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**VAT Expert Group
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VAT EXPERT GROUP

VEG N° 102

Report on the outcome of the work of the Sub-group “Platform economy”

1. BACKGROUND

In the context of the discussions related to the VAT treatment of the platform economy that took place during the 27th meeting of the VAT Expert Group (VEG), and the 33rd Meeting of the Group on the Future of VAT (GFV), the Commission's services announced the possibility of establishing sub-groups reflecting on the VAT issues related to platforms. These would be composed of a limited number of members of each group. The two subgroups were established and held joint meetings, essentially working as one sub-group.

2. OBJECTIVES OF THE SUB-GROUP

The task of the sub-group is to provide advice and assistance to DG TAXUD by carrying out an in-depth analysis of the problems related to VAT encountered by the different actors who intervene in the “platform economy” (users of the platforms, the platforms and the tax authorities) and by assessing potential solutions to the problems encountered. The work of the sub-group fed into the preparatory work of the Commission on the future legislative proposal in the field of platforms. It also helped the work of the contractor when drafting the study ‘VAT in the Digital Age’ and in particular Volume 2, ‘The VAT Treatment of the Platform Economy’.

3. ACTIVITIES OF THE SUB-GROUP

The sub-group met virtually nine times, between January and July 2021. During these meetings, the discussions ranged widely, and ideas evolved throughout the debate. The earlier meetings involved a more general, academic debate, to identify the main issues at stake, following which the sub-group focussed on:

3.1 The nature and place of the supply carried out by platforms

This included:

The VAT treatment of transactions where the platform

- i) accounts for its own supplies to provider and/or customer (but does not account for the underlying supply, which is supplied by the provider to the customer – “platform acts as intermediary and not as supplier for VAT purposes”):

In this context, Article 44 of [Directive 2006/112/EC](#) (VAT Directive) was generally considered appropriate for B2B supplies where the platform is not considered the supplier of the underlying supply. For B2C supplies, the general tendency was towards taxation at the usual residence of the customer - except in predetermined cases where reference to the location of immovable property or place of performance could be considered more appropriate. However, looking into the future and the increased servitization of the economy (i.e. businesses (including manufacturers) become more service orientated following commercial and technological developments), further analysis of this topic and the broader place of supply rules may be required.

The VAT treatment of virtual and on-the-spot services was also discussed. Here the sub-group recognised that certain supplies (i.e. long term education or certain medical services) would also require further analysis, although it was acknowledged that this was not within the remit of the sub-group.

- ii) accounts for the underlying supply to the customer (platform acts as supplier for VAT purposes – “deemed supplier”):

The sub-group considered a number of scenarios in which the platform could be considered the supplier of the underlying supply (deemed supplier). The consequences of which, according to the sub-group, would mean that, for example, objective exemptions or reduced rates (which relate to the substance of the supply) should be applicable to the platform. Further consideration should be given, however, to personal exemptions (relating to the person making the supply, such as SME exemptions), and whether they should be tested against the particular circumstances of the platform, taking into account channel neutrality aspects. The members found that presumptions or deeming provisions used for VAT e-commerce rules could be further explored. However, while this is done, the members mentioned that the experiences of the newly introduced EU VAT rules on the “deemed supplier” and their functioning in practice should also be considered.

3.2 Roles of platforms

The different possible roles of platforms were discussed, namely the educational role, the joint liability, the withholding of tax, and the deemed supplier role. The reporting obligations of platforms were also discussed in detail.

3.3 Input from business

The discussion was informed by presentations from business representatives in the accommodation and transport sectors, where the platform model is more mature, who outlined (attending 1 virtual meeting) their business models in different Member States and third countries and the key issues they are facing regarding the current application of VAT in their sector (chiefly the inconsistent application of the VAT rules amongst Member States). Further, the discussion touched on:

- The possible roles of the platforms in the collection/assurance of VAT;
- The potential impact of the deemed supplier role already in place for e-commerce;
- The administrative burden placed by current record keeping obligations;
- How to ensure effective taxation and straightforward compliance under the platform economy.

During these discussions, it became clear that the application of the VAT rules is not simple and does not currently follow a uniform approach. Some members of the sub-group thought that reporting obligations and the interaction between platforms and providers of goods and services have a key role in enhancing tax compliance and preventing fraud, and if implemented consistently and in a simple way across the EU, they may, in the short to medium term, be a stepping stone to enhance tax compliance and prevent fraud, while longer

term the presumptions and deeming provisions already used for VAT e-commerce rules could be further explored.

3.4 Discussion following the Fiscalis event, May 2021

Following the Fiscalis event held in May 2021 the sub-group, together with the representatives of Member States and the Commission, further elaborated on possible options to be included in the study on the platform economy with a view to further refining them.

These discussions covered mainly the following issues:

- The VAT number granted to SMEs in certain circumstances and whether the conditions to obtain a VAT number could be further harmonised across the EU;
- The nature of the service fee charged by a platform, that is, whether it is an intermediary service or an electronic service. The sub-group considered it would be useful that the contractor analyses both options;
- Whether it would be useful, in respect of future technological developments, to look at the place of supply of services rules more broadly, particularly B2C services;
- Record keeping/data sharing and the need to look at Article 242a of the VAT Directive, DAC 7, CESOP and unilateral/national reporting requirements already in place in some Member States and whether a gap analysis was required;
- Whether a deemed supplier role should be considered for all services or whether a rather gradual approach (starting with the most important sectors) should be taken;
- Finally, whether a joint and several liability or withholding role for the platform should be analysed in the study. Following discussions, the sub- group agreed these options should be discarded as they do not simplify the VAT system.

3.5 The deemed supplier model

The sub-group also focused on refining the detail of the deemed supplier model, covering the following issues:

- The application of the model where the platform does or does not facilitate payment;
- The right of deduction of the providers falling under the deemed supplier model;
- Whether the model should apply to all transactions or only to specific sectors;
- The application of the place of supply rules in relation to the deemed supplier model;
- The overlap between the deemed supplier model and TOMS (tour operators margin scheme);
- The use of a rebuttable presumption in relation to information given by providers to platforms.

4. CONCLUSION

The work of the sub-group provided for an extremely useful exchange and testing of ideas, between members of the business community and academics (VEG members), Member States (GFV members), and the Commission, allowing for a better understanding of the challenges that lay ahead, and providing useful material for the Commission's future work as well as for the Contractor in the drafting of the study. The sub-group remains formally open, and ready to assist should further issues arise on the subject during the course of the policy development.

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