



The Sharing and Gig Economy: Effective Taxation of Platform Sellers

FORUM ON TAX ADMINISTRATION



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Preface

The development of the sharing and gig economy, facilitated by online platforms, can have a positive impact on our economies. It provides new opportunities to share assets, increase efficiency, lower prices and offers better services and more choice for both suppliers and consumers.

From the perspective of tax administrations it also raises a number of challenges and opportunities: on the one hand certain new activities may not always be visible to tax administrations or self-reported by taxpayers; on the other hand, technological developments can lead to greater transparency and support simplification of tax obligations if leveraged in the right way. The benefits of this approach is that activities are brought back into the tax system with minimum burden on taxpayers and administrations alike.

The report demonstrates that the effective taxation of the users of sharing and gig economy platforms is an issue that many tax administrations are grappling with and that, regardless of any action taken domestically, strengthened international cooperation is key to making these measures successful.

There are no simple solutions to this issue and this report sets out a range of areas that the international community could consider taking forward to build on the close engagement that has already taken place. Areas flagged in the report for further consideration are: exploring the need for administrations and platforms to educate taxpayers to build awareness of their obligations; the possible development, in collaboration with platforms, of a voluntary code of conduct to include expectations on taxpayer education; and the exchange of information between tax jurisdictions in a standardized way.

We believe that the report will assist in the development of legislative models for standardized reporting by sharing and gig economy platforms and will provide valuable information and insights to tax administrations and taxpayers, contributing to enhance mutual understanding and trust.

We would like to thank the FTA Bureau and the OECD Secretariat for their support as well as the project team from United Kingdom and Italy for their collaborative work on the preparation of this informative report. Our gratitude also goes to everyone who has been involved in producing the report, in particular the teams in the participating tax administrations that have contributed their time and expertise, FTA countries that responded to the requests for information as well as platforms that provided evidence and insights.

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Foreword

At the 2017 11th Plenary meeting of the OECD Forum on Tax Administration (FTA) in Oslo, FTA members agreed to work collaboratively on a project to help ensure the effective taxation of those earning income from the sale of goods or services in the sharing and gig economy (also known as the collaborative economy) (OECD, 2017^[1]).

A project group, led by the Italian Revenue Agency and the United Kingdom's Her Majesty's Revenue and Customs, was set-up to carry out the work. The project group held several meetings and the project leads engaged with selected sharing and gig economy platform operators.

This report summarises the finding of the project group. It is divided into four chapters:

- Chapter 1 sets out the background to the sharing and gig economy and the role of online platforms;
- Chapter 2 provides some examples of current approaches that are being taken by FTA tax administrations that participated in this work;
- Chapter 3 sets out a range of options that tax administrations may wish to consider to help enable compliance in this sector; and
- Chapter 4 sets out recommendations and considerations for possible further work.

While the aim of the project was to help ensure the effective taxation of platform sellers in the sharing and gig economy, project participants acknowledged that this should be done in a way that does not place unnecessary burdens on platform sellers, the sharing and gig economy platforms or tax administrations. These principles are reflected in the recommendations made.

This report was approved by the Committee on Fiscal Affairs on 6 March 2019 and prepared for publication by the OECD Secretariat.

Caveat

Tax administrations operate in varied environments, and the way in which they each administer their taxation system differs in respect to their policy and legislative environment and their administrative practice and culture. As such, a standard approach to tax administration may be neither practical nor desirable in a particular instance. Therefore, this report and the observations it makes need to be interpreted with this in mind. Care should be taken when considering a country's practices to fully appreciate the complex factors that have shaped a particular approach. Similarly, regard needs to be had to the distinct challenges and priorities each administration is managing.

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Abbreviations and acronyms

AEAT	Agencia Estatal de Administración Tributaria (Spanish Tax Agency)
API	Application Programming Interface
ATO	Australian Taxation Office
B2C	Business-to-Customer
B2B	Business-to-Business
BEPS	Base Erosion and Profit Shifting
EU	European Union
EUR	Euro (currency)
FAQ	Frequently Asked Questions
FTA	Forum on Tax Administration
G20	Group of Twenty (major economies)
GBP	Great Britain Pound (currency)
GST	Goods and Service Tax
HMRC	Her Majesty's Revenue and Customs (United Kingdom)
IAPR	Independent Authority for Public Revenue (Greece)
IT	Information Technology
OECD	Organisation for Economic Co-operation and Development
SKTST	Skattestyrelsen (Danish Tax Agency)
TIN	Tax Identification Number
TIEA	Tax Information Exchange Agreement
UK	United Kingdom
US	United States
USD	United States Dollar (currency)
VAT	Value Added Tax
XML	Extensible Markup Language

Executive Summary

At the 2017 11th Plenary meeting of the OECD Forum on Tax Administration (FTA) in Oslo, FTA members agreed to work collaboratively on a project to help ensure the effective taxation of those earning income from the sale of goods or services in the sharing and gig economy (also known as the collaborative economy) (OECD, 2017^[1]).

