

# VAT and the Sharing Economy: Call for Evidence

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# Chapter 1

## Introduction

- 1.1. The Sharing Economy has empowered individuals and business to connect with consumers and provide services to them on a far larger scale than previously possible. This activity is usually facilitated by digital platforms which can be based anywhere in the world.
- 1.2. This creates huge opportunities for the UK's economy and society through stimulating enterprise and aiding optimal use of scarce resources. However, the government is also aware that it could potentially create certain challenges to the VAT tax base.
- 1.3. The aim of this call for evidence is to test the government's view of the VAT challenges the Sharing Economy creates. We welcome stakeholder views, both those who may share our initial assessment and those who bring challenge to that perspective as well as evidence of other challenges that we have not yet considered. We are also seeking stakeholder views on potential next steps in evaluating and responding to these challenges.
- 1.4. As with all of the challenges to the VAT framework presented by new ways of doing business and the growth of the digital economy, the government will carefully evaluate the issues and, where appropriate, develop policy responses which ensure fair competition and a level playing field for all businesses, whether operating in the Sharing Economy or as a traditional business, regardless of their size and location.
- 1.5. The government considers that the Sharing Economy not only creates challenges for VAT but impacts upon a range of different taxes.<sup>1</sup> Conversely, of those challenges which do pertain to VAT, not all are exclusive to digital platforms operating in the Sharing Economy. Certain issues may benefit from coordinated policy responses across taxes that also encompass those digital platforms which facilitate the sale of goods and digital services.
- 1.6. There is a wide range of definitions which different organisations and stakeholders use to capture and measure the Sharing Economy.

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<sup>1</sup> In this vein, the government had previously issued a call for evidence in March 2018 on the role of digital platforms in ensuring tax compliance generally among their users. The call for evidence and subsequent government response can be found here:

<https://www.gov.uk/government/consultations/online-platforms-role-in-ensuring-tax-compliance-by-their-users>

- 1.7. In determining which businesses are in scope of our analysis of the Sharing Economy for VAT purposes, we would propose the following working definition, which aligns to the working definition that the OECD's Working Party No.9 on Consumption Taxes is using to aid its ongoing work on the VAT implications of the Sharing Economy, and which builds on already available definitions: *The Sharing Economy is an accessibility-based socio economic model, typically enabled or facilitated via advanced technological solutions and trust-building tools, whereby human or physical resources and/or assets are accessible (for temporary use)/shared - to a large extent - among individuals for either monetary or non-monetary benefits or a combination of both.*
- 1.8. To ensure the broadest possible coverage of relevant businesses, our guidance to complement this definition is that responders should consider in scope any digital platform which facilitates the supply of services between two or more unconnected parties, where those services do not involve any transfers in the ownership of tangible or intangible property.
- 1.9. In practice, these services will generally take the form of individuals hiring out either their labour or renting out their assets, or a combination of both, in return for consideration (as well as monetary, this consideration can be in the form of a non-monetary, barter-like nature).
- 1.10. An example of hiring out labour would be offering to perform household repairs and building works. An example of renting out of assets would be an individual placing their apartment for rent as a short-term letting. An example of combining labour and assets would be a driver offering passenger transport using their personal car.
- 1.11. Where neither the Sharing Economy digital platform nor the underlying service provider receive any consideration then we consider such transactions and business models to be outside the scope of VAT.

**Questions for respondents:**

- 1.12. Throughout this call for evidence, you will find a series of questions in each chapter, for which we kindly request written responses from industry stakeholders, particularly digital platforms active in the Sharing Economy or traditional businesses competing in the same sectors. We also welcome the feedback of all other interested persons and organisations. Details of how to respond are contained in the section on 'Next steps' at chapter six.

**Question 1:** What are your initial impressions of the Sharing Economy? Is the government right to be looking into it in the context of VAT?

**Question 2:** Are there any Sharing Economy business models which the definition and guidance we have set out do not cover but which we should be aware of?

**Background – Progress to date in addressing the VAT and wider tax challenges of the digital economy**

- 1.13. When the UK introduced VAT in 1973 the phenomenon of mass digitalisation was still many years ahead in the future. The digitalisation of the economy in the intervening period has created substantial challenges to the international tax framework.
- 1.14. The seriousness and urgency with which countries have treated these challenges can be seen in major multilateral initiatives such as OECD / G20 Base Erosion and Profit Shifting (BEPS) Project, as well as unilateral measures such as the UK Digital Services Tax (DST).
- 1.15. The focus of these initiatives has largely been to address concerns that the current international tax framework does not enable an equitable distribution of the corporate profits generated by digital businesses for direct tax purposes. This work remains under discussion at the OECD, and the UK government has been closely involved in this process. The OECD have recently published reports on blueprints for these proposals, and is aiming to reach agreement by mid-2021.<sup>2</sup>
- 1.16. However, many of the early successes of the BEPS project, in particular under BEPS Action 1, have been in addressing the indirect tax challenges which digitalisation has created.
- 1.17. The OECD *International VAT / GST Guidelines* were published in 2015, which included elements of BEPS Action 1.<sup>3</sup> This provided jurisdictions with internationally agreed principles and standards for the VAT treatment of the most common types of cross-border transactions, with a particular focus on the trade in services, including digital services, and intangibles.
- 1.18. The OECD also published a report in 2015, as part of the BEPS Action 1 Report, advising jurisdictions on measures which could help them to remove competitive distortions in relation to the import of low value goods.<sup>4</sup> This was followed by a report in March 2019 on *The Role of Digital Platforms in the Collection of VAT/GST on Online Sales*, which considers options for jurisdictions in the design of measures to

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<sup>2</sup> [OECD/G20 Inclusive Framework on BEPS invites public input on the Reports on Pillar One and Pillar Two Blueprints](#)

<sup>3</sup> OECD, *International VAT / GST Guidelines* (Paris: OECD Guidelines, 2017).

