – Reporting obligation

(1) Reporting platform operators must report the information specified in section 14 in relation to the reportable period in accordance with the requirements pursuant to

1. section 15 (1) and
2. section 15 (2) to (4)

to the Federal Central Tax Office, at the latest by 31 January of the year following the calendar year in which the seller was identified as a reportable seller. If a reporting platform operator becomes aware of the fact that, in violation of sentence 1, a report has not been transmitted, or has not been correctly or completely transmitted, within the deadline specified in sentence 1, the reporting platform operator must submit, correct or complete the report without delay following the point in time that it becomes aware of an omitted, incorrect or incomplete report; this also applies if the reporting platform operator has, in violation of its obligation, not identified the seller as a reportable seller or has not identified it in time. In addition,

1. subsections (2) and (3) apply to reporting platform operators pursuant to section 3 (4) no 1, and
2. subsections (4) and (5) apply to reporting platform operators pursuant to section 3 (4) no 2.

(2) A reporting platform operator that is obliged to also report the information pursuant to section 14 to the competent authority of at least one other Member State of the European Union on the basis of the legal provisions applicable in that Member State must decide which competent authority it reports the information to. The reporting platform operator must communicate its decision to the competent authorities of the other Member States of the European Union at the latest by the point in time specified in subsection (1) sentence 1. If a reporting platform operator decides pursuant to the second sentence to report the information

to the competent authority of another Member State of the European Union instead of to the Federal Central Tax Office, it is exempt from the reporting obligation pursuant to subsection (1) sentence 1.

(3) Multiple operators of the same platform have the obligation pursuant to subsection (1) sentence 1 in parallel as reporting platform operators. A reporting platform operator is exempt from the reporting obligation if it can prove that another reporting platform operator has reported the information pursuant to section 14 to the Federal Central Tax Office or to the competent authority of another Member State of the European Union in accordance with the legal provisions applicable in that Member State

(4) In derogation from subsection (1) sentence 1, a reporting platform operator is only obliged to report to the Federal Central Tax Office if it is registered with the Federal Central Tax Office pursuant to section 12.

(5) Notwithstanding subsection (4) and in derogation from section 14, a reporting platform operator is not obliged to report information about qualified relevant activities by reportable sellers if

1. the automatic exchange of equivalent information with the competent authority of a Member State of the European Union is required in accordance with a qualified agreement, and
2. the reportable sellers
 - a) are deemed to be resident in that Member State of the European Union, or
 - b) have performed relevant activities pursuant to section 5 (1) sentence 1 no 1 in relation to immovable property located in that Member State of the European Union.

Section 14 – Information to be reported

(1) Reporting platform operators must report the following information about themselves and about the platforms they operate:

1. the registered name of the platform operator;
2. the address of the registered office of the platform operator;
3. the tax identification number;
4. the registration number pursuant to section 12 (2) sentence 2, if this has been allocated to the platform operator;
5. all the company names used by the platform for which the reporting platform operator is reporting.

(2) Reporting platform operators must report the following information for each reportable seller that is a natural person:

1. their first and last names;
2. the address of their residence;
3. any tax identification number that has been issued to the seller, and the respective Member State of the European Union that issued it, or, if no tax identification number is available,

- the place of birth;
4. if available, the identification number for VAT purposes;
 5. the date of birth;
 6. if available, the financial account identifier, unless it is stated in one of the lists published on the website of the Federal Central Tax Office that the competent authority of the Member State of the European Union in which the seller is deemed to be resident or in which the immovable property is located, in relation to which the seller has performed relevant activities pursuant to section 5 (1) sentence 1 no 1, does not intend to use the financial account identifier;
 7. if available, the name of the holder of the financial account if this is different from the name of the seller, as well as all other information that is needed to identify the account holder;
 8. any Member State of the European Union in which the seller is deemed to be resident or in which the immovable property is located, in relation to which the seller has performed relevant activities pursuant to section 5 (1) sentence 1 no 1;
 9. any fees, commissions or taxes that were withheld or charged by the reporting platform operator during each quarter of the reportable period;
 10. the total consideration paid or credited in each quarter of the reporting period;
 11. the number of relevant activities for which a consideration was paid or credited in each quarter of the reporting period.