In this report, the term sharing and gig economy platforms is used to encompass those platforms which mainly facilitate the buying and selling of goods and services between individuals, including the self-employed, but which also facilitate some transactions between businesses and consumers (and in some cases businesses to business transactions). The report also focuses on income taxes and not on Value Added Tax (VAT). While some of the issues are similar between income taxes and VAT, the risks as well as policy and administrative responses are not necessarily the same. The FTA project was also described in the March 2018 OECD interim report to the G20 on Tax Challenges Arising from Digitalisation (OECD, 2018^[2]).

The rationale for multilateral collaboration in this area is three-fold. First, effective taxation of platform sellers, i.e. persons selling goods or services through a sharing and gig economy platform, is a common concern for many tax administrations in the light of the continuing rapid growth of online platforms. Learning from approaches taken by others can help lead to better outcomes.

Second, many sharing and gig economy platforms operate across borders without a physical presence in each market in which their service is used. Where this is the case, there can be difficulties for some jurisdictions in obtaining information from those platforms and in enforcing any legislative requirements without enhanced international cooperation.

Third, there could potentially be benefits in jurisdictions taking standardised multilateral approaches, for example to the education of platform sellers and to reporting and due diligence requirements for platforms. This might help to minimise burdens on both platform sellers and sharing and gig economy platforms, which might otherwise arise were jurisdictions to apply multiple different requirements. Standardised reporting requirements could also facilitate exchange of information between jurisdictions including on an automatic basis in appropriate circumstances.

The FTA project has therefore considered the different ways that tax administrations can best engage with platform sellers, sharing and gig economy platforms and each other to enable more effective tax compliance without creating excessive burdens. The project has endeavoured to set out the pros and cons of different approaches. This has included:

- looking at ways to increase understanding among platform sellers as to what their tax liabilities are and thus to help improve self-reporting of income;
- the sharing of approaches taken to identify platform sellers which allow tax compliance to be checked or assessed. This includes through the use of public

information sources as well as reporting and withholding requirements placed on sharing and gig economy platforms; and

- considering possible solutions to enable the effective collection and exchange of information on platform sellers who operate through platforms located in another jurisdiction to their jurisdiction of residence.

This report is divided into four chapters:

- Chapter 1 sets out the background to the sharing and gig economy and the role of online platforms. This includes estimates as to the size and predicted growth of these new forms of intermediation as well as the resulting challenges and opportunities for tax administrations, both individually and collectively.
- Chapter 2 provides some examples of current approaches that are being taken. This is based on survey responses from FTA tax administrations that participated in this work. Among other things, this looks at the provision of guidance to platform sellers as to their tax obligations as well as reporting and withholding arrangements required of sharing and gig economy platforms.
- Chapter 3 of the report sets out a range of options that tax administrations may wish to consider to help enable greater compliance with tax obligations. These cover
 - **joint educational initiatives**, including in cooperation with platforms, to make platform sellers more aware of their tax obligations
 - **the standardisation of reporting requirements** placed on platforms
 - **enhanced international cooperation** between tax authorities to ensure compliance with reporting obligations
 - **international exchange of information** between tax administrations on platform sellers resident in one jurisdiction but operating through a platform located in another jurisdiction.
- Chapter 4 sets out recommendations and considerations for possible further work.

While the aim of the project is to help ensure the effective taxation of platform sellers in the sharing and gig economy, the intention is that this should be done in a way that does not place unnecessary burdens on platform sellers, the platforms or tax administrations. Based on these principles the report therefore identifies three recommendations and areas for further consideration by FTA administrations. These are for:

- **Joint work between tax administrations and platforms on providing information and support to platform sellers** on their tax obligations while minimising compliance burdens. This includes further consideration of a possible model Code of Conduct.
- **Improving the evidence base to enhance understanding of the tax at risk** in relation to platforms, by sector, and the range of options for enabling compliance. This includes consideration of enhanced international cooperation as well as continued exchange of information on successful practices and legislative approaches.
- **Assisting in the possible development of a legislative model for standardised reporting** by sharing and gig economy platforms of the content, formatting and

verification of information in relation to platform sellers. This would help avoid requirements being placed on platforms to report in multiple formats to different tax administrations.

