

NOTARIES, LAWYERS, RECHTSANWÄLTE AND TAX ADVISORS

LQ MAGAZINE



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Income tax | Digital rights and assets

Digital incorporation | Digital Euro

Digital privacy & data breaches | DAC7

Colophon

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Foreword

Digitalization is developing faster than ever in various fields. This not only offers plenty of opportunities but also presents necessary challenges. Consider, for example, the digitization of deeds by notaries or digital privacy and data leaks within a company. This year's third edition of LQ-magazine focuses on various digital issues.

Our notaries, lawyers, and tax advisers will inform you about different aspects of digitalization and the law.

If you encounter an issue regarding digitalization, feel free to contact us. We will be glad to assist you.

On behalf of LexQuire, I hope you enjoy reading this new edition of the LQ-magazine!

Best regards
Gabriel Spera
Lawyer and partner
LexQuire International Tax & Law



Frodo Oude Groeniger, tax advisor (specialist international tax) at LexQuire International Tax & Law

Profit taxation in the digital revolution: navigating new challenges and opportunities

In an era where technology is advancing rapidly, and digitalization is reaching new heights, the way taxes are handled is at a turning point. The methods and rules for taxing profits are undergoing significant changes due to the rise of digital economies. This shift challenges traditional approaches, and tax authorities worldwide are grappling with the need to adapt to a constantly evolving business landscape.

ANTICIPATED CHANGES AHEAD

The tax system in our fast-digitizing economy is a hot topic in both national and international discussions. The relevance of existing rules and concepts is questioned, while tax authorities and judicial bodies must adjust to the ever-advancing digitalization. The traditional methods of taxing profits are about to see substantial changes. Historically, countries used fundamental principles like residence, main income, and nationality to determine their tax jurisdictions. The choice of residence or establishment, i.e., the geographical location of income or taxpayer, aligns logically with the benefit principle. This

principle states that anyone benefiting from collective services should contribute to their funding through taxes.

DIGITAL PRESENCE

However, with the rise of digital and technological developments, entrepreneurs often operate in a market without physical presence. The essential question, both nationally and internationally, is whether 'digital presence' can be a criterion for tax liability. Concepts like 'significant digital presence,' 'digital permanent establishment,' and 'economic nexus' come to the forefront.

Besides figuring out when digital presence leads to tax liability, assigning profits to this digital presence presents a significant challenge.

TAX CHALLENGES DUE TO DIGITALIZATION

The OECD's 'Task Force on the Digital Economy' initiated discussions in 2018, followed by the G20/OECD Inclusive Framework on BEPS, suggesting fundamental adjustments to national profit taxation systems. These adjustments aim to provide a global solution to the impact of digitalization on profit taxation.

Since 2019, the OECD has presented additional ideas under the BEPS 2.0 initiative as part of BEPS Action 1: Tax Challenges due to Digitalization. A work program published in May 2019 includes possible measures to address fiscal challenges in a digitizing economy. BEPS 2.0 comprises two pillars.

BALANCED DISTRIBUTION OF TAX RIGHTS

The first pillar, 'Pillar One,' seeks a balanced distribution of tax rights among states concerning corporate profits. The OECD aims for a common

approach. Three models have been developed to involve multinationals providing services without physical presence in taxation.

These models result in a greater allocation of profit to user or market countries. Pillar One revises the profit taxation system and its allocation. This impacts multinationals with an annual turnover of over 20 billion euros and profitability of at least 10%. According to new rules, profit is allocated to market countries where products and services are used. Work on this is still ongoing within the OECD.

“The traditional methods of taxing profits are about to see substantial changes.”

MINIMUM TAX RATE

The second pillar, 'Global Anti-Base Erosion Proposal' (GloBE) or 'Pillar Two,' advocates for a global minimum tax rate of 15%. States retain

their fiscal sovereignty, with a minimum rate as the lower limit. If the primary taxing country does not levy, other source countries have the right to tax up to this minimum rate. Pillar Two proposes a global effective minimum profit tax of 15% for multinationals with an annual turnover of at least 750 million euros.

In December 2022, EU member states reached an agreement on implementing Pillar Two. The Netherlands implements the EU directive through the 'Minimum Tax Act 2024,' featuring domestic additional taxation (QDMTT), income inclusion (IIR), and under-taxed profit additional taxation (UTPR). This new tax is not part of the regular Dutch corporate tax but constitutes a separate self-assessment levy.