(3) Reporting platform operators must report the following information for each reportable seller that is a legal entity:

1. the registered name;
2. the address of the registered office;
3. any tax identification number that has been allocated to this seller and the respective Member State of the European Union that allocated it;
4. if available, the identification number for VAT purposes;
5. the business registration number;
6. if available, the existence of any permanent establishment in the European Union through which relevant activities are carried out, and the respective Member State in which this permanent establishment is located;
7. the information specified in subsection (2) nos 6 to 11.

(4) Reporting platform operators must report the following information for each reportable seller that has performed relevant activities pursuant to section 5 (1) sentence 1 no 1, in addition to the information pursuant to subsections (2) and (3):

1. the address of each property listing;
2. the total consideration paid or credited in each quarter of the reporting period per property

- listing;
3. the number of relevant activities per property listing;
 4. if available, the type of each property listing;
 5. if available, the number of days on which each property listing was provided for use pursuant to section 5 (1) sentence 1 no 1 during the reporting period;
 6. if available, for each property listing the land registration number or its equivalent under the law of the Member State of the European Union in which the immovable property is located.

Section 15 – Reporting procedures

(1) The reporting to the Federal Central Tax Office must be carried out electronically, using an officially prescribed data set, by means of remote data transmission via officially stipulated interfaces. The Federal Ministry of Finance announces the officially prescribed data set in the Federal Tax Gazette.

(2) The information about the consideration is to be reported in the currency in which the consideration was paid or credited. If the consideration was not paid or credited in fiat currency, the consideration must be valued or converted by the reporting platform operator using a uniformly applied method and reported in the national currency of the Member State of the European Union in which the reportable seller is deemed to be resident. If the reportable seller is deemed to be resident in multiple Member States of the European Union, and if the euro is the national currency in one of these Member States of the European Union, the consideration must be reported in euros. If, in the case of the second sentence, the euro is not the national currency in any of the Member States of the European Union, the reporting platform operator is free to choose in which national currency it reports the consideration.

(3) The information about the consideration and the other amounts specified in section 5 (2) must be reported in respect of the quarter of the reportable period in which the respective consideration was paid or credited.

(4) If an activity includes several of the relevant activities specified in section 5 (1) sentence 1 nos 1 to 4 and if it is possible to determine the economic value of the components of the activity and to allocate this value to individual relevant activities, the reporting platform operator must report each relevant activity with its corresponding share of the value. If the economic value of the individual components of the activity cannot be determined and allocated to individual relevant activities, the reporting platform operator must use as a basis the focus that the activity has according to prevailing opinion; in the case of an activity that only includes relevant activities pursuant to section 5 (1) sentence 1 nos 2 and 3, a relevant activity pursuant to section 5 (1) sentence 1 no 2 must be reported in case of doubt. The reporting platform operator must, when applying the first and second sentences, carry out the determination of the shares of the value and the allocation of activities and their components to relevant activities in a uniform manner for all reportable sellers.

Division 3

Due diligence procedures

Section 16 – Application of the due diligence procedures

Reporting platform operators are free to carry out the procedures to comply with the due diligence obligations pursuant to sections 17 to 20 only with regard to active sellers.

Section 17 – Collection of reportable information

(1) For each seller that is a natural person but not an excluded seller, reporting platform operators must

1. collect information pursuant to section 14 (2) nos 1 to 5, and
2. determine the residency pursuant to section 4 (6) sentences 2, 3 and 5.

(2) For each seller that is a legal entity but not an excluded seller, reporting platform operators must

1. collect information pursuant to section 14 (3) nos 1 to 6, and
2. determine the residency pursuant to section 4 (6) sentences 2 to 5.

(3) For each seller that is not an excluded seller and which performs a relevant activity pursuant to section 5 (1) sentence 1 no 1, reporting platform operators must collect the information pursuant to section 14 (4) nos 1 and 6 in addition to the information pursuant to subsection (1) or (2).

