

## Reporting Requirement for Payment Service Providers on Cross-Border Payments

### EU Central Electronic System of Payment Information (‘CESOP’)

This document should be read in conjunction with Part 9A ‘Reporting Obligations of Certain Payment Providers’ of the VAT Consolidation Act 2010, Implementing Council Regulation (EU) 2020/283 amending Council Regulation (EU) No. 904/2010 and Council Directive (EU) 2020/284 amending the VAT Directive (Council Directive (EU) 2006/112/EC).

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## Introduction

This manual provides guidance on the statutory provisions in VAT law which impose record-keeping and reporting obligations on certain payment service providers (PSPs) established in the EU.

With the growth in electronic commerce transactions, the collection and use of data on cross-border payments can be especially useful in the effort to combat the increased risks to VAT across the EU. The internet and new technologies allow companies to sell goods abroad without the need to set up any kind of physical presence. For the vast majority of online purchases made by consumers in the EU, payments are executed through PSPs. As a result, PSPs hold specific information to identify the recipient, or payee, of the payment together with details of the date, the amount, and the Member State of origin of the payment. Access to this information can facilitate tax authorities in EU Member States in their work of detecting fraudulent business activity and controlling VAT liabilities.

Therefore, as part of the EU's eCommerce VAT Package, new arrangements were agreed which take effect from 1 January 2024. The arrangements involve statutory record-keeping and reporting requirements in respect of cross-border payments facilitated by PSPs who provide services in the EU. In accordance with the relevant EU law, PSPs are now obliged to keep certain records in relation to cross-border payment services they provide in each calendar quarter and to report the information to the relevant tax authority; each tax authority is obliged to transmit the reported information to the Central Electronic System of Payment Information ('CESOP') which has been developed by the EU Commission. The objective of the reporting obligation imposed on PSPs is to provide anti-fraud experts in Member States with the information that can be used (for example, to identify sellers abroad that supply goods or services in their territory) in their work to detect and investigate VAT fraud.

Because the purpose of the initiative is to help combat VAT fraud and manage VAT risks, the measures are given effect under VAT law, both at EU and national level. Although the record-keeping and reporting obligations on a PSP under this initiative are imposed under VAT law, these obligations are separate from any matters regarding a PSP's status vis-à-vis VAT law generally: in particular, they are not impacted by whether or not a PSP itself is accountable for VAT.

## 1 EU Legislation

There are two pieces of EU legislation underpinning the new requirements:

- Council Directive (EU) 2020/284 amending the VAT Directive (Council Directive (EU) 2006/112/EC on the common system for value-added tax), and
- Council Regulation (EU) 2020/283 amending Council Regulation (EU) 904/2010 on administrative cooperation and combatting fraud in the field of VAT.

The amendments to the VAT Directive introduce new record-keeping and reporting requirements for EU-established PSPs in respect of certain cross-border payments facilitated by the PSP.

The amendments to Council Regulation (EU) 904/2010 provide for the development by the EU Commission of a central electronic system of payment information ('CESOP'), and require Member States to collect the relevant information from PSPs and transmit it to CESOP. CESOP will store, aggregate, and analyse, in relation to individual payees, all relevant information regarding payments transmitted by Member States.

The provisions apply only to certain data on cross-border payments; CESOP and the related arrangements do not encompass national payments.

## 2 Transposition of the EU Law

The EU legislation has been transposed into Irish law under two sets of regulations which were signed into law on 20 December 2023 and which come into effect on 1 January 2024:

- the European Union (Value-Added Tax) Regulations 2023 (S.I. No. 650 of 2023) give effect to the provisions of Council Directive (EU) 2020/284 amending the VAT Directive (Council Directive (EU) 2006/112/EC on the common system for value-added tax). The statutory instrument amends Irish VAT law by inserting Part 9A 'Reporting obligations on certain payment service providers' (comprising sections, 85A to 85F) into the Value-Added Tax Consolidation Act 2010 (No.31 of 2010) (VATCA); and
- the European Union (Value-Added Tax) (No.2) Regulations 2023 (S.I. No. 651 of 2023) give effect to the provisions of Council Regulation (EU) 2020/283 amending Council Regulation (EU) 904/2010 on administrative cooperation and combatting fraud in the field of VAT. The statutory instrument amends Irish VAT law by inserting sections 85G and 85H into Part 9A of VATCA.

### 3 National Law: Part 9A of VATCA 2010

Part 9A of VATCA is entitled 'Reporting obligations of certain payment service providers'. It was inserted by S.I. No. 650 of 2023 and expanded by S.I. No. 651 of 2023 – for details see section 2 above.

#### 3.1 Outline of Part 9A

The following is a brief outline of the provisions in Part 9A 'Reporting obligations of certain payment service providers' of VATCA:

- Section 85A concerns the interpretation of terms used in the Part;
- Section 85B provides for the meaning of 'cross-border payment';
- Section 85C imposes an obligation on payment service providers to keep detailed records of payees and payments in certain situations. The obligation applies only to payment services in respect of cross-border payments;
- Section 85D specifies information to be contained in the records;
- Section 85E requires the records to be kept in electronic format and specifies the period of time for which they are to be retained by the payment service provider;
- Section 85F imposes a reporting obligation on payment service providers so that the records are made available to the Revenue Commissioners;
- Section 85G concerns the manner of reporting to Revenue by a payment service provider of the information in the records; and
- Section 85H sets out the period for which Revenue is required to retain the reported information, and requires Revenue to transmit the reported information to CESOP (the central electronic system of payment information).