COMBATING ABUSE

A caveat to consider is whether this directive aligns with current European rules, especially the existing concept of abuse within the EU. A few years ago, the European Court of Justice provided a notably limited interpretation of the term 'abuse.' According to the Court, combating abuse is justified only when the scheme relates to "fully artificial or fictitious constructions set up solely to avoid taxation." Market-conforming conditions, such as at arm's length/prices, appear to exclude tax avoidance.

This view is also followed by the EEA Court, specifically the Court of Justice of the European Free Trade Association (EFTA). They noted: "It must be established that transactions entered into at market-conforming conditions, and thus not fully artificial or fictitious constructions solely designed to avoid taxation normally due on profits from activities within the national territory (...)." This development raises questions about the application of existing national anti-abuse provisions and casts doubts on the sustainability of Pillar Two.



“The way taxes are handled is at a turning point.”

This era of tax reforms calls for a balance between digital realities and fiscal justice. The debate on digital taxation is complex and rapidly evolving, with profound implications for national and international economies. Shaping a new tax landscape that aligns with digital transformation is a challenge. If you have questions about profit taxation, please contact our tax advisor, Frodo Oude Groeniger.



The digitale euro – CBDC

The European Commission's proposal to start issuing a Central Bank Digital Currency, also known as the digital euro, was accompanied by conspiracy theories that also surfaced at the time of the Covid-19 pandemic. What is this really about? Are the concerns justified? To what problem does the digital euro actually offer a solution? Obviously, the digital euro, just like the (now) ordinary euro, provokes the necessary reactions. In this contribution, I will address these questions and shed light on something that is still unknown today, but could easily become the new normal in the future.



Thom Wittendorp, lawyer
LexQuire International Tax & Law

WHAT IS THE DIGITALE EURO?

The digital euro falls within the category of digital central bank money, it should not be confused with virtual currencies (crypto currencies). The difference between the digital euro and virtual currencies lies in the fact that a virtual currency is a non-governmental currency.

"If there is less public money in circulation, the money system becomes more unstable."

In contrast, the digital euro - and other digital central bank money - is issued by (as the name suggests) a central bank, such as the European Central Bank or the Nederlandsche Bank. Actually, it can best be compared to an ordinary banknote, but instead of printing this banknote and taking it out of an ATM, it is available digitally (just like the money in your bank account). The digital euro is thus public money. The availability of public money is important to keep a monetary system stable. If there is less public money in circulation, the money system becomes more unstable.

Let me give an example of this. The big difference between the digital euro and the amount visible in your bank account is that the digital euro is guaranteed by a central bank (public money). The amount in your bank account is the amount receivable from the bank. If everyone wants to withdraw the amount they see in the bank account, big problems arise. A good example is the collapse of First Republic Bank in America. The banks obviously do not have stacks of notes and coins lying around, which when added together have the same value as the total balance of all accounts added together. The digital euro will have no such problem.

DO WE NEED THE DIGITALE EURO?

An interesting question is what problem will the digital euro solve, or rather, is there a problem at all? It is generally assumed that the digital euro is a solution in search of a problem. Or in other words, it actually adds little. Certainly from a Dutch perspective, this viewpoint is understandable. The electronic payment system in the Netherlands is very well organized and you can use debit cards almost everywhere, so the use of cash has decreased significantly in recent years.

Only if you cross the border into Germany, it does not take long to be able to find a place where, on the contrary, only cash is accepted and where payment by debit card is not possible. And it is precisely for such situations that the digital euro aims to provide a solution. In addition, there are several other examples, in which the digital euro can add value. One of the - for the Netherlands - most interesting examples is that the digital euro should also be available if there is a PIN failure, so that payments can still be made via that route. In short, the digital euro offers several practical advantages, which could make it a useful tool in our daily payment system.

"There are several examples, in which the digital euro can add value."

WHAT ABOUT PRIVACY?

One of the most discussed criticisms when it comes to the digital euro is the concern regarding the privacy of payments. Cash is virtually untraceable. This while digital payments generally reveal more personal data.



