

FORUM ON TAX ADMINISTRATION

Code of Conduct: Co-operation between tax administrations and sharing and gig economy platforms

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and sharing and gig economy platforms**

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Introduction

This Code of Conduct sets out core elements of co-operation between tax administrations and platform operators, and is designed to support compliance in all situations. The benefits foreseen from this Code of Conduct are twofold:

- First, the standardisation of “soft law” approaches to the provision of information and prompts by platforms can reduce burdens on individual tax administrations from negotiating multiple similar arrangements with platforms operating in their jurisdiction and can make it easier for platforms to develop solutions which are widely applicable in different jurisdictions.
- Second, a Code of Conduct can help sellers understand their obligations, to assist them in reporting taxable income and to facilitate the sharing of information with tax authorities.

The Code of Conduct only concerns actions which are not already required by law and which are compatible with other legal requirements, such as laws governing data protection. As such, this Code of Conduct is designed to also cover instances where sellers are not subject to reporting under the Model Rules, for instance because the transactions are out of scope or the jurisdiction has not implemented the Model Rules. Therefore, for purposes of this Code of Conduct, the term “platform operator” has a broader meaning than under the Model Rules and may include any operator of a sharing and gig economy platform which has agreed to apply this Code of Conduct irrespective of whether the transactions facilitated through the platform are Relevant Services as defined in the Model Rules. Where the Code of Conduct addresses issues that are also applicable in cases where the Model Rules ensure reporting, this is highlighted by an asterisk (*).

Code of Conduct

1. The platform operator and the tax administration in its jurisdiction of residence should maintain an open and transparent relationship in relation to measures to improve tax compliance and assist sellers in understanding their tax obligations.*
2. The platform operator should have a documented strategy for setting out the core elements of co-operation with tax administrations to help sellers understand their tax obligations, to assist them in reporting taxable income and to facilitate reporting of information to the tax administration where required by law. They will share a copy of this strategy with the tax administration in their jurisdiction of residence.*
3. Tax administrations, which wish platform operators to engage with sellers on their tax obligations, will provide information on their respective websites or other applications setting out the circumstances when sellers may be liable to tax in their jurisdiction. This may include information about appropriate thresholds and exemptions, reporting requirements, allowable expenses and record keeping obligations.*
4. The platform operator will send each seller a general statement on the responsibility of each seller to meet its tax obligations when a seller first registers on the platform and in periodic emails, texts, pop-up messages or alternative means of communication. The platform operator should also direct sellers to consult guidance issued by the tax administration in their jurisdiction(s) of tax residence¹. In addition, where the transactions on the platform relate to immovable property, the platform operator should also direct sellers to consult guidance issued by the tax administration of the jurisdiction in which the immovable property is located.*
5. A general statement will also be included in the platform operator's terms and conditions as to the responsibility of sellers to meet their tax obligations in their jurisdiction(s) of tax residence and, in case of transactions involving immovable property, in the jurisdiction(s) where the immovable property is located.*
6. The platform operator will provide, at least annually, each seller a statement of payments received from transactions carried out through the platform along with any other appropriate information.
7. The platform operator will put in place arrangements, as far as is practical and proportionate, to report annually to the tax administration in its jurisdiction the aggregate numbers of sellers and the aggregate payments made to sellers on a country-by-country basis [where there are more than 1 000 sellers in a particular jurisdiction], excluding any information identifying sellers. This will be shared with relevant tax administrations through appropriate legal gateways and used to facilitate a high-level analysis of compliance by sellers.
8. The platform operator will report to the tax administration in its jurisdiction annually and in general terms on how it has met the elements of this Code of Conduct.
9. Where appropriate under this Code of Conduct, the platform operator will seek to cooperate with tax administrations to find solutions together, including at the technical level, which will be sustainable for both the platform operator and the tax administrations.

¹ For example, a general statement might say: "You may be liable for tax on the income that you receive. It is your responsibility to pay any taxes due and you may be liable for penalties if you do not. You should seek guidance from the tax administration in your jurisdiction(s) of tax residence (which may be available on the tax administration website). Where immovable property is concerned you should also seek guidance from the tax administration of the jurisdiction where the immovable property is located."

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