

Amendment of the VAT Directive

New requirements for the Payment Service Providers

New record keeping and reporting obligations will be imposed as from January 1st, 2024 to EU Payment Services Providers (PSPs) to fight against VAT fraud. In February 2020, the European Union Council has approved [new measures](#) ([Directive](#) and [Regulation](#)) imposing on PSPs to collect and report data regarding cross-border payments as from 2024. Definitions and concepts used by this new regulation are generally those of the Directive 2015/2366 (PSD2).

Heads of Tax and Compliance Departments in PSPs should draw the attention within their organization on these new obligations, set up a retroplanning and undertake with their respective IT teams actions to be ready as of 1 January 2024.

1. Which PSPs fall under the scope?

The new measures apply to all PSPs established in the EU. The concerned PSPs are the credit, electronic money, payment and post office giro institutions. It also including persons exempted under PSD2 which are smaller PSPs (i.e. average monthly payment of a value of maximum € 3 million).

2. Which payment transactions are in the scope?

The new obligations are only applicable for cross border payments (i.e. any payment when the payee is established in another jurisdiction than the payer). It would thus include cases where the payer is located in an EU Member State and the payee is located in another EU or in a non-EU country or territory. National payments are thus out of the scope.

3. When start the obligations?

The record-keeping and reporting obligation starts when a payment service provider provides more than 25 cross-borders payments to the same payee during a calendar quarter. The criteria is strictly based on the number of payments, not on the amounts paid.

This number is calculated by reference to the payment services provided by the PSP per Member State and per beneficiary (it includes all the payment accounts of the same beneficiary within the same PSP).

4. Which PSP should keep record and report the transaction?

In principle, both the payer's and payee's PSPs are subject to the same obligations.

However, when both payer's PSP and at least one of the payees PSP(s) are established in the EU, only the payee's PSP should be subject to the record-keeping and reporting obligations regarding the payments between EU PSPs.

Who should keep record and report the transaction?		Payee's PSP location	
		In the EU	Outside the EU
Payers PSP location	In the EU	Payee's PSP* If both located in the same Member State – the transaction is out of scope	Payer's PSP
	Outside the EU	Payee's PSP	The transaction is out of scope

*Nevertheless, the payer's PSP should include these payments made to EU payees PSP(s) in the computation of the 25 cross-border payments mentioned above. .

5. What are the record-keeping obligations?

PSPs should store the information collected in an electronic format for a period of three calendar years from the end of the calendar year of the date of the payment.

6. How and when to report?

The PSPs have to report the information available in accordance to its Member State of establishment or to the host Member States when the PSP provides payment services in Member States other than the home Member State.

PSPs should collect the information no later than by the end of the month following the calendar quarter to which the information relates. The Commission must define this electronic standard form and Member States the other practical measures.

7. What are the information to collect and report?

Content to be reported:

- BIC of the PSP
 - Name or business name of the payee and any VAT identification number or other national tax number of the payee
 - the IBAN or any other identifier which unambiguously identifies, and gives the location of, the payee
 - the BIC or any other business identifier code that unambiguously identifies, and gives the location of, the payment service provider acting on behalf of the payee where the payee receives funds without having any payment account
 - the address of the payee as it appears in the records of the payment services provider (if available)
 - the details of any cross-border payment
 - the details of any payment refunds identified as relating to the cross-border payments
- the **date and time** of the payment (or refund)
 - the **amount** and the **currency** of the payment (or refund)
 - the **Member State of origin** of the payment received by or on behalf of the payee, the Member State of destination of the refund, as appropriate, and the information used to determine the origin or the destination of the payment or of the payment refund
 - **any reference** which unambiguously **identifies the payment**
 - information that the payment is initiated at the **physical premises of the merchant** (when applicable)

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