Lisanne Vanhommerig, lawyer (privacy & data) at LexQuire International Tax & Law

Working digitally; efficient and safe

In today's digital age, personal data is becoming increasingly precious. However, as such, they also create potential vulnerabilities to digital privacy and data breaches. Entrepreneurs cannot escape the importance of protecting digital personal data.

Data is mostly processed digitally to work efficiently. Legislators are keen to ensure that this is not at the expense of individuals' privacy and that unwanted use of data is prevented. Comprehensive regulations and high fines are the result. However if everything is properly mapped out, the regulations are not that complex.

The European commission has not been deaf to noises from society on this issue and has taken into account the concerns raised. The proposed regulation to introduce the digital euro, published on 28 June 2023, states (in Article 35), among other things, that the necessary technical measures will be taken to shield identity. These include pseudonyms.

Although the criticism is not out of the blue, the question is whether the concerns are justified. After all, if Pete now gives €100 to Jan, Jan knows that it comes from Pete. If Pete then sends €100 digital euros to Jan, which are visible to Jan under the heading 1234, Jan also knows that they come from Pete.

FINAL

Meanwhile, the feedback round following publication of the proposal by the European Commission has been completed, allowing the legislative track to continue. Only after the legislative process is completed can we look at the actual use of the digital euro. This is expected to take some time, with the commission itself assuming 2028. I am curious about the future, I hope you are too.

DE POWER OF DIGITAL DATA

Automation is important for many entrepreneurs, with digital processing of customer or employee data playing a major role. Attentive entrepreneurship starts with a deep understanding of the value of digital data. Data collection is mostly done in digital systems set up to use this data for various purposes.

Personal and business data helps understand customer behaviour, improves products and services and drives growth. They are used to build detailed profiles of consumers. By understanding what people like, what they are interested in and how they spend their money, companies can advertise in a more targeted way.

Personal data such as names, dates of birth and identification numbers are often used for identification purposes. They enable organisations and government agencies to accurately identify and verify individuals. This is essential for numerous services, from opening a bank account, accessing personal digital records to obtaining medical care.

"Collecting and trading personal data is a billion-dollar industry."

THE VALUE OF PERSONAL DATA

Collecting and trading personal data is a billion-dollar industry. Businesses can buy and sell data to improve their own services or to make a profit by selling data to third parties. Most of the time, specific pieces of data are sold, such as e-mail addresses or IP addresses of individuals with specific order history.

Saving resources or time, working efficiently and acquiring new customers affordably is the goal. This makes the data valuable. The influence of technical developments on data processing goes hand in hand with their influence on privacy security. This increases the tension between efficiency in entrepreneurship and privacy.

DATA BREACH AND THEFT RISKS

If digital data is not optimally protected, individuals with false intentions can effortlessly gain access to a digital goldmine. Within no time, a large database of data is stored. The sale of that

data can fetch a lot, especially if it was obtained (wrongly) 'for free' or effortlessly through theft or an undetected data breach.

"A data breach can have rigorous consequences."

If digital data gets into the hands of third parties then danger lurks. A data breach can have rigorous consequences. Not only can people be approached unwanted, but they may also face identity fraud. If different sets of data are linked together, someone suddenly has someone else's entire (digital) life under the button. With this, someone can have access to all the login details of the internet provider, streaming service or various web shops just like that.

SECURITY AND PRIVACY

Security is the umbrella term of all that can be disruptive. Security has to do with the absence of something negative and not the presence of something positive. Think of preventing identity fraud (absence negative) and not the efficient processing of data (presence positive).

To prevent something that could be disruptive - to restore or ensure security - monitoring and evaluation of protection is often considered necessary. Assessing the likelihood that negative events will occur leads to measures and regulations.

OPERATE EFFICIENTLY YET SAFELY - PROTECTION AND COMPLIANCE

As a business owner - besides working efficiently and profitably - you want to protect your customers and employees, preserve your company's reputation and avoid fines or costly legal disputes. Therefore, you need to set up the processing of personal data according to existing laws and regulations. The main privacy law in the Netherlands is the European General Data Protection Regulation (AVG). By taking the steps described in the box opposite, you can get a clear picture of how your company can comply with existing laws and regulations.