<sup>4</sup> OECD / G20 Base Erosion and Profit Shifting Project, *Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report* (Paris: OECD Publishing, 2015), 'Annex C: The collection of VAT/GST on imports of low value goods', pages 181 to 208.



enhance VAT collection and combat non-compliance in the cross-border sale of goods on online marketplaces.<sup>5</sup>

- 1.19. More recently, the OECD has developed Model Reporting Rules for Digital Platforms. The primary focus of the Model Rules is initially on platforms reporting relevant data to tax authorities (and also platform sellers) to support compliance of platform sellers with their direct tax obligations for the sale of services. The rules also recognise the relevance of certain reported information for other areas of tax compliance, including indirect taxes, and there is scope to extend the rules to sales of goods. The benefit of this global approach for the platforms is that it sets out clearly what data is required and ensures a consistent international approach and a level playing field.
- 1.20. The UK has also done much domestically to combat VAT non-compliance and fraud in the cross-border sale of goods online. This includes introducing a set of targeted powers to hold online marketplaces jointly and severally liable (JSL) for the non-compliance of underlying, third-party sellers supplying goods on their platforms (Finance Act 2016, Finance Act 2018). The UK has also introduced a Fulfilment House Due Diligence Scheme, which came into force in April 2019, to ensure that fulfilment houses in the UK cannot legally serve overseas online sellers without explicit approval from HMRC (Finance (No.2) Act 2017). The government has also announced changes to the VAT treatment of goods sold by overseas businesses to UK customers which involve online marketplaces in the collection of VAT. These changes will apply from the end of the transition period.
- 1.21. In addition, the Chancellor established a VAT Split Payment Industry Working Group (IWG) at Budget 2018. The aim of the group is to develop long-term solutions that harness the technological power of the payments industry to collect UK VAT on consumers' electronic payments at the time of payment, thereby making tax collection more efficient, minimising administrative burdens for businesses and reducing the risk of tax revenue losses.
- 1.22. However, policymakers globally are still at a relatively early stage in analysing the challenges of the Sharing Economy and in determining how, if at all, to reform their VAT frameworks.

### **What potential challenges does the Sharing Economy create for VAT in the UK?**

- 1.23. The Sharing Economy has become a major component of the economy in recent years, as illustrated by the statistics in chapter two of this document. The government considers that this has created challenges for the UK VAT system. In the chapters that follow, the government sets out its view and asks for businesses and other

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<sup>5</sup> OECD, The Role of Digital Platforms in the Collection of VAT/GST on Online Sales (Paris: OECD Publishing, 2019).

interested stakeholders to respond with their own views to the questions we raise.

- 1.24. We have divided the challenges as we see them into three distinct but related categories:
- **business-to-consumer (B2C) and consumer-to-consumer (C2C):** first, potential long-term erosion of the VAT base due to shifts in consumer behaviour in favour of buying services through the Sharing Economy, and the interaction of this erosion with the question of who should be responsible within the Sharing Economy for VAT on supplies to consumers
  - **business-to-business (B2B):** secondly, specific outcomes of the existing VAT rules for cross-border business-to-business (B2B) supplies of services, which prevent HMRC from receiving VAT revenues due on the commission fees which digital platforms charge to underlying service providers
  - **promoting compliance:** thirdly, the challenge of ensuring compliance with VAT rules by the underlying service providers and in turn the compliance of the digital platforms, especially those based offshore outside HMRC's jurisdiction, with measures designed to aid VAT collection and enforcement.
- 1.25. To aid understanding of the impact the Sharing Economy has on the VAT base, we have also produced a practical case study in appendix 1, within chapter eight.
- 1.26. This call for evidence focuses primarily on the first two of these challenges. Chapter three and chapter four explore these in detail.
- 1.27. We touch briefly on the third challenge in chapter five, but due to the cross-tax nature of the issue and the fact it affects the activities of digital platforms facilitating the supply of goods and digital services as well, we recommend that further detailed analysis be deferred to a more comprehensive survey not restricted to the Sharing Economy or VAT in its scope.
- 1.28. We have outlined our next steps in chapter six. You will also find a summary of this call for evidence's questions for respondents in chapter seven.