(4) In derogation from subsection (1) no 1 and subsection (2) no 1, a reporting platform operator is not obliged to collect the following information:

1. pursuant to section 14 (2) no 3 and subsection (3) nos 3 and 5, if the Member State of the European Union in which the seller is deemed to be resident does not make this information available to the seller, and
2. pursuant to section 14 (2) no 3 and subsection (3) no 3, if the Member State of the European Union in which the seller is deemed to be resident does not require the collection of this information.

(5) In derogation from subsections (1) and (2), a reporting platform operator is not obliged to collect the information pursuant to section 14 (2) nos 2 to 5 and subsection (3) nos 2 to 6, and is also not obliged to determine the residence pursuant to section 4 (6) sentences 2 to 4, if the reporting platform operator uses an identification service to confirm the identity and the tax residence of the seller.

(6) In derogation from subsections (1) to (3), the information pursuant to section 14 (2) no 4, subsection (3) nos 4 and 6 and subsection (4) no 6 must only be collected if the respective seller has this information at their disposal.

Section 18 – Verification of reportable information

(1) Reporting platform operators must check the plausibility of the information specified in section 14 (2) nos 1 to 5 and subsection (3) nos 1 to 5 using all the information and documents they have available from other contexts for the purposes of fulfilling contractual obligations or legal requirements; if necessary and appropriate, information that has already been collected may also be further processed for verification purposes. If a Member State of the European Union or the European Union makes available free of charge an electronic interface to verify the validity of a tax identification number or an identification number for VAT purposes, this interface must be used by reporting platform operators to verify the validity of tax identification numbers or identification numbers for VAT purposes. If the verification reveals that information is not plausible, the reporting platform operator must pursuant to section 17 collect new information without delay following the completion of the verification.

(2) Reporting platform operators are free to check the plausibility of the information specified in section 14 (2) nos 1 to 5 and subsection (3) nos 1 to 5 for existing sellers using, in derogation from subsection (1), their electronically searchable information and documents.

(3) If there are reasons to suspect that the information collected by a reporting platform operator pursuant to section 14 (2) nos 1 to 5, subsection (3) nos 1 to 6 and subsection (4) nos 1 and 6 is incorrect, the reporting platform operator must, at the request of the Federal Central Tax Office and notwithstanding subsections (1) and (2), ask the seller without delay to correct the information that is regarded as incorrect and to confirm the information by presenting reliable documents from an independent source. Documents as referred to in the previous sentence include in particular:

1. a valid identification document issued by an official authority;
2. a current tax residency certificate.

Reasons for the suspicion referred to in the first sentence are deemed to exist if the Federal Central Tax Office, on the basis of its own investigations, a notification from a competent *Land* revenue authority or a notification from a competent authority of another Member State of the European Union, becomes aware of information according to which justified doubts exist as to the accuracy of reported or transmitted information relating to a seller.

Section 19 – Identification of excluded sellers

(1) For the purposes of determining whether a seller is an excluded seller pursuant to section 4 (5) sentence 1 nos 1 or 2, a reporting platform operator may rely on publicly available information or relevant information provided by the seller. For the purposes of determining whether a seller is an excluded seller pursuant to section 4 (5) sentence 1 nos 3 or 4, a reporting platform operator may rely on the information and documents available in its records. The verification of the accuracy of the determinations pursuant to the first and second sentences is governed by section 18 (1) to (3).

(2) If a seller has provided relevant activities pursuant to section 5 (1) sentence 1 no 1 in relation to a property listing in more than 2,000 cases during the reportable period and this seller is a legal entity, the reporting platform operator must, in derogation from subsection (1) sentence 2, verify, using documents or other information, whether the property listing is

owned by the same owner. If it cannot be proved that the property listing is owned by the same owner, the seller may not be considered an excluded seller.

Section 20 – Deadline for complying with due diligence obligations

(1) Reporting platform operators must conclude the procedures pursuant to section 17, section 18 (1) and (2) and section 19 by 31 December of the reportable period. For existing sellers, reporting platform operators must conclude the procedures pursuant to sections 17 to 19 by 31 December of the second reportable period.

(2) A reporting platform operator may rely on procedures for complying with due diligence obligations that were carried out for previous reportable periods if

1. the information pursuant to section 14 (2) nos 1 to 5 and subsection (3) nos 1 to 6 was collected and verified or confirmed no more than 36 months previously, and
2. the reporting platform operator has no reason to suspect that the information collected pursuant to sections 17 to 19 is not plausible or not accurate.