INVESTMENT AND SECURITY

In this digital age, entrepreneurs cannot escape the importance of digital privacy, preventing data breaches and protecting data. By paying attention to this crucial topic, you can protect your business and drive growth. It is an investment in both your business success and legal peace of mind.

ROADMAP

STEP 1 - DATA PRIVACY IMPACT ASSESSMENT (DPIA):

Audit your current data processing practices. Review how your company collects, uses and stores data. A DPIA is a review of data processing activities to identify and assess potential privacy risks. This helps you take timely corrective action.

STEP 2 - PREPARE PRIVACY STATEMENT:

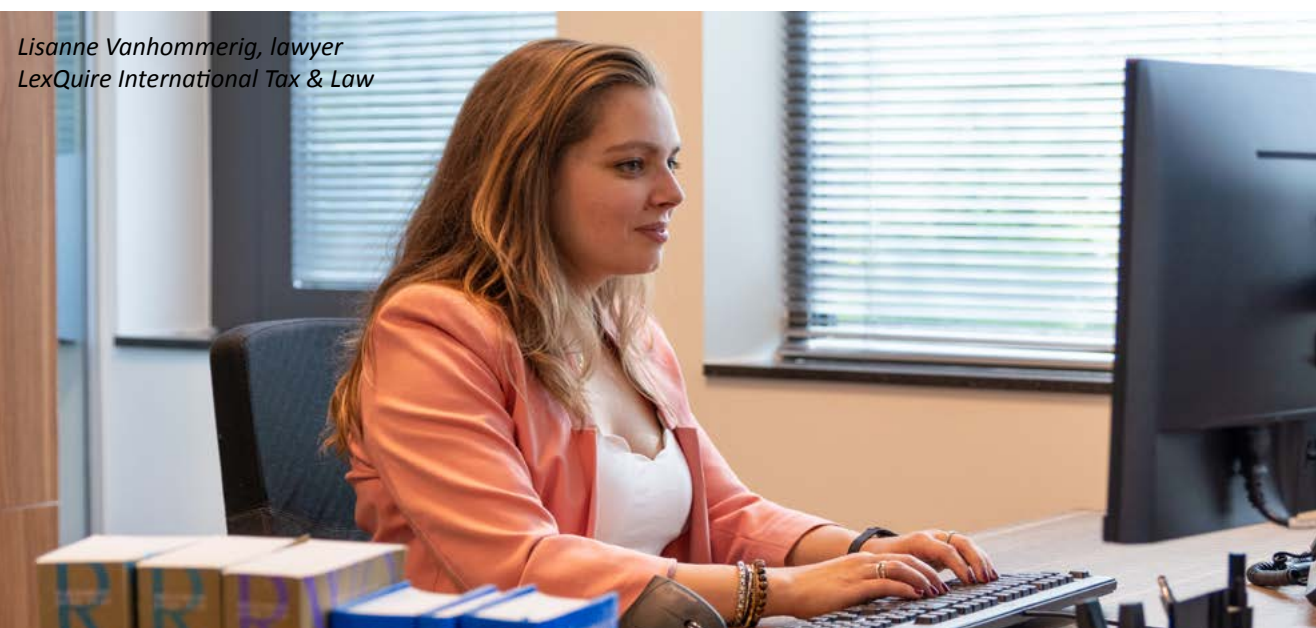
In a clear and transparent privacy statement, explain how you collect, uses and protects data. It is intended for all persons whose data you process. Think of employees or customers. On our website you can read how and when this statement should be provided and what it should contain.

STEP 3 - DATA BREACH RESPONSE PLAN:

Record in your data breach response plan, how you deal with data breaches. Herein you also include how your company reports incidents to the relevant authorities and data subjects, as well as how data is secured after a breach.

STEP 4 - IMPLEMENT MEASURES:

Invest in technical and organizational security measures to ensure the confidentiality health and integrity of data. Also train your staff; make sure your employees are aware of privacy issues and their role in data protection.



Lisanne Vanhommerig, lawyer
LexQuire International Tax & Law

Quintes: balancing digital power and personal expertise

In an era where digital transformation is taking over, the need for human expertise remains undiminished. One of the prominent players in managing the balance between the technology and the humans is Quintes Verzekeren en Risicobeheer at Maastricht-Airport. Roel der Kinderen and Maurice Vervoort lead a firm that is undergoing an impressive development that sets an example for the insurance industry as a whole.

