

# **Business profits (BIC) - Tax regimes and reporting obligations - Specific or common reporting obligations - Obligations of operators of online peer-to-peer platforms - Scope of application of the obligations**

## **1**

The scope of application of the obligations mentioned in [Article 242 bis of the General Tax Code \("CGI"\)](#) depends:

- on the territoriality of the system
- on the platform operators concerned
- on the users concerned
- and on the transactions concerned

## **I. Territoriality**

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In accordance with the first sub-paragraph of [Article 242 bis of the CGI](#), the platforms that meet the definition of Article 242 bis of CGI are concerned by the obligations mentioned in paragraphs 1 to 3 of this article, regardless of their place of establishment, and regardless of whether they are established on French territory or in another State or territory.

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Moreover, the last sub-paragraph of [Article 242 bis of the CGI](#) stipulates that the obligations provided for in paragraphs 1 to 3 shall apply to platform users who reside in France or who make sales or supply services in France within the meaning of [Article 258 of the CGI](#) to [Article 259 D of the CGI \(BOI-TVA-CHAMP-20\)](#).

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Platform operators that are established in France or abroad thus fall within the scope of the reporting obligations if they have users who make sales or supply services that are located in France within the meaning of the territoriality rules that are applicable to value added tax (VAT).

## II. Platform operators concerned

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Pursuant to the first sub-paragraph of [Article 242 bis of the CGI](#), the obligations mentioned in paragraphs 1 to 3 of said article are incumbent upon undertakings which, in the capacity of platform operators, provide an online peer-to-peer platform with a view to the sale of an asset, the supply of a service or the exchange or sharing of an asset or a service.

These platforms may include, in particular, those that provide a peer-to-peer platform for concluding the following transactions (non-exhaustive list):

- sale or resale of assets of all types : immovable property ; household or personal equipment ; cultural goods ; tickets for live entertainment, sporting events or rail travel ; vehicles, spare parts ; tools ; raw or processed food products, with or without delivery ;
- rental of immovable property or its appurtenances : furnished holiday rentals ; rental or shared rental of an unfurnished or furnished property ; rental of swimming pools, sports fields, terraces, gardens or natural areas
- rental of movable property : motor vehicles, boats or aircraft ; various tools ; household electrical appliances or household equipment ; personal equipment ;
- transportation of persons or objects : taxis ; private hire vehicles (VTC) ; transportation of goods ;
- collaborative consumption : car pooling ; meal sharing ; sea trips ;
- supply of work or of a service : upkeep of homes or of personal equipment ; gardening work ; personal assistance ; childcare ; tutoring ; personal training inside or outside home ; various consulting activities ; pet sitting ; etc.
- crowdfunding of projects by individuals.

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The fact that a platform operator uses the services of sub-contractors to conclude transactions or to ensure the payment does not alter the scope of that operator's obligations.

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Pursuant to the first sub-paragraph of paragraphs 2 and 3 of [Article 242 bis of CGI](#), the operators that are concerned by the obligation to send a summary statement to their users ([BOI-BIC-DECLA-30-70-40-20 in II § 40 et seq.](#)) and the obligation to file a document with the administration that contains the same information ([BOI-BIC-DECLA-30-70-40-20 in III § 340 et seq.](#)) are solely the operators that are aware of transactions being concluded by their users.

An operator is deemed to be aware that a transaction is actually concluded if its information system allows that operator to have the knowledge of both the principle of a transaction being actually concluded, and of the amount of the payment agreed between the parties. When the platform operator sub-contracts the payment operations for this transaction to a third party, it is deemed to have knowledge of the conclusion of the transaction, in light of the relationship of subordination that exists between the sub-contractor and its contractor.

The obligation mentioned in paragraph 1 of [Article 242 bis of the CGI](#) ([BOI-BIC-DECLA-30-70-40-20 at I § 10 to 30](#)) shall apply even when the operators concerned are not aware whether their users have actually concluded transactions.

### III. Users concerned

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Within the meaning of [Article 242 bis of the CGI](#), a platform user is defined as an individual or a legal entity, acting in a professional capacity or otherwise, who proposes to third parties, on an occasional or habitual basis, the sale of assets, the supply of a service or the exchange or sharing of an asset or of a service via offers published by the operator of the platform concerned.

The last sub-paragraph of [Article 242 bis of the CGI](#) provides that the obligations referred to in paragraphs 1 to 3 shall apply to platform users who reside in France or who make sales or supply services in France within the meaning of [Article 258 of the CGI](#) to [Article 259 D of the CGI](#) ([BOI-TVA-CHAMP-20](#)).

Regarding transactions concluded by persons who are not taxable persons for VAT purposes, solely the residence criterion is to be taken into consideration.