References

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- OECD (2017), *Communiqué of the 11th Meeting of the OECD Forum on Tax Administration (FTA)*, Oslo, Norway, 29 September 2017, <http://www.oecd.org/tax/forum-on-tax-administration/events/forum-on-tax-administration-communique-2017.pdf> (accessed on 15 January 2019). [1]

Chapter 1. Introduction

1.1. Scope of the project

1. The focus of the Forum on Tax Administration (FTA) project is to help ensure the effective taxation of those selling goods or services through sharing and gig economy platforms, a subset of multi-sided online platforms (OECD, 2015^[1]).¹ These platforms provide “end-to-end services” for their customers and, therefore, have electronic records of the payments made to platform sellers as well as some form of identifying information.

2. The rapid growth of multi-sided platforms has been one of the major changes to the economy facilitated by digitalisation (OECD, 2018^[2]).² Such platforms often facilitate transactions that occur outside of traditional business structures by:

- Individual (including self-employed) sellers of goods and services to individual consumers. (The sharing and gig economy.)
- Business sellers of goods and services to individual consumers – business-to-customer (B2C)
- Business sellers of goods and services to business consumers – business-to-business (B2B)

3. The sharing economy is usually linked with assets and the gig economy with services. Of course, assets and services are often provided together (such as a driver and a car). Familiar examples are the temporary rental of a spare bedroom, unused apartment or parking space, or the provision of a service such as delivery of goods, occasional household services or the provision of transport or taxi services. These terms have also been expanded in some jurisdictions to encompass outright sales of assets via online platforms.

4. Some of the transactions facilitated by sharing and gig economy platforms have long been carried out through other mechanisms, for example by word-of-mouth recommendations or through community advertising and networking. In this context, it has traditionally been difficult for the tax administration to monitor and assess the amount and value of such transactions and to identify the individuals involved. As a result, some such activity has often taken place outside of the formal economy.

5. Digitalisation and the subsequent emergence of the platform economy has markedly increased the scale and scope of this issue by enabling large numbers of buyers and sellers to quickly and relatively cheaply connect and transact, including across jurisdictions and in an increasing range of areas.

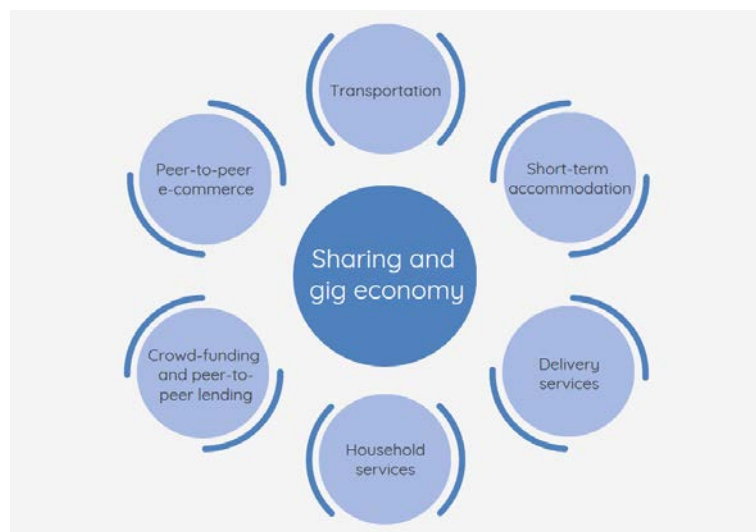
6. The rationale for focussing on the sharing and gig economy is that platform sellers may often not be known to the tax administration and may be less likely than traditional businesses to understand their tax obligations, or that they even have tax obligations. As a result, if effective taxation is not assured, then given the rapid growth and proliferation of the sharing and gig economy, this may lead to a substantial growth in

the informal economy over time, with detrimental impacts on competition and public revenues. Although the scale of non-compliance is not yet well measured and deserves further attention (including on a sector-by-sector basis), some tax administrations have discovered high levels of non-compliance in some sectors.

7. While often platform sellers in the sharing and gig economy will be individuals, including the self-employed, this will not always be the case. An example might be an incorporated business that rents out multiple apartments through a platform which may be used primarily by individual platform sellers for renting out single properties or rooms. However, trying to segment platform sellers in the sharing and gig economy on the basis of their taxable status (and carving them in or out of scope of particular requirements) could produce difficult boundary issues for tax administrations and individual platforms, such as when an individual changes status to become incorporated.