## Chapter 2

# How big is the Sharing Economy in the UK and what does it currently look like?

- 2.1 The Sharing Economy covers a vast range of possible activities across many economic sectors. As noted, there is no one-size-fits all definition of the Sharing Economy and estimates of the size and nature of the Sharing Economy are heavily influenced by the scope of definitions used.
- 2.2 Despite these limitations, the available data suggest that the Sharing Economy has grown rapidly around the world in recent years and is forecast to continue to do so. PwC analysis, first carried out in 2014, suggests that digital platforms' global revenues from key Sharing Economy sectors could reach US\$335 billion by 2025, up from US\$15 billion in the baseline year of 2014.
- 2.3 This rapid growth is predicted to be echoed in the UK market. Digital platforms' revenues from key Sharing Economy sectors in the UK was estimated to be £0.5 billion in 2014. By 2025, total platform revenues from those same sectors are forecast to rise to £9 billion.<sup>6</sup>
- 2.4 Further analysis from PwC in 2016 continues to highlight the rapid growth of the UK Sharing Economy and predicts that the UK's Sharing Economy will grow at over 30% per year to 2025.
- 2.5 The five key Sharing Economy sectors in the UK (collaborative finance, short-term accommodation, passenger transportation, on-demand household services and on-demand professional services) could see a twenty-fold increase in the total value of transactions to £140 billion in 2025, from just £7 billion in 2016 (Note: These figures encompass the aggregate of earnings for individual service providers and digital platforms' revenues).<sup>7</sup>

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<sup>6</sup> [https://pwc.blogs.com/press\\_room/2014/08/five-key-sharing-economy-sectors-could-generate-9-billion-of-uk-revenues-by-2025.html](https://pwc.blogs.com/press_room/2014/08/five-key-sharing-economy-sectors-could-generate-9-billion-of-uk-revenues-by-2025.html)

<sup>7</sup> [https://pwc.blogs.com/press\\_room/2016/06/uks-key-sharing-economy-sectors-could-deliver-140-billion-by-2025.html](https://pwc.blogs.com/press_room/2016/06/uks-key-sharing-economy-sectors-could-deliver-140-billion-by-2025.html)

- 2.6 Within the UK, the Sharing Economy is increasingly popular among consumers as well as among individuals who wish to generate income from spare capacity in relation to their labour and assets.
- 2.7 A 2017 survey by Warwick Business School calculated that 62% of the UK population had participated (overwhelmingly as consumers rather than service providers) in the Sharing Economy at least once, with 23% of the population using Sharing Economy services more than once a month. This level of activity was a 60% increase in participation in the 18 months since their first survey in 2016.<sup>8</sup>
- 2.8 Meanwhile, a 2017 study conducted by NatCen Social Research on behalf of HMRC found that 11% of the working age population (5.3 million people) in Great Britain had worked as a provider in the Sharing Economy over the prior twelve months.<sup>9</sup>
- 2.9 The government is aware that the Covid-19 pandemic has had a severe impact on many areas of the UK economy, including on businesses operating in the Sharing Economy. As in other sectors, the impact of the pandemic on Sharing Economy businesses has not been uniform. Whilst some firms have witnessed large losses of revenue, other businesses may have been well placed to benefit from opportunities created by the pandemic (e.g. changes in consumer preferences as a result of the widespread move to home working). The government also recognises that underlying service providers are likely to have been affected, with some being unable to share their labour and assets in ways done previously. Moving forwards, the government will continue to monitor the impact of the pandemic on businesses and sectors.
- 2.10 Longer term, there is not yet an evidence base to challenge the view that significant levels of economic activity will continue to move towards the Sharing Economy, as both consumers and individuals with underutilised labour and assets increasingly make use of Sharing Economy platforms.

**Question 3:** Do you agree with the government's assessment of the size and nature of the Sharing Economy in the UK? Have you or your organisation produced analysis not listed above on the size and nature of particular sectors of the Sharing Economy in the UK?

We would be particularly interested in any material relating to the five largest sectors of the UK Sharing Economy referred to in chapter two:

- short-term accommodation
- passenger transportation
- on-demand household services
- on-demand professional services
- collaborative finance

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<sup>8</sup><https://www.wbs.ac.uk/wbs2012/assets/PDF/downloads/press/ResultsofUKSharingEconomyConsumerSurvey2017.pdf>

<sup>9</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/658728/HMRC\\_Report\\_453\\_Sharing\\_Economy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658728/HMRC_Report_453_Sharing_Economy.pdf)

**Question 4:** If not covered in your response to the previous question, could you please provide us with any projections which you or your organisation have produced regarding the future growth of the Sharing Economy in the UK?

This could be information covering a specific sector or the Sharing Economy as a whole, if, for example, you are responding on behalf of a trade body, professional institute or management consultancy.

It could be information for a specific business if you are responding on behalf of a digital platform. Your response will be treated in the strictest confidence.