**NB** pursuant to [Article 256 A of the CGI](#), persons who, independently, carry on a business activity of manufacturer, tradesperson or service provider, including extractive farming activities and those of the independent professions or professions that are equated thereto, are deemed to be taxable persons for VAT purposes ([BOI-TVA-CHAMP-10-10-20](#) and [BOI-TVA-CHAMP-10-10-30](#)).

*In this regard, individuals who rent out their immovable property on a platform are deemed to exploit a tangible asset with the aim of deriving income therefrom that is permanent in nature. In this regard, they carry on a business activity that confers on them the capacity of a taxable person for VAT purposes. However, paragraph 4 of [Article 261 D of the CGI](#) exempts from VAT occasional, permanent or seasonal rentals of accommodation that is furnished or equipped for lodging. Individuals are thus exempted if they rent out furnished, occasionally or permanently, a secondary residence, tourist accommodation or part of their primary residence, without offering, as a minimum, a set of services that can be equated to hotel services ([BOI-TVA-CHAMP-30-10-50 in II-A-2 § 120](#)).*

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The place of supply of tangible movable goods shall, in particular, be deemed to be in France when the goods are located in France ([BOI-TVA-CHAMP-20-20-10](#)) :

- at the time of shipping or transportation by the seller, by the purchaser, or on their behalf, to the purchaser's location ;
- at the time of assembly or installation by or on behalf of the seller ;
- at the time of handover to the purchaser in the absence of shipping or transportation.

In accordance with the provisions of the last sub-paragraph of part I of [Article 258 of the CGI](#), when the place of shipping or transportation of the goods is located outside the European Union, the place of supply shall be deemed to be in France when the supply is effected by or on behalf of the importer.

In contrast, the place of supply for goods that are outside the territory of the European Union at the time of shipping to the purchaser shall not be deemed to be in France when said supply is not effected by the importer. The same shall apply when a supply of goods was effected outside the European Union or before the goods cleared customs, and when the purchaser imports the goods himself or herself.

By way of derogation from the general principle whereby the place of supply of tangible movable goods is deemed to be at the starting location for shipping or transportation, [Article 258 A of the CGI](#) and [Article 258 B of the CGI](#) provide for a specific system for determining the location of remote sales that are made by a taxable person to persons who benefit from exemption from the taxation of intra-Community acquisitions ("PBRD") or to natural persons who are not taxable persons (individuals).

A supply of tangible movable goods is deemed to be in France where it is effected by a taxable person who is established in a Member State of the European Union other than France when said supply is effected to a legal entity that is not a taxable person or to any other individual who is not a taxable

person and when the total amount of the sales made to France by a seller who is a taxable person exceeds a certain threshold (for more details on the distance sales regime, please refer to [BOI-TVA-CHAMP-20-20-10 in I-B § 160 et seq.](#)).

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Pursuant to the general rules provided for in [Article 259 of the CGI](#), the place of supply of the services shall be deemed to be in France:

- when the recipient is a taxable person acting as such and when the recipient has their place of establishment in France, unless they have a permanent establishment that is not located in France at which the services are provided; or a permanent establishment in France to which the services are provided; or, failing that, their domicile or their habitual residence in France
- when the recipient is not a taxable person and when the service provider has their place of establishment in France, unless they have a permanent establishment that is not located in France from which the services are provided; or has a permanent establishment in France from which the services are provided; or failing that, has their domicile or their habitual residence in France

By way of derogation from [Article 259 of the CGI](#), the place of taxation of certain services shall be determined on the basis of criteria other than that of the capacity of the recipient, pursuant to [Article 259 A of the CGI](#), [Article 259 B of the CGI](#), [Article 259 C of the CGI](#) and [Article 259 D of the CGI](#), and are detailed in [BOI-TVA-CHAMP-20-50-30](#), [BOI-TVA-CHAMP-20-50-40](#) and [BOI-TVA-CHAMP-20-50-50](#).

## IV. Transactions concerned

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The platform operators' obligations that are mentioned in paragraphs 1 to 3 of [Article 242 bis of the CGI](#) shall apply at the time of transactions between platform users. A transaction shall be deemed to have been concluded if the parties agree, via a technical system provided by the platform operator, on the terms and conditions of the sale of an asset, the supply of a service, or the exchange or sharing of an asset or a service.

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The transactions referred to by [Article 242 bis of CGI](#) shall be transactions that are concluded in France within the meaning of the territoriality rules on VAT (**III § 70 et seq.**).

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A transaction that is concluded during a given year may be modified in respect of the following year.

For more details on the nature of the transactions concerned and the consequences thereof for reporting, please refer to [BOI-BIC-PDSTK-10-10-10](#).