

Order No 825 of 23 April 2024

approving the procedure for implementing Article 321 ^ 2 (7) (b) of Law No 227/2015 on the Fiscal Code and approving the model and content of form (396) 'Information declaration on cross-border payments made by payment service providers'

Pursuant to Article 11 (3) of Government Decision No 520/2013 on the organisation and functioning of the National Agency for Fiscal Administration, as amended, and Article 321 ^ 2 (8) of Law No 227/2015 on the Fiscal Code, as amended, having regard to the provisions of Article 321 ^ 2 (2), (7) (b) and (8) of Law No 227/2015 on the Fiscal Code, as amended, and to the assent of the Ministry of Finance, communicated by Letter No 740.406 of 18.4.2024,

the President of the National Agency for Fiscal Administration hereby issues this Order: Article 1

The procedure for implementing Article 321 ^ 2 (7) (b) of Law No 227/2015 on the Fiscal Code, as amended, hereinafter referred to as the Fiscal Code, as set out in Annex 1, is hereby approved.

Article 2

The template, content, module and instructions for filling in form (396) 'Information statement on cross-border payments by payment service providers' set out in Annex 2 are hereby approved.

Article 3

The printing, dissemination, use and storage characteristics of the form referred to in Article 2 shall be as set out in Annex 3.

Article 4

Annexes 1 to 3 are an integral part of this Order. Article 5

The provisions of this Order shall apply to cross-border payments made since Q1 of 2024.

Article 6

The General Directorate for Fiscal Fraud and the Information Management Unit shall comply with the provisions of this Order, with the specialised technical support of the National Centre for Financial Information.

Article 7

This Order shall be published in the Official Gazette of Romania, Part I.

President of the National Tax Administration Agency, Nicoleta-Mioara Cîrciumaru

Bucharest, 23 April 2024.

No 825.

Annex 1 PROCEDURE

implementing Article 321 ^ 2 (7) (b) of Law No 227/2015 on the Fiscal Code

1. Where Romania is the home or host Member State, the payment service providers to which the obligation laid down in Article 321 ^ 2 (2) of the Fiscal Code applies shall make available the records referred to in Article 321 ^ 2 (7) (b) of the Fiscal Code by submitting form (396) 'Information statement on cross-border payments by payment service providers'.
2. Form (396) 'Information return on cross-border payments by payment service providers' shall be submitted exclusively by electronic means of distance transmission, in accordance with the law, no later than the end of the month following the expiry of the calendar quarter to which the information relates, which shall be deemed to be the last calendar day of that month, even if this is a non-working day.
3. Payment service providers must validate the data contained in form (396) before submitting it to the National Tax Administration Agency, in accordance with the mandatory information to be reported, set out in Annex 2 to the Order.
4. The data submitted by payment service providers are also validated by the National Tax Administration Agency. If the result of the validation is negative, the entire form (396) is rejected and the payment service providers to which the obligation laid down in Article 321 ^ 2 (2) of the Fiscal Code applies must submit a new form (396). The deadline for submitting the new form (396) shall be that laid down in point 2.
5. Where payment service providers to which the obligation laid down in Article 321 ^ 2 (2) of the Fiscal Code applies find certain errors in the form initially submitted, they may correct the information relating to the erroneous data by submitting a new form (396), at the latest before the end of the 5-year data retention period, in accordance with Article 24c (2) of Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.


Annex 2

TEMPLATE, CONTENT, MODE AND INSTRUCTIONS FOR COMPLETION

FORM (396) 'INFORMATION STATEMENT ON CROSS-BORDER PAYMENTS BY PAYMENT SERVICE PROVIDERS'

*) The form set out in the Annex is reproduced in facsimil.

Template form (396) "Information return on cross-border payments by payment service providers" *)

		DECLARAȚIE INFORMATIVĂ PRIVIND PLĂȚILE TRANSFRONTALIERE EFECTUATE DE PRESTATORII DE SERVICII DE PLATĂ		396 Nr. de operare de date cu caracter personal - 759	
I. TIPUL DECLARAȚIEI					
1. Inițială					
2. Rectificativă					
II. DATE DE IDENTIFICARE ALE PRESTATORULUI DE SERVICII DE PLATĂ					
1. Denumire					
2. Forma juridică (din țara de origine)					
3. Date privind adresa sediului social din țara de origine					
Țara de origine		Localitate			
Adresa completă din țara de origine					
Telefon		E-mail			
4. Cod de identificare fiscală din țara de origine					
5. Cod de identificare comercială/Număr de evidență					
III. INFORMAȚII CUPRINSE ÎN FORMULAR					
1. Cod de identificare comercială care identifică fără echivoc prestatorul de servicii de plată care transmite datele					
2. Numele beneficiarului plății					
3. Codul TVA/NIF al beneficiarului plății					
4. Numărul de identificare al contului beneficiarului plății					
5. Codul BIC/identificatorul prestatorului de servicii de plată al beneficiarului plății					
6. Adresa beneficiarului plății					
7. Restituire					
8. Data/ora					
9. Suma					
10. Moneda					
11. Statul membru de origine a plății					
12. Statul membru de destinație a restituirii					
13. Informații privind locul unde se află plătitorul					
14. Codul de identificare al tranzacției					
15. Prezența fizică					
IV. REPREZENTARE PRIN:					
Împunător		Reprezentant legal			
Număr document		Data document			
Date de identificare					
Cod / Număr de identificare fiscală					
Denumire / Nume prenume					
Domiciliu fiscal/Adresă					
Judet		Localitate		Sector	
Strada		Nr.		Bloc	
Scara		Eta		Ap.	
Telefon		E-mail		Cod poștal	
Sub sancțiunile aplicate faptei de fals în declarații, declar că datele înscrise în acest formular sunt corecte și complete.					
Numele și prenumele persoanei care face cererea					
Funcția / Calitatea					
Semnătura					
Data completării					

How to fill in the form (396)

I. Type of declaration

Mark "X" as 1 or 2 as appropriate.