Section 21 – Compliance with due diligence obligations by third parties

(1) Reporting platform operators may make use of external service providers for the purposes of complying with the obligations pursuant to this Division.

(2) Reporting platform operators may transfer compliance with the obligations pursuant to this Division to other platform operators from the same platform.

(3) The responsibility for complying with the obligations pursuant to this Division continues to lie with the reporting platform operators in the cases of subsections (1) and (2).

Division 4

Other obligations for reporting platform operators

Section 22 – Information for sellers

(1) Reporting platform operators must notify each reportable seller in general terms of the following, before the first reporting of the information pursuant to section 13 (1):

1. the fact that, pursuant to this Act, information on this seller will be collected for the purposes of carrying out the taxation procedure and reported to the Federal Central Tax Office to be forwarded to the competent *Land* revenue authorities or to the competent authorities of other Member States of the European Union,
2. all information that the seller is entitled to from the data controller, in sufficient time that the seller is able to exercise their data protection rights.

(2) Reporting platform operators must notify each reportable seller of the information pursuant to section 14 (2), (3) or (4) that concerns them by 31 January of the year following the reportable period in which the seller was identified as a reportable seller.

Section 23 – Enforcement of cooperation obligations

If a seller does not comply with a reporting platform operator's request to present the information to be collected pursuant to section 17 (1) no 1, subsection (2) no 1, subsection (3) and section 18 (3) sentence 1, the reporting platform operator must twice remind the seller to present the information. If the seller does not present the requested information even after the second reminder, the reporting platform operator must, at the latest after 180 days, but not before the expiry of a period of 60 days, since the original request,

1. prevent the further usage of the platform by the seller by blocking the seller or deleting the seller's registration, and ensure that the seller is not able to register again with the platform, or
2. withhold payments of the consideration to the seller.

The measures pursuant to sentence 2 no 1 or 2 must be cancelled as soon as the seller has presented the requested information.

Section 24 – Records; retention periods

(1) Reporting platform operators must create the following records by the points in time specified in subsection (2):

1. a description of the processes, including the automated, operational and organisational safeguards, in particular the relevant business relations, competences and deadlines, as well as all changes to these, that are used to fulfil the obligations pursuant to section 13 (1) sentences 1 and 2, subsection (2) sentences 1 and 2, section 14 (1) to (4), section 15 (1) sentence 1, subsections (2) to (4), section 17 (1) to (3), section 18 (1) and (3) sentence 1, section 20 (1), sections 22 and 23, also taking into consideration the requirements pursuant to section 13 (3) to (5), section 16, section 17 (4) to (6), section 18 (2), section 19 (1) and (2), section 20 (2) and section 21 (1) and (2), in relation to a reportable period;
2. in relation to each seller, the information processed for the application of the due diligence obligations pursuant to section 16, section 17 (1) to (3), (5), section 18 (1) to (3) sentence 1, section 19 (1) and (2), the respective date and time, and the result of the processing;
3. in relation to each reportable seller, the information reported pursuant to section 13 (1) sentences 1 and 2, the respective date and time of a report and the relevant information that formed the basis for the application of the reporting procedure pursuant to section 15 (2) sentences 2 to 4, subsection (4);
4. in relation to each reportable seller, the content and the date and time of the notifications pursuant to section 22;
5. in relation to each seller against whom the cooperation obligation pursuant to section 23 is being enforced, the content and the date and time of, respectively, the request, the reminder, the measure as well as the information upon which the cancellation of the measure was based and the date and time of the cancellation.

(2) The records pursuant to subsection (1) must be created:

1. for records pursuant to subsection (1) no 1, at the latest by the end of the respective reportable period to which the records relate,
2. for records pursuant to subsection (1) no 2, at the time of the respective processing,
3. for records pursuant to subsection (1) nos 3 and 4, by 31 January of the calendar year following the respective reportable period to which the records relate,
4. for records pursuant to subsection (1) no 5, at the time when, respectively, the request, the reminder, the measure or its cancellation takes place.