GENESIS OF QUINTES

Quintes was established in 2012 by Gijsbert van de Nieuwegiessen. At this time, a number of insurers thought that serving relationships by proxy would not have a future. They started to focus more on direct writing via the internet. However, founder and current CEO Van de Nieuwegiessen believed in the potential of proxies. "Proxies offer a direct, local and fast service that the digital world cannot match," said Maurice Vervoort. Thus Quintes emerged as a large proxy party, with several local offices such as Quintes Limburg in Maastricht-Airport.

EXPERTISE AND PROXIES

Having a power of attorney from insurers means not only quick and efficient underwriting of risks and settlement of claims, but also a high degree of independence. Maurice Vervoort: "Our customers benefit from a wider range of insurance products

and options, giving them access to tailor-made solutions that better suit their individual needs. This increases customer satisfaction and loyalty.

We can respond more flexibly and faster to the changing needs of the market. In addition, we can offer competitive rates and provide our customers with expert advice based on a deep understanding of the various insurance products available.

In short, having several proxies strengthens our company's competitive position and increases the value we can offer to our customers.

DIGITAL INNOVATION AND SECURITY

In the digital age, one cannot ignore the need for robust IT systems. Quintes has invested in this by implementing robust security mechanisms and cybersecurity measures, including engaging

ICT experts, 2-step verification and ISO certifications. "A secure digital platform is no longer optional; it is a requirement," stresses Roel der Kinderen.

In doing so, Quintes is not only betting on security, but also on innovation. With its certified health and safety service "Verzuimvizie", Quintes offers not only insurance services, but also guidance on social legislation and sick leave and health and safety services all under strict ICT and privacy security. "When a staff member becomes ill, it not only brings high costs, but also a lot of emotions for those involved. If you can do something about that in this process in addition to the insurer, it is very valuable. You really provide added value" emphasizes Maurice Vervoort.

CORE VALUES AND VISION FOR THE FUTURE

Expertise and personal touch and commitment form the backbone of Quintes. "Whether you are standing in the water with boots on during a flood or looking for a solution to hailstorms on

Lake Garda, you empathize with the customer and help them practically," explains Maurice Vervoort: "You are not dependent on others, but get to deal with how the car and holidaymaker is transported home quickly yourself. You have this advantage with a power of attorney. You do have the same policy, but the power of attorney gives you more freedom in handling."

CONCLUSION

For the future, Quintes sees a continuing role for the personal aspect alongside the digital evolution: "Because of the personal touch, we possess a distinctive character and can make the difference for the customer. An insurance giant in the Randstad cannot compete with that."

Quintes and Der Kinderen illustrate the power of finding a balance between technology and human interaction. They show that even in a conservative sector like insurance, innovation and personality can go together for a superior customer experience.



Roel der Kinderen
Maurice Vervoort
Quintes Maastricht

The notarial profession in the digital era: establishment of a 'BV 2.0'

The time has finally come. From the 1st of January 2024, it will be possible to incorporate a Dutch private limited liability company ("besloten vennootschap") entirely online. Incorporating a BV digitally is done with a digital notarial deed. It will no longer be necessary to physically visit the notary to sign the deed. The signing appointment takes place with a digital audio-video link. Identification is done by the notary using a digital identifier. Finally, the parties sign the deed with a digital signature.



Annika van der Loo, deputy notary
LexQuire International Tax & Law

EUROPEAN LEGISLATION

On 27 June 2023, the Senate passed the Digital Formation of a Dutch private limited (BV) ('DOBV') bill. This was timely. The directive on which the bill is based requires member states to enable digital incorporation of a BV by 1 August 2022. The Netherlands is thus late in implementing the directive. The bill will be implemented by 1 January 2024. According to the explanatory memorandum, this bill will make starting up and expanding companies across borders simpler, faster and more time- and cost-efficient.

WHAT IS NEW?

With the granting of a power of attorney, there is already some scope to remotely execute a notarial deed. But a completely digital incorporation is not possible at present. After all, there is always a physical original deed (the so-called minute deed) that the notary adds to his protocol after passing and keeps in the vault. The Temporary COVID-19 Justice and Security Act gave the possibility to execute a deed before a notary via audiovisual aids. However, this was a temporary crisis measure, established out of necessity. It was not a permanent provision. Moreover, a physical original deed was signed and kept in the notary's protocol.

