



STATUTORY INSTRUMENTS.

S.I. No. 674 of 2023



RETURN OF CERTAIN INFORMATION BY REPORTING PLATFORM
OPERATORS REGULATIONS 2023

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RETURN OF CERTAIN INFORMATION BY REPORTING PLATFORM OPERATORS REGULATIONS 2023

The Revenue Commissioners, in the exercise of the powers conferred on them by section 891J (inserted by section 82 of the Finance Act 2022 (No. 44 of 2022)) of the Taxes Consolidation Act 1997 (No. 39 of 1997), with the consent of the Minister for Finance, hereby make the following Regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Return of certain information by Reporting Platform Operators Regulations 2023.
- (2) These Regulations come into operation on 1 January 2024.

Interpretation

2. (1) In these Regulations –
 - ‘authorised officer’ means an officer of the Revenue Commissioners authorised under subsection (12) of the principal section;
 - ‘excluded platform operator’ means a platform operator registered under subsection (3) of the principal section that demonstrates to the satisfaction of the Revenue Commissioners under paragraph (d) of that subsection that the excluded platform operator is not a reporting platform operator to which subsections (4) and (5) of the principal section apply;
 - ‘Model Rules’ means the Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy approved by the Organisation for Economic Cooperation and Development on 29 June 2020 and the Model Reporting Rules for Digital Platforms: International Exchange Framework and Optional Module for Sale of Goods approved by the Organisation for Economic Cooperation and Development on 17 June 2021;
 - ‘partner jurisdiction’ means any jurisdiction outside the State with which the State has an agreement or arrangement in effect under section 826(1B) pursuant to which the State may exchange on an automatic basis the information specified in subsection (5);
 - ‘Platform Operator ID’ means a unique individual identification number assigned to a platform operator by the Revenue Commissioners;
 - “principal section” means section 891J of the Taxes Consolidation Act 1997;
 - “return date” means the date referred to in subsection (4) of the principal section.
- (2) Unless the context otherwise requires, a word or expression used in these Regulations that is also used in –
 - (a) the Model Rules shall have the same meaning as it has in the Model Rules, or

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 22nd December, 2023.*

- (b) the principal section shall have the same meaning as it has in the principal section.

General requirements

3. (1) A platform operator required under subsection (3)(a) of the principal section to register with the Revenue Commissioners shall do so by the later of –

- (a) the 30 November of the reportable period, or
- (b) the last day of the month following the month in which any of the conditions as laid out in subsection (3)(a) are first satisfied.

(2) Where a platform operator makes a partner jurisdiction election under subsection (3)(c) of the principal section details of that partner jurisdiction election shall be submitted in writing to the Revenue Commissioners. by the later of –

- (a) 30 November of the reportable period, or
- (b) the last day of the month following the month in which the Member State election is made.

(3) An excluded platform operator shall, by 31 January in the year following the reportable period, make a return to the Revenue Commissioners confirming that it has not facilitated any relevant activity in the reportable period.

Reporting of consideration

4. (1) A reporting platform operator required to satisfy the obligations as laid out in subsection (4) of the principal section shall, subject to paragraph (2), report all consideration in the fiat currency in which the consideration has been paid or credited.

(2) For the purposes of making a return under subsection (4) of the principal section, where consideration paid or credited to a reportable seller is in a form other than fiat currency, it shall be reported in euro, converted or valued in a manner that is consistently determined by the reporting platform operator.

(3) For the purposes of subsection (5) of the principal section, the information relating to the consideration and other amounts shall be reported in respect of the quarter of the reportable period in which the consideration was paid or credited.

(4) For the purposes of this regulation, information relating to consideration which has been withheld under subsection (7)(b)(i)(I) of the principal section shall be included in the quarter of the reportable period in which the consideration would have been paid or credited if subsection (7)(b)(i)(I) of the principal section did not apply.

Non-compliance by a reportable seller

5. Where a reportable seller has failed to provide the relevant information to a reporting platform operator such that paragraph (b) of subsection (7) of the principal section applies, the reporting platform operator shall -

- (a) implement procedures to ensure that no consideration shall be paid or credited to that reportable seller in accordance with subsection (7)(b)(i)(I) of the principal section;
- (b) take all reasonable and appropriate steps to prevent the reportable seller from connecting with users of the reporting platform operator for the purpose of arranging future relevant activities in accordance with subsection (7)(b)(i)(II) of the principal section, which may include:
 - (i) suspending the account of the reportable seller, and
 - (ii) preventing users from making contact with the reportable seller other than for the purpose of existing relevant activities;
- (c) take all reasonable and appropriate steps to prevent that reportable seller from opening a new account in accordance with subsection (7)(b)(i)(III) of the principal section;
- (d) implement procedures to make payment of any consideration in accordance with subsection (7)(b)(i)(A) of the principal section;
- (e) implement procedures to close the account of that reportable seller in accordance with subsection (7)(b)(i)(B) or (7)(b)(ii)(I) of the principal section;
- (f) take all reasonable steps to prevent that reportable seller from reopening a suspended account or from opening a new account in accordance with subsection (7)(b)(i)(C) or (7)(b)(ii)(II).