# Chapter 3

## Accounting for VAT at final consumption (B2C and C2C) - Agent and principal rules

- i). **The Sharing Economy changing the nature of the VAT base:**
- 3.1 The government considers that the VAT base is changing and will experience long-term changes as a result of the new opportunities which the Sharing Economy creates for individuals and small businesses to generate revenue streams. This section explains and invites challenge to that view.
  - 3.2 There are around 2.3 million VAT-registered businesses in the UK, with around 3.6 million unregistered. Around 1.3 million of those registered are registered as their turnover exceeds the VAT registration threshold (currently £85,000 per year) and some will exceed that by a considerable margin (the turnover of those in the FTSE 100 is measured in billions).
  - 3.3 Looking forward, the government considers it likely that the balance will change in terms of the relative contribution of VAT-registered and non-VAT-registered businesses to the UK's economic output. In other words, that over time individuals and entities trading below the VAT threshold will provide a much greater proportion of services, as measured by both volume and value, than they currently do. If this does occur, we consider it will vary by sector, and in some sectors we consider that the Sharing Economy may greatly encourage and accelerate this change.
  - 3.4 Sharing Economy digital platforms are enabling unregistered individuals, micro-businesses and small-scale enterprises to market their services to an extremely large audience of potential customers, in a way that would be much more difficult for a traditional small or micro-business to achieve.
  - 3.5 In certain cases, the underlying service provider on a digital platform may not satisfy the criteria which HMRC would use to classify an individual or entity as being 'in business' for VAT registration purposes. In such circumstances, the activity in question would be outside the scope of VAT, i.e. a consumer-to-consumer transaction.

- 3.6 In other cases, although the underlying service provider is in business, they generate a level of revenue that is below the VAT registration threshold and therefore have no obligation to register for VAT.

**Question 5:** Do you consider the balance to be changing between VAT-registered and non-VAT registered businesses in terms of relative contribution towards the UK's economic output?

That is to say, in favour of non-VAT registered businesses supplying an increasingly large proportion of services.

**Question 6:** Have you or your organisation produced analysis of the revenues which underlying service providers generate on digital platforms; if so, please could you summarise the results for us?

It would be helpful if you could categorise your response within the following turnover bands:

- (1) less than £10,000
- (2) between £10,000 and £34,999
- (3) between £35,000 and £69,999
- (4) between £70,000 and £84,999
- (5) greater than £85,000

Please state whether your analysis relates to a business, a sector or the Sharing Economy as a whole.

**ii). VAT neutrality and 'Agent versus Principal':**

- 3.7 The government considers it is important to make an assessment of what the Sharing Economy means for the government's objective of ensuring fair competition and a level playing field for all businesses, whether operating in the Sharing Economy or as a traditional business, regardless of their size and location.
- 3.8 In a VAT context, this mainly crystallises around the question of whether the status quo treatment of Sharing Economy transactions ensures VAT neutrality and a level playing field for all businesses.
- 3.9 To begin evaluating this question, it is helpful to briefly summarise the current legal position of Sharing Economy digital platforms in relation to their underlying service providers, as the government sees it.
- 3.10 Many business models in the Sharing Economy involve a digital platform acting as an 'agent'. These models are the focus of this call for evidence.
- 3.11 Agents can act on behalf of underlying service providers to buy and sell services, or they can introduce underlying service providers to consumers. The underlying service provider (for example, a driver or a

short-term accommodation provider) acts as the 'principal' provider of the services and, if registered for VAT, is required to account for VAT on the full amount charged for their service.

- 3.12 However, if the principal's revenues during any twelve-month period do not exceed the VAT registration threshold, and they have not voluntarily elected to register for VAT, then they will not account for VAT on their services.
- 3.13 The concepts of agent and principal derive from contract law, and the VAT rules flow from that. The UK courts generally uphold the contractual relationship between two parties except where the contractual relationship between the agent and the principal is found to be, in the words of the courts, a 'sham' or do not reflect the economic and commercial reality.<sup>10</sup> There is therefore limited scope, if any, to modify these concepts.

**iii). Assessing the case for a new approach to agent and principal in the Sharing Economy:**

- 3.14 Many Sharing Economy digital platforms appear to assume a number of the functions of a traditional principal, but without acquiring any corresponding VAT liability because contractually the underlying service provider is the person which makes the supply to the final consumer.
- 3.15 This gives rise to the question of the extent to which the digital platforms benefit from an unintended competitive advantage over many traditional, VAT-registered businesses which must charge VAT on their supplies.
- 3.16 Policymakers may need to consider the grounds for new laws that reflect the changing nature of economic activity in the digital age. There is otherwise a significant risk that we will witness increasing market concentration among platforms operating on a vast scale, with high, often global brand recognition, and operating a high degree of control over underlying service providers, which are nonetheless classified as mere agents for VAT purposes.
- 3.17 Our assessment of these challenges and risks should involve carefully developing and establishing a clear set of criteria that enable us to determine responsibility for VAT on services to consumers, based on an up-to-date understanding of the reality of economic scale and control in the modern economy.
- 3.18 Some possible examples of criteria could be around control of the terms of business upon which the underlying service provider is able to engage with the consumer, control of the authorisation and processing

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<sup>10</sup> Paragraph 31 of *The Commissioners for Her Majesty's Revenue and Customs v Secret Hotels 2 Ltd* (formerly Med Hotels Limited):

<http://www.bailii.org/uk/cases/UKSC/2014/16.html>



of consumer payments, arbitrating disputes between consumers and underlying service providers, and control or imposition of restrictions on the marketing and advertising of the underlying service providers.

3.19 In the questions which follow, we are particularly interested in hearing from digital platforms active in the Sharing Economy, their traditional economy competitors, and representatives of the tax and accountancy professions.

**Question 7:** Should the government consider alternative VAT rules to the agent-principal rules in the context of the Sharing Economy? Should we consider solutions which, under certain circumstances, would require Sharing Economy digital platforms to account for VAT on the supplies that underlying service providers make to consumers?