This is not the case with the digital incorporation BV. From (presumably) 1 January 2024, the notary will keep both a digital and a physical protocol.

"The physical road to the notary can be saved."

Furthermore, the digital deed of incorporation can be executed in the English language. This is new. Currently, the original deed of incorporation has to be drawn up in Dutch and either a translation of the deed or the presence of an interpreter is

required for the persons involved who do not speak Dutch. A subsequent amendment of the articles of association can also be drawn up in English. However, this possibility is limited to private limited companies incorporated digitally and the articles of association are always drawn up in English.

HOW DOES IT WORK?

Digital incorporation runs through a central online platform managed by the Royal Dutch Association of Civil-law Notaries, the professional organization of notaries. There are strict security requirements attached to the digital procedure and the image connection. For example, the entrepreneur must log into the digital environment with a reliable login medium and there are requirements for the digital signature the entrepreneur places. The login tool must have the reliability level 'high' from the European digital identification regulation. Currently, there are only two login tools that have the reliability level 'high'. These are DigiD High (which requires reading the chip on the ID card) and e-recognition with security level 4. For the latter, the applicant has to go through quite a few checks (this security level is higher than for logging in with e-recognition at the Tax Office, for example). In addition, there must be a qualified electronic digital signature under the deed. This is not just a scribble, but a digital signature with a certificate issued by an official body.

With digital incorporation, the physical road to the notary can be saved, but due to security requirements, the whole digital incorporation process thus requires some effort from the entrepreneur for the time being. Is digital incorporation easier, faster and more time- and cost-efficient? Will entrepreneurs choose physical or digital incorporation? Practice will have to tell, but at least LexQuire Notaries is able to provide those services.



Interview with Prof.dr.mr. Sjef van Erp, LexQuire Tax & Law Scientific Office staff member

The future of digital rights and assets: Insights from Prof.dr.mr. Sjef van Erp

In an increasingly digitized world, we are at the crossroads of technology and law. What does this mean for legal documents, digital estates and the notarial world? Prof Sjef van Erp, head of the Department of Private Law at the University of Amsterdam, also a leading expert on digital law and digital assets, sheds light on these complex questions.

BLOCKCHAINS AND SMART CONTRACTS: A LEGAL CHALLENGE

One of the most intriguing topics Prof Van Erp is considering is the legal status of blockchains and smart contracts. "The fundamental question is to what extent actions that are legal in nature, such as the purchase of Bitcoin, can also have legal consequences," he explains. The issue has major implications not only for the financial market but also for the way contracts and transactions are executed.

DIGITAL ESTATES: WHO INHERITS YOUR CLOUD?

The idea of digital estates adds an extra dimension to inheritance law. "Is a will in digital form possible? How do digital assets such as Bitcoins or a Facebook account inherit?" asks Prof Van Erp. He highlights the complexity surrounding the applicable inheritance law of digital assets, especially as the location of these assets is often unclear. This is further complicated by international aspects, such as the fact that

Google, a US company headquartered in Ireland, can draw up contracts that govern the inheritance of digital assets differently.

Prof Van Erp has closely witnessed the evolution of notarial deeds, from handwritten documents to deeds stored locally on a disk. "Artificial intelligence is playing an increasing role in the preparation and management of these documents," he notes. He points to the fact that the Royal Notarial Association (KNB) recently met to discuss the future of digital deeds, indicating the increasing relevance of this topic. The notarial sector will also have to adapt to this digital reality; a challenge that cannot be avoided.

BIG DIFFERENCES IN THE EU

"Not every country is yet as far along in the digital (r)evolution," warns Prof Van Erp. "Countries such as Germany, for example, have traditionally been more conservative than, say, the Netherlands. This disparity in digital maturity between EU member states can lead to significant challenges, especially when it comes to issues that are cross-border in nature."

As a contrast, Prof Van Erp points to Lithuania, a country that is remarkably at the forefront of IT and digital innovation. "Take, for example, the digital bank Revolut, based in Lithuania. Such progressive initiatives make Lithuania an interesting case in the discussion around digital assets and rights," he argues. The presence of such advanced financial technologies in Lithuania may further complicate the discussion on the harmonisation of digital rights within the EU. It illustrates the need for a coherent approach at EU level, taking into account the varying levels of digital adoption among member states.