(3) The records pursuant to subsection (1) must be retained for a period of 10 years. The records pursuant to subsection (1) nos 2 to 5 must be deleted after the end of this period. The retention period begins at the end of the calendar year in which the records were created.

Division 5

Administrative fine provisions and other measures

Section 25 – Administrative fine provisions

(1) An administrative offence is deemed to have been committed by any person who intentionally or recklessly,

1. in violation of section 12 (1), fails to register or fails to do so correctly, in full, or on time,
2. in violation of section 12 (2) sentence 1 nos 1 to 4 or 6, fails to make a notification correctly or in full,
3. in violation of
 - a) section 12 (3) in conjunction with section 12 (2) sentence 1 nos 1 to 4 or no 6 or
 - b) section 22fails to make a notification or fails to do so correctly, in full, or on time,
4. in violation of section 13 (1) sentence 1 no 2, fails to make a report or fails to do so correctly, in full, on time, or in the prescribed manner,
5. in violation of section 13 (1) sentence 2, fails to make a previously omitted report or fails to do so correctly, in full or on time, fails to correct a report or fails to do so correctly, in full or on time, or fails to complete a report or fails to do so correctly, in full or on time,
6. in violation of section 23 sentence 2, fails to take one of the measures described there or fails to do so correctly or on time,
7. in violation of section 24 (1), fails to create a record or fails to do so correctly, in full or on time,
8. in violation of section 24 (3) sentence 1, fails to retain a record or fails to do so for at least 10 years, or
9. in violation of section 24 (3) sentence 2, fails to delete a record or fails to do so on time.

(2) The administrative offence is punishable by an administrative fine of up to 50,000 euros in the cases referred to in subsection (1) nos 1 to 3 (a), by an administrative fine of up to 30,000 euros in the cases referred to in subsection (1) nos 4 to 6, and by an administrative fine of up to 5,000 euros in all other cases.

(3) The administrative authority within the meaning of section 36 (1) no 1 of the Administrative Offences Act⁷ is the Federal Central Tax Office.

(4) Sections 389, 390 and 410 (1) nos 2 and 6 to 12 of the Fiscal Code apply accordingly to administrative fine proceedings.

Section 26 – Other measures

(1) If a violation of section 12 (1) to (3) comes to the attention of the Federal Central Tax Office, it can take the appropriate and necessary measures within its legal remit to ensure compliance with the requirements stipulated in this Act.

(2) If a platform operator fails to comply with the registration requirement pursuant to section 12 (1) and (2) even after receiving two reminders, or if a registration pursuant to section 12 (7) has been revoked, the Federal Central Tax Office may prohibit the platform operator from operating the platform and order the platform's suspension. Such prohibition and suspension are not permissible if the measure is disproportionate to the platform's importance to the platform operator and the general public. A prohibition and suspension are permissible only if their purpose cannot be achieved by other means. The prohibition and suspension must, insofar as their purpose can be achieved in this way, be limited to certain types and parts of platforms, or limited in time.

(3) The Federal Central Tax Office is authorised to request that reporting platform operators comply with their reporting obligations pursuant to section 13.

Section 27 – Coordination

The Federal Central Tax Office works together with the competent authorities of the other Member States of the European Union and with the European Commission within the framework of mutual administrative assistance in order to support the uniform and efficient application of administrative fine provisions and other measures in cases where reporting platform operators pursuant to section 3 (4) no 2 commit violations and in order to ensure that measures remain proportionate. To this end, the Federal Central Tax Office informs the competent authorities of other Member States of the European Union about investigations and decisions in applying sections 25 and 26, and takes into account information received from other competent authorities of Member States of the European Union when applying sections 25 and 26.

Division 6

Legal recourse and application

⁷ *Gesetz über Ordnungswidrigkeiten*

Section 28 – Legal recourse

- (1) Recourse to the tax courts is possible regarding measures taken by the revenue authorities pursuant to this Act.
- (2) Subsection (1) is not applicable to administrative fine proceedings.

Section 29 – Application

The obligations pursuant to Divisions 2 and 3 must be observed for the first time with respect to the reporting period corresponding to the 2023 calendar year.