If not already covered by your response to the previous question:

**Question 8:** Does your view about the need for alternative VAT rules in the context of the Sharing Economy vary according to economic sector and business model, or does it apply across all sectors and business models?

By way of example, would your answer be different in relation to passenger transportation than it would be for on-demand household services or the letting of short-term accommodation?

## Chapter 4

# Accounting for VAT on cross-border B2B transactions - Place of supply rules

- 4.1 As well as a supply of a service by an underlying service provider to a consumer, the Sharing Economy business model typically involves a supply by a digital platform of the service of connecting the underlying service provider to the final consumer.
- 4.2 The provision of this service is usually in exchange for consideration from the underlying service provider in the form of a commission fee based on the price charged to the consumer (similar to a brokerage fee in a traditional economic model such as investment banking or estate agency).
- 4.3 As most digital platforms will generate a turnover in excess of any VAT registration threshold in the country where they have their business establishment, they will have an obligation to be registered for VAT and account for it on the commission fees they levy on the underlying service providers on the platform. If the platform considers the underlying service provider to be in business, then this will be treated as a business-to-business supply by the platform.<sup>11</sup>
- 4.4 In line with the OECD's *International VAT / GST Guidelines*, the place of supply of a cross-border business-to-business (B2B) transaction is the place where the customer is established. Thus, if the underlying service provider is in the UK, then the UK is the place of supply and that supply is within the scope of UK VAT.
- 4.5 If the digital platform has its business establishment or a fixed establishment in the UK and the underlying service provider is also resident in the UK, then the platform has an obligation to charge VAT on the supply and remit the corresponding funds to HMRC. This is exactly the same as the obligation which, for example, a business operating on the UK high street would bear.
- 4.6 Alternatively, if the digital platform is based in another jurisdiction, and has no fixed place of establishment in the UK, then it will not charge

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<sup>11</sup> Some digital platforms may also generate revenues by charging a commission fee to the consumer of the underlying service provider's services. This type of commission fee is a B2C supply by the platform to the end consumer and the platform will charge VAT (in accordance with existing place of supply rules).

VAT on its B2B supplies into the UK. This is because, in principle, the underlying service provider, as the customer in this B2B transaction, holds responsibility for accounting for VAT on the supply, typically doing so under what is known as the 'Reverse Charge' mechanism.

- 4.7 However, if the underlying service provider is a small operator trading below the UK VAT-registration threshold (and has not voluntarily registered for VAT), then it is not required to account for VAT under the reverse charge on this purchase of cross-border supplies from the platform. Our understanding is that some jurisdictions operate specific measures which require foreign suppliers to register for and account for VAT on sales to non-VAT-registered business customers, but no such requirement currently exists in the UK.
- 4.8 There is therefore a risk, which we consider has already crystallised in a number of cases, that no party to the transaction has any obligation under current rules to account for the UK VAT due on the commission fees, despite overseas-based Sharing Economy digital platforms generating a large amount of revenue from UK-based underlying service providers.<sup>12</sup>
- 4.9 This means that digital platforms based outside the UK often enjoy an unfair competitive advantage in comparison to UK-established platforms and traditional intermediaries.

**Question 9:** Should the government review the cross-border place of supply rules in this context; specifically, in light of that fact that these give an unfair VAT advantage to digital platforms based outside the UK? If so, how would you recommend we address this?

**Question 10:** What do you think about solutions that would require Sharing Economy digital platforms, wherever they are established, to register and account for UK VAT on the commission fees that they charge their underlying service providers? Please include details of your experiences of similar regimes in other jurisdictions.

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<sup>12</sup> This is a risk that was first brought to international attention as part of the BEPS Action 1 Report in 2015. Please see:

OECD / G20 Base Erosion and Profit Shifting Project, *Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report* (Paris: OECD Publishing, 2015), 'Chapter 5. Identifying opportunities for BEPS in the digital economy', page 82.

# Chapter 5

## Promoting compliance

- 5.1 Whichever VAT measures and rules that policymakers choose to apply to the Sharing Economy, they will need to be able to enforce the rules whenever a VAT liability arises.
  - 5.2 As discussed above, there are several hundreds of thousands of underlying service providers active in the Sharing Economy in the UK, possibly millions.
  - 5.3 To monitor the compliance of each of these operators with VAT and wider tax rules, and to undertake enforcement action against them where they do not comply, could prove to be very resource-intensive and expensive for HMRC.
  - 5.4 While we acknowledge that most underlying service providers using Sharing Economy platforms will be trading below the UK VAT threshold, there is a difficulty in identifying those which should be registered for VAT. However, digital platforms will make a record for their own commercial reasons of many, if not all, of the transactions in which these underlying service providers engage.
  - 5.5 Therefore, tax authorities including HMRC may seek to work with the Sharing Economy digital platforms wherever possible.
- Importance of digital platforms in ensuring efficient VAT compliance:**
- 5.6 These compliance operations will be premised on the cooperation of the digital platforms. A key example is that to establish levels of Sharing Economy activity among underlying service providers, and any corresponding VAT liabilities they may have, HMRC needs to obtain and analyse bulk data from the platforms.
  - 5.7 Relevant data from digital platforms based offshore, and therefore outside of HMRC's jurisdiction, cannot be easily obtained, although HMRC works closely with countries with equivalent domestic data-gathering powers and with treaty partners under international agreements. For example, the OECD have recently published Model Reporting Rules for Digital Platforms, which look at improving tax compliance of users of digital platforms. The information will be submitted once a year and is aimed principally at direct tax compliance, and will focus, at least initially, on the sale of services.
  - 5.8 HMRC also works closely with businesses themselves. For example, it launched a voluntary agreement in April 2018, since signed by seven

major online marketplaces, which sought to enhance data sharing arrangements and mutual cooperation between government and businesses in addressing VAT fraud in the sale of goods through digital platforms.<sup>13</sup>