#### 3.2 PSPs within Scope of the Obligations

Section 85A VATCA defines the PSPs that come within scope of the new measures and refers to the definitions laid down in the Payment Services Directive (Directive (EU) 2015/2366, which is sometimes known as "PSD2"). PSPs which do not provide payment services in the European Union do not have to fulfil any reporting obligation. Further details on the procedures and criteria for the registration of entities which have EU cross-border payments reporting obligations in Ireland are available in Tax and Duty Manual (TDM) [European Cross-Border Payments Reporting \(CESOP\) Registration Guidelines and Guidance for Filing](#) on Revenue's website.

### 3.3 Record-Keeping Obligation of PSPs

#### 3.3.1 Requirement

Under section 85C, a PSP covered by the definition is required to keep detailed records of payees and payments in relation to the payment services it provides for each calendar quarter where the following two conditions are met:

- where the PSP provides the payment services in respect of cross-border payments. Section 85B explains a cross-border payment as being where the payer is located in a Member State and the payee (or the beneficiary) is located in another Member State, in a third territory or in a third country; and,
- where (as set out in section 85C(3)) during the course of a calendar quarter, the PSP provides payment services corresponding to more than 25 cross-border payments to the same payee. As provided by section 85C(4), the number of payments is calculated by reference to the payment services provided by the PSP per Member State and per account identifier.

The location of payers and payees is determined by an identifier which can be an IBAN of the payer's/payee's account, the BIC or any other identifier which unambiguously identifies, and gives their location. Where a PSP has information that a payee has several identifiers the calculation of cross-border payments shall be made for each payee. This is dealt with in section 85C(4)(b).

Where the PSP of the payee is not located in an EU Member State, the PSP of the payer will be subject to the record-keeping and reporting obligations for that cross-border payment.

Where both the PSP for the payee and the PSP for the payer are located in a Member State, then only the PSP of the payee will be subject to the requirements. However, the PSP of the payer shall include such payment services for the purpose of the calculation of the number of cross border payments in a quarter.

#### 3.3.2 Information in PSP Records

Section 84D specifies the information to be contained in the records that the PSP is obliged to keep in accordance with section 85C. A list of that information is set out at the Appendix to this guidance.

#### 3.3.3 Format and Timeframe for Record Retention by PSP

Where a PSP retains records (arising from its obligation under section 85C), it is required (under section 85E) to keep the records in an electronic format for a period of three calendar years from the end of the calendar year of the date of the payment.

### 3.4 Reporting Obligation of PSPs

PSPs who are obliged to keep records are also obliged to make those records available to the relevant tax authorities.

Under section 85F, a PSP is obliged to make the records available to Revenue where Ireland is –

- the home Member State of the PSP, or
- a host Member State of the PSP, in a case where the PSP provides payment services in Member States other than its home Member State.

This is to be done by the PSP reporting to Revenue on a quarterly basis. See the Appendix to this guidance for details of the information to be provided. Section 85G provides that reporting of the information in the records is to be by electronic means using such form as specified by Revenue for that purpose. The information is to be reported no later than the end of the month following the calendar quarter to which the information relates.

### 3.5 Information Retention and Transmission by Revenue

Section 85H(1) requires that the information reported by the PSP shall be retained by the Revenue Commissioners until the expiry of a period of 5 years from 31 December of the year during which the information was provided to them.

Section 85H(2) obliges Revenue to transmit the reported information to CESOP on a quarterly basis. The information is to be transmitted no later than the tenth day of the second month following the calendar quarter to which the information relates.

## Appendix

Section 85D of VATCA sets out the information to be contained in the records that a payment services provider is obliged to keep (under section 85C) and report to Revenue (under section 85F). The PSP must retain the information in an electronic format for a period of three calendar years from the end of the calendar year of the date of the payment.

The information and details to be contained in the records that the PSP is obliged to keep and to report Revenue are set out at (1) and (2) below:

- (1) The information to be contained in the records is –
  - (a) the BIC or any other business identifier code that unambiguously identifies the payment service provider,
  - (b) the name or business name of the payee, as it appears in the records of the payment services provider,
  - (c) any VAT identification number or other national tax number of the payee, if available,
  - (d) the IBAN or, if the IBAN is not available, any other identifier which unambiguously identifies, and gives the location of, the payee,
  - (e) 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,
  - (f) the address of the payee as it appears in the records of the payment service provider, if available,
  - (g) details of any cross-border payment in accordance with (2), and
  - (h) details of any payment refunds identified in relation to the cross-border payment in accordance with (2).
  
- (2) The details to be contained in the information in relation to paragraphs (g) and (h) of (1) are –
  - (a) the date and time of the payment or payment refund,
  - (b) the amount and the currency of the payment or payment refund,
  - (c) the Member State of origin of the payment received by or on behalf of the payee, as determined in accordance with section 85B,
  - (d) the Member State of destination of any payment refund, as determined in accordance with section 85B,
  - (e) the information used to determine the Member State of origin of the payment referred to in paragraph (c) or the Member State of destination of any payment refund referred to in paragraph (d),

- (f) any reference which unambiguously identifies the payment, and
- (g) where applicable, information that the payment was initiated at the physical premises of the merchant.

A more recent version of this manual is available.