1. Initial: mark "X" when the form is first submitted (396)

'Information statement on cross-border payments by payment service providers'

for the reporting period to which it relates.

2. Corrective: to be marked as 'X' when a new form (396) 'Information statement on cross-border payments by payment service providers' is submitted for the same reporting period.

II. Payment service provider identification dataRow 1. Name Complete the name of the payment service provider.

The row "2. Legal form (of home country)

Complete with the legal form of the payment service provider's home country. The row "3. Address details of the registered office in the country of origin

Fill in with the address of the registered office in the country of origin of the payment service provider.

The row "4. Tax Identification Number of the country of origin

Fill in the tax identification number of the country of origin of the payment service provider. The row "5.

Commercial identification code/Record number

Complete with any business identifier code that unambiguously identifies the payment service provider.

III. Information contained in the forms The information provided by payment service providers to which the obligation laid down in Article 321 ^ 2 (2) of the Fiscal Code applies and submitting the form (396), relating to reported cross-border payments, which shall be transmitted by means of an electronic form for the transmission of data, is as follows:

1. Business identifier code that unambiguously identifies the transmitting payment service provider: fill in with the tax registration number or any other business identifier that unambiguously identifies the transmitting payment service provider. The field must be filled in.

2. Name of payee: fill in all the name of the payee as it appears in the records of the payment service providers, including the legal name and the business name. The field must be filled in.

3. Payee VAT number/TIN: complete with any VAT identification number and/or other national tax identification number of the payee. The field must be filled in if available.

4. Payee account identifier: fill in the IBAN or, in the absence of the IBAN, any other identifier that unambiguously identifies and provides the location of the payee. The field must be filled in if the funds are transferred to a payee's payment account.

5. BIC/Payment Service Provider identifier of the payee: fill in with the BIC or any other business identifier code that unambiguously identifies and provides the location of the payment service provider acting on behalf of the payee. Field to be populated if the beneficiary receives funds without having a payment account.

6. Address of the payee: fill in the address of the payee as set out in

the records of the payment service provider. The field shall be filled in if the information is available.

7. Refund: complete with any indication that the transaction is a surrender and the link to the previous reported transaction. Field to be populated if applicable.

8. Date/time: enter the date and time of the payment transaction or payment refund. The field must be filled in.

9. Amount: fill in the amount of the payment transaction or payment refund. The field must be filled in.

10. Currency: fill in the currency of the payment transaction or payment refund. The field must be filled in.

11. Member State of origin of the payment: complete with the Member State of origin of the payment received by the payee. The field must be filled in if the transaction is a payment.

12. Member State of destination of the refund: complete with the Member State of destination of the refund. The field must be filled in if the transaction is a refund referred to in point 7.

13. Information on the location of the payer: enter the information used to determine the origin of the payment or the destination of the refund. The details of the information shall not be transmitted in order to avoid identification of the payer. Payment service providers shall indicate that the place has been deducted from the payer's IBAN, the bucket containing the card holder's bank identification number or other information. The field must be filled in.

14. Transaction ID: shall be completed with any indication which unambiguously identifies the payment transaction. The field must be filled in.

15. Physical presence: enter any mention indicating the presence of the payer on the physical premises of the merchant at the moment of initiation of the payment. Field to be filled only if applicable.

IV. Representation by

Be marked with 'X' depending on the taxpayer's representation in relation to the tax body, by proxy/legal representative, and enter the number and date of registration with the tax authority, by the authorised agent, of the instrument of attorney, in the original or in a certified copy, or the number and date of the document attesting to the status of legal representative, as the case may be.

Identification data

Complete with the identification data of the authorised representative/legal representative, as appropriate.

Printing characteristics, mode of dissemination, use and storage

of form (396) 'Information return on cross-border payments by payment service providers'

1. Payment service providers to whom the obligation laid down in Article 321 ^ 2 (2) of the Fiscal Code applies must use form (396) and the assistance programme, available on the portal.

A.N.A.F. at www.anaf.ro, for the purpose of reporting the information provided for in the Order.

2. The reporting form shall be submitted via the eGovernment portal, section "Submit ANAF declarations", in the form of a PDF file with the XML attached, signed electronically, by means of remote transmission. The PDF file is editable only for items I, II and IV and the attached XML file contains the data in point III.

3. In order to submit form (396), payment service providers to which the obligation laid down in Article 321 ^ 2 (2) of the Fiscal Code applies must hold a qualified certificate issued in accordance with Law No 455/2001 on electronic signature, republished, as amended.

4. Any amendment to form (396) shall be notified to the payment service providers to whom the obligation laid down in Article 321 ^ 2 (2) of the Fiscal Code applies, by publication on the ANAF portal, at least 15 days before the amendments are applied, and shall be published in the Official Gazette of Romania, Part I.

5. The form (396) circulates electronically to the central tax body – the National Agency for Fiscal Administration, through the specialised structures, and is archived electronically in the centralised electronic archive. The data storage period shall be 5 years, calculated from the end of the calendar year in which they were received by the central tax body.