- 5.9 There is a need to design a system of rules that will apply to, and can be enforced upon, all digital platforms in scope, whether based in the UK or offshore, not least to ensure a level playing field for those platforms which do cooperate voluntarily and proactively in the interests of fostering good user compliance.
- 5.10 In the absence of this, those platforms established outside of the UK could gain an unfair competitive advantage at the expense of compliant Sharing Economy platforms and of traditional businesses.
- 5.11 This issue is one which does not restrict itself to the Sharing Economy. It also affects HMRC's compliance operations for digital platforms which facilitate the supply of goods and electronically supplied services. Nor is it restricted to VAT. Personal income tax, for instance, is also an area at high-risk.
- 5.12 Therefore, we have framed the following question in this chapter to gauge stakeholder views on measures which could, in principle, be directed at digital platforms both within and outside the Sharing Economy as well as to further compliance operations across a wide range of taxes.

**Question 11:** Bearing in mind HMRC's desire to develop compliance measures which can be enforced with equal effectiveness upon both UK and offshore businesses, what do you think would be a proportionate and effective set of obligations, sanctions and administrative easements that HMRC could use to encourage compliance among digital platforms and underlying service providers?

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<sup>13</sup> This agreement has been published on Gov.UK and both it and the list of current signatories can be viewed at the following link:

<https://www.gov.uk/government/publications/hmrc-and-online-marketplaces-agreement-to-promote-vat-compliance>

# Chapter 6

## Next steps

- 6.1 We are grateful for the time that you have taken to review this call for evidence. If you wish to submit a written response to the questions we have posed in this document, you will find details below of how to do so.
- 6.2 The government very much welcomes the engagement of businesses and all other interested stakeholders on this issue. We will use the evidence that you provide to further develop our understanding of the Sharing Economy and its implications for VAT. We will carefully consider the need for further consultation with stakeholders and policy reforms in light of this exercise and of our wider engagement with representatives of industry and international partners, including involvement in efforts at the OECD to coordinate work on the tax implications of the Sharing Economy.
- 6.3 This call for evidence will run for 12 weeks, closing on 3 March 2021. The government intends to publish a summary of responses within 12 weeks of the closing date of the call for evidence period.

## Contact

- 6.4 Responses to the call for evidence should be submitted to [HMTVATandExcisePolicy@hmtreasury.gov.uk](mailto:HMTVATandExcisePolicy@hmtreasury.gov.uk) no later than 23:59 on 3 March 2021.
- 6.5 Regretfully, the Government is not able to consider responses that are submitted in any other way (e.g. sent in the post in hard copy form). If respondents are unable to meet this deadline, they should contact the review team using the email above to seek an extension.

## Data protection notice – processing of personal data

This notice sets out how HM Treasury will use respondents' personal data for the purposes of this call for evidence and explains their rights under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

### The data – data subject categories

This call for evidence is open to all interested persons and organisations. Therefore, personal information that we will collect could relate to members of the public, parliamentarians, and representatives of organisations and companies.

### The data we will collect – data categories

Information will include the name, address, email address, job title and employer of the correspondent, as well as their opinions and answers to the questions posed by this call for evidence. Respondents may volunteer additional identifying information about themselves or third parties.

### Legal basis of processing

The processing we will conduct is necessary for the performance of a task carried out in the public interest – namely, consulting on departmental policies or proposals, or obtaining opinion data, in order to develop good and effective policies.

### Special data categories

Although not being requested, it is possible that special category data may be processed if such data is volunteered by the respondent.

### Legal basis for processing special category data

If special category data is volunteered by the respondent, the legal basis relied upon for processing will be explicit consent of the data subject and/or that the processing will be necessary for reasons for substantial public interest in the exercise of a function of the Crown, a Minister of the Crown or a government department – namely, consulting on departmental policies, or obtaining opinion data, to develop good effective policies.

### Purpose

The personal information collected will be processed in order to obtain the opinions of stakeholders, members of the public and representatives of organisations and companies about departmental policies, or generally to obtain public opinion data on an issue of public interest.

### With whom we may share responses – and confidential information

Information provided in response to this call for evidence may be published or disclosed in accordance with the access to information regime. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).

If a respondent wishes the information that they provide to be treated as confidential, please be aware that under the FOIA there is a statutory code of practice with which public authorities must comply. It deals with, amongst other things, obligations of confidence.

In view of this it would be helpful if respondents could explain to HM Treasury why they regard the information they have provided as confidential. If we receive a request for disclosure of the information, we will take full account of the reasons provided, but we cannot give an assurance that

confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.