ACCESS TO DIGITAL ASSETS

One of the most critical questions emerging is how to access digital assets and rights after someone's death. "Accessing bitcoins, for example, requires two keys: a public and a private key," Prof Van Erp clarifies. This raises questions about how heirs can gain access to these assets and how notaries can mediate this. There is also the question of whether notaries can find all digital assets. Prof Sjef van Erp's insights are not only enlightening, but also extremely relevant to

"Not every country is yet as far along in the digital (r)evolution,"

practice. They highlight the complex interaction between digitisation and law, and provide an essential starting point for further discussion and policy-making in this rapidly changing landscape.



DAC7, a new control tool for the government

Proper, complete and correct taxation depends on many factors.

One of those factors is information. Without information on flows of money and goods, for example, it is impossible for the government to levy the correct tax. Exercising control over taxpayers' income is only possible if governments have sufficient resources to do so. With an ever faster, larger and more international trading world, it is necessary to design new control mechanisms. One such new mechanism is the so-called DAC7.

WHAT IS DAC7?

DAC7 is a European Directive that creates rules for administrative cooperation between EU Member States (DAC stands for Directive on Administrative Cooperation). The purpose of such cooperation is to combat tax evasion and increase Member States' tax revenues from cross-border/e-commerce activities. That goal is achieved by collecting data and exchanging this data among themselves and using it for taxation. DAC7 focuses mainly on VAT fraud around the digital economy. Besides EU Member States, other countries may also join DAC7's rules. The UK, for example, has already indicated it will do so.

This year, 2023 is the first year to be reported under DAC7. That report must be submitted by the 31st of January 2024. One who fails to submit the report on time, incompletely or at all is subject to heavy penalties.

WHAT DO THE REPORTING REQUIREMENTS ENTAIL AND WHO IS AFFECTED?

As mentioned above, DAC7 focuses mainly on information around the digital economy. It is the digital platforms, web shops for example, that face these new reporting obligations. This includes not

only entrepreneurs who identify themselves as a platform but also entrepreneurs who operate a platform as part of their own business. A platform in the sense of DAC7 is software including a website and other applications that enable customers and sellers to interact. The scope of DAC7 is thus very broad.

“DAC7 creates rules for administrative cooperation between EU Member States.”

The data to be collected and reported by the platforms relates to sellers operating on the platform. Excluded from these sellers are government bodies, listed companies, companies that themselves rent out property via their own websites more than 2,000 times and sellers whose turnover remains below €2,000.

Of these sellers, the platforms should collect and report the following data:

- legal name (entity) or first and last name (individual);
- primary address and permanent establishment, if any;
- tax number;
- VAT identification number;
- registration number (e.g. registration number with the Chamber of Commerce);
- address of the leased property (entity);
- address of the leased property and country registration number (e.g. Land Registry number);
- date of birth (individual).

If the platform considers that it does not need to report on certain sellers, it will have to provide documentation to substantiate this.

Content to be reported includes sellers' bank accounts, each EU Member State where the seller is based and the total fee per quarter including the number of transactions paid for.



*René Severens, tax advisor
LexQuire International Tax & Law*

Reporting is limited to the following services or products:

- the sale of goods;
- provision of personal services;
- rental of real estate; or
- rental of means of transport.

“The reporting obligation means a heavy burden for platforms”

IMPACT

Depending on the number of vendors the platform works with, the reporting obligation means a heavy burden for platforms. To meet the obligation, platforms will have to use available IT solutions. Manual processing and delivery of

the requested data is impractical. Due to the high impact and novelty of the reporting, it is likely that Member States will initially be reluctant to impose fines.

CONCLUSION

The introduction of DAC7 will give EU Member States access to a lot of data around e-commerce. Those rules are deliberately designed very broadly to achieve fairer and more uniform taxation. With the introduction, on the 1st January 2024, of the reporting obligation of payment service providers, it will be increasingly difficult for platform sellers to avoid levying VAT and income tax. If EU Member States interpret and use the information correctly, this is a development that can only be welcomed.



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