Obligation to deliver a return

6. Where a reporting platform operator is required under the principal section or these Regulations to -

- (a) deliver a return, or
- (b) make a declaration or election,

the return, declaration or election shall be delivered or made electronically -

- (i) using such technology as may be approved or provided by the Revenue Commissioners, and
- (ii) in such form as the Revenue Commissioners may require.

Appointment of third parties

7. (1) A reporting platform operator may appoint a person as its agent to carry out the duties and obligations imposed on it by the principal section or these Regulations.

(2) Notwithstanding the appointment of a person under paragraph (1), the reporting platform operator shall –

- (a) at all times, have access to and be able to produce, where so required by an authorised officer, the records and documentary evidence used to identify and report on reportable sellers, and
- (b) be responsible for any failure to comply with the principal section or these Regulations.

Due diligence procedures

8. (1) Subject to this Regulation, a reporting platform operator shall, in order to identify reportable sellers maintained by the platform, apply the due diligence procedures, and comply with the rules, set out in paragraphs A to F of section II of the Model Rules.

(2) A reporting platform operator may elect to apply the due diligence procedures relating to sellers, as set out in paragraphs A to F of section II of the Model Rules, to active sellers only.

(3) A reporting platform operator shall apply the due diligence procedures relating to the collection of a seller's information as set out in paragraphs B of section II of the Model Rules.

(4) In order to verify the reliability of a seller's information collected a reporting platform operator shall apply the due diligence procedures as set out in paragraph C of section II of Model Rules.

(5) A reporting platform operator shall determine the jurisdiction of residence of a seller in accordance with paragraph D of section II of the Model Rules.

(6) Where the relevant services of the seller includes the rental of immoveable property the reporting platform operator shall, in accordance with paragraph E of Section II of the Model Rules, collect the address of each property listing.

(7) Where a reporting platform operator has applied the due diligence procedures set out in section II of the Model Rules and the reporting platform operator knows, or have reason to know, by virtue of information supplied to them by the tax authorities, that the original documentary evidence or other equivalent documentation with respect to a seller is incorrect or unreliable , a reporting platform operator shall obtain new documentary evidence from the seller.

(8) A seller, that is not an excluded seller, shall be treated as a reportable seller and unless otherwise provided for by the principal section or these Regulations, information with respect to a reportable seller shall be reported

annually in the calendar year following the year to which the information relates until such a time as the seller ceases to be a reportable seller.

(9) A reporting platform operator shall implement arrangements to obtain the information required under the principal section and these Regulations in respect of each seller.

(10) Information obtained by a reporting platform operator solely for the purpose of reporting under the principal section and these Regulations shall not be used for any other purpose.

(11) For the purpose of the timing and validity of the due diligence procedures set out in these Regulations, a reporting platform operator shall apply the procedures set out in paragraph F of section II of the Model Rules.

(12) (a) A reporting platform operator may rely on the services of –

(I) a third party service provider, or

(II) another platform operator

to fulfil the due diligence obligations imposed on it by these Regulations and the principal section.

(b) Notwithstanding subparagraph (a) the due diligence obligations imposed by these Regulations and the principal section shall remain the responsibility of the reporting platform operator.

Maintaining records

9. A reporting platform operator shall keep records of the procedures applied and any information relied upon in order to comply with the principal section and these Regulations for a period of 6 years from the end of the year in which the procedures were applied or the information relied upon.

Inspection of records and provision of information and assistance

10. (1) An authorised officer may by notice in writing require a reporting platform operator to furnish them within such time, not being less than 14 days, as may be provided by the notice, with such information (including copies of any relevant books, records or other documents) as they may reasonably require for the purpose of determining whether information specified in a return under the principal section or these Regulations is correct and complete.

(2) An authorised officer may require a reporting platform operator to produce books, records or other documentation and to provide information, explanations and particulars and to give all assistance which the authorised officer may reasonably require for the purpose of the powers and duties conferred on them by subsection (12) of the principal section.

(3) An authorised officer may make extracts from or copies of all or any part of the books, records or other documents or other material made available to them or require that copies of books, records or other documents be made available to them for the purpose of exercising or performing their powers under the principal section or these Regulations.

The Minister for Finance consents to the making of these Regulations.



GIVEN under the Official Seal of the Minister for Finance,
20 December, 2023.

MICHAEL MCGRATH,
Minister for Finance.

GIVEN under my hand,
20 December 2023

NIALL CODY,
Revenue Commissioner

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
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