Where someone provides special category personal data or personal data about third parties, we will endeavour to delete that data before any publication takes place.

Where information about respondents is not published, it may be shared with officials within other public bodies involved in this call for evidence to assist us in developing the policies to which it relates.

HM Treasury reserve the right to publish their own response or a summary of responses received from the public, which may feature quotations or extracts from provided responses.

### How long we will retain data provided

Personal information in responses to calls for evidence will generally be published and therefore retained indefinitely as an historic record under the Public Records Act 1958.

Personal information in responses that are not published will be retained for at least three calendar years after the consultation has concluded.

### Rights of respondents

Respondents have the following rights in relation to this call for evidence:

- to request information about how their personal data are processed and to request a copy of that personal data
- to request that any inaccuracies in their personal data are rectified without delay
- to request that their personal data are erased if there is no longer a justification for them to be processed
- in certain circumstances (for example where accuracy is contested), to request that the processing of their personal data is restricted
- to object to the processing of their personal data where it is processed for direct marketing purposes and
- to data portability, which allows their data to be copied or transferred from one IT environment to another.

### How to submit a data subject access request (DSAR)

To request access to personal data that HM Treasury holds about you, please contact:



HM Treasury Data Protection Unit  
G11 Orange  
1 Horse Guards Road  
London  
SW1A 2HQ  
[dsar@hmtreasury.gov.uk](mailto:dsar@hmtreasury.gov.uk)

### Complaints

If a respondent has any concerns about the use of their personal data, they should contact HM Treasury at [privacy@hmtreasury.gov.uk](mailto:privacy@hmtreasury.gov.uk)

If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, the UK's independent regulator for data protection. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
0303 123 1113  
[casework@ico.org.uk](mailto:casework@ico.org.uk)

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

### Contact details

The data controller for any personal data collected as part of this call for evidence is HM Treasury, the contact details for which are:

HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ  
020 7270 5000  
[public.enquiries@hmtreasury.gov.uk](mailto:public.enquiries@hmtreasury.gov.uk)

The contact details for HM Treasury's Data Protection Officer (DPO) are:

The Data Protection Officer  
Corporate Governance and Risk Assurance Team  
Area 2/15  
1 Horse Guards Road  
London  
SW1A 2HQ  
[privacy@hmtreasury.gov.uk](mailto:privacy@hmtreasury.gov.uk)

# Chapter 7

## Summary of questions

**Note for respondents:** This is a list of the questions for respondents which we have asked in different chapters of this call for evidence. Although we have summarised the questions here for ease of reference, there may be additional context within the chapter text to which we would encourage you to refer before responding.

**Question 1:** What are your initial impressions of the Sharing Economy? Is the government right to be looking into it in the context of VAT?

**Question 2:** Are there any Sharing Economy business models which the definition and guidance we have set out do not cover but which we should be aware of?

**Question 3:** Do you agree with the government's assessment of the size and nature of the Sharing Economy in the UK? Have you or your organisation produced analysis not listed above on the size and nature of particular sectors of the Sharing Economy in the UK?

We would be particularly interested in any material relating to the five largest sectors of the UK Sharing Economy referred to in chapter two:

- short-term accommodation
- passenger transportation
- on-demand household services
- on-demand professional services
- collaborative finance

**Question 4:** If not covered in your response to the previous question, could you please provide us with any projections which you or your organisation have produced regarding the future growth of the Sharing Economy in the UK?

This could be information covering a specific sector or the Sharing Economy as a whole, if, for example, you are responding on behalf of a trade body, professional institute or management consultancy.

It could be information for a specific business if you are responding on behalf of a digital platform. Your response will be treated in the strictest confidence.

**Question 5:** Do you consider the balance to be changing between VAT-registered and non-VAT registered businesses in terms of relative contribution towards the UK's economic output?

That is to say, in favour of non-VAT registered businesses supplying an increasingly large proportion of services.

**Question 6:** Have you or your organisation produced analysis of the revenues which underlying service providers generate on digital platforms; if so, please could you summarise the results for us?

It would be helpful if you could categorise your response within the following turnover bands:

- (1) less than £10,000
- (2) between £10,000 and £34,999
- (3) between £35,000 and £69,999
- (4) between £70,000 and £84,999
- (5) greater than £85,000

Please state whether your analysis relates to a business, a sector or the sharing economy as a whole.

**Question 7:** Should the government consider alternative VAT rules to the agent-principal rules in the context of the Sharing Economy? Should we consider solutions which, under certain circumstances, would require Sharing Economy digital platforms to account for VAT on the supplies that underlying service providers make to consumers?

If not already covered by your response to the previous question:

**Question 8:** Does your view about the need for alternative VAT rules in the context of the Sharing Economy vary according to economic sector and business model, or does it apply across all sectors and business models?

By way of example, would your answer be different in relation to passenger transportation than it would be for on-demand household services or the letting of short-term accommodation?

**Question 9:** Should the government review the cross-border place of supply rules in this context; specifically, in light of that fact that these give an unfair VAT advantage to digital platforms based outside the UK? If so, how would you recommend we address this?

**Question 10:** What do you think about solutions that would require Sharing Economy digital platforms, wherever they are established, to register and account for UK VAT on the commission fees that they charge their underlying service providers? Please include details of your experiences of similar regimes in other jurisdictions.

**Question 11:** Bearing in mind HMRC's desire to develop compliance measures which can be enforced with equal effectiveness upon both UK and offshore businesses, what do you think would be a proportionate and effective set of obligations, sanctions and administrative easements that HMRC could use to encourage compliance among digital platforms and underlying service providers?

# Chapter 8

## Appendix 1 - Case study

- 8.1 The following case study has been designed for purely illustrative purposes to help respondents better understand the different VAT challenges discussed in this document and the ways in which they link together.

### Case study

**A Manchester property owner renting out her second home on a digital platform to a Spanish tourist:**

- 8.2 A Manchester resident owns an apartment in the city centre, which is additional to her primary residence on the outskirts of the city.
- 8.3 In order to earn some more money, from time to time she rents it on a short-term basis to visitors to the area by advertising the property on a digital platform.
- 8.4 The digital platform's corporate headquarters are in Germany and it has no fixed establishment in the UK.
- 8.5 As she is running a business, the Manchester resident considers whether she needs to register for UK VAT, but as she does not generate revenues above the threshold from the aggregate of her trading activities, she concludes she does not have any obligation to and nor does she wish to do so voluntarily.
- 8.6 This means she does not have to charge VAT to any of the short-term visitors who rent her second home.
- 8.7 A holidaymaker from Spain is visiting Manchester and is looking for a place to stay. He visits the digital platform and finds this particular apartment. He notices it is cheaper than most hotel rooms, so he decides to book it.
- 8.8 The platform handles the entire booking process for the Spanish holidaymaker and charges a commission fee to the owner of the apartment for this service.
- 8.9 This commission fee is subject to VAT in the UK. The owner of the apartment is required to account for the VAT because she is running a business and it is the obligation of a business customer to account for VAT on their own VAT return when receiving a supply from overseas (the reverse charge mechanism).

8.10 However, because she is not VAT-registered, she has no obligation to do this. Therefore, she pays no VAT on the commission fee which the digital platform has charged for its service to her.

**The Spanish tourist obtaining passenger transportation whilst in Manchester:**

8.11 When he arrives in Manchester, the Spanish tourist books a minicab at one of the airport kiosks to take him to the city centre apartment that he has booked through the digital platform.

8.12 The drivers at this firm are all self-employed. They pay a weekly fee to the minicab firm to hire the in-car radio equipment, which allows them to be notified of available jobs.

8.13 The minicab firm acts as the drivers' agent and charges VAT to them on the fee for the equipment and the service of notifying them of passengers seeking taxi transport.

8.14 During this journey, the driver mentions to the Spanish tourist that he does not like driving for the firm at the airport kiosk very much, because the fees he has to pay are too high. He says he has recently started also using a passenger transport app provided by a digital platform, which is headquartered in Spain and has no fixed establishment in the UK.

8.15 As the income he generates via full-time work driving taxis is below the UK VAT registration threshold, he isn't registered for UK VAT and so has no obligation to account for VAT on the commission fees which the overseas digital platform charges him as a business customer.

8.16 As a result, he ends up paying no VAT and benefits from being able to charge a competitive price relative to his colleagues who work through the firm at the airport kiosk, which is UK VAT-registered and accounts for VAT on the fees which it charges its drivers.

8.17 For the rest of his time in Manchester, the Spanish tourist uses this passenger transport app to get around, as it is cheaper than traditional local minicab firms.

8.18 At the end of his holiday he returns to Spain and uses the same passenger transport app to book a ride home from the airport. He is surprised to discover that the drivers in Spain do have to pay VAT on the fees which the platform charges them. This fee is in turn incorporated into the price that he as a consumer has to pay.

8.19 This is because the digital platform is headquartered in Spain so is making a domestic supply to its drivers in Spain for which it must charge VAT, whereas it is relieved of this obligation when making supplies to business customers (i.e. its drivers) in overseas jurisdictions like the UK where it has no fixed establishment.

### Summary of examples of non-taxation in this case study:

8.20 Throughout this trip, there have been several examples of no VAT being charged where it might have been in the traditional economy:

- 1). If the Spanish tourist had decided to stay in a hotel in Manchester city centre, it is very likely the hotel would have been VAT-registered and that he would have had to pay VAT on the price of the hotel room. By renting an apartment from someone generating low levels of revenue through advertising her flat on a digital platform, the Spanish tourist did not have to pay any VAT on the cost of his accommodation. This situation would hold whether the digital platform was a small-scale start-up or a well-known multinational brand.
- 2). If the Manchester property owner had advertised her apartment on a UK-based digital platform, or used a local tour operator or similar, the platform or traditional agent would have had an obligation to charge her VAT on the fees which she paid it for its service. Because the digital platform she used was based in Germany, the platform had no obligation to charge VAT to her as a business customer and nor did she have any means of accounting for it herself via a reverse charge as a non-VAT-registered business (Although, if she was not considered to be in business, then the platform would have charged her VAT as it would have been a B2C supply).
- 3). The minicab driver also ended up similarly paying no VAT on the commission fees which the overseas digital platform, being based in Spain, charged to him. As a result, the digital platform gained a competitive advantage over the local taxi firm at the airport kiosk.