8. The issues explored in this project may also be useful in considering how tax administrations can best interact with a wider set of platforms beyond the sharing and gig economy, and in relation to indirect as well as direct tax, to ensure effective and efficient tax compliance.

Figure 1.1. Examples of sharing and gig economy sectors



1.2. Scale of the sharing and gig economy and key trends

9. The size of the sharing and gig economy is not yet well measured. It currently has a relatively small share of the economy on most estimates. However, it has been growing rapidly and in some jurisdictions may have a significant impact on some parts of the traditional economy.

10. Taken together the features of this business model suggest that its share may continue to grow strongly for a number of reasons, including:

- the scale of partially utilised assets in private hands, which can include a wide variety of assets
- the possible unmet demand for different working patterns, whether for more part-time, temporary or additional work

- the convenience of use for participants, with low search and advertising costs and with electronic confirmation and payments
- potentially lower costs where differential regulatory requirements are in place, for example where activity is carried out on a self-employed basis rather than as an employee or where there are different health-and-safety or insurance requirements. (This can raise wider public policy issues)
- strong trust-enhancing mechanisms such as dispute resolution mechanisms, insurance schemes, ratings of other users etc.

11. Vaughan and Hawksworth (Vaughan and Hawksworth, 2014^[3]) calculated that on a global basis the collaborative economy was worth USD 15 billion in 2014 and could reach USD 335 billion by 2025. Within the EU, Vaughan and Daverio (Vaughan and Daverio, 2016^[4]) estimated that the five main sectors of the sharing economy generated nearly EUR 4 billion in revenues and facilitated USD 28 billion in transactions in 2015, exceeding earlier expectations of growth.

12. Goudin (Goudin, 2016^[5]) estimated that the potential gains from removing barriers to bring underutilised assets into use could be of the order of USD 572 billion annually within the EU. Survey data also indicates a growing number of people who have engaged in digital transactions. A Pew Research Centre Survey (2016) of 4 787 US adults estimated that around 72% had used one of 11 different shared and on-demand services. Stokes et al. (2014) estimated that in 2014, 25% of the UK adult population used digital platforms to share assets or resources.

13. Many of the tax administrations involved in the FTA project have done or are currently undertaking analysis of the size and expected evolution of the sharing and gig economy (although under differing definitions). In general, this indicates that at this stage the sharing and gig economy occupies a small share of overall economic activity. In some jurisdictions, though, the share of accommodation and transport services provided through sharing and gig economy platforms is becoming increasingly significant.

14. Many tax administrations also report that significant numbers of people have undertaken transactions through sharing and gig economy platforms as well as a rapid growth in the number of platforms covering different economic activities. Most jurisdictions expect continued rapid growth over the coming years, albeit from a low base. This is broadly in line with the findings and expectations of private sector research, although growth may proceed very differently in different jurisdictions depending on national circumstances.

15. In terms of the economic activities of the platforms, participating tax administrations were asked to indicate the five main sharing and gig economy activities within their jurisdiction. The following sectors were reported to be the most significant at the present time (although the same will not be true in all jurisdictions):

- short-term accommodation
- transportation (taxi services, ride sharing, parking spaces)
- peer-to-peer e-commerce
- on-demand household services (such as support with household tasks, delivery, food preparation) and on demand professional services
- peer-to-peer lending and crowd-funding.

Box 1.1. Scale of the sharing and gig economy and key trends – Country examples

In **The People's Republic of China** the gross income of the sharing economy market was estimated at around EUR 55 billion in 2016. It is expected to expand at a rate of over 30% annually over the next five years.

In **Denmark**, property rental and transport are the most used parts of the sharing economy. In 2015, the total value of transactions facilitated by peer-to-peer online platforms in these two sectors was between EUR 57-84 million. There are approximately 140 multi-sided platforms, including the peer-to-peer online platforms, operating in Denmark. Around 17 % of the Danish population is estimated to have used sharing or gig economy services with around 4 % of the population involved in supplying such services.

Finland's collaborative market was estimated to be around EUR 100 million in 2016 and is estimated to reach EUR 1.3 billion in 2020. In 2016, the largest sectors were collaborative finance at 65 %, accommodation and space for rental at 19% and small tasks and household services at 14 %.

In **France**, between 200 and 300 peer-to-peer online platforms provide services, with around one quarter based in third jurisdictions. The total turnover of these platforms is estimated between EUR 3 and 4 billion.

In **Portugal**, the main sharing economy activity is short-term accommodation, which received around 2.6 million guests in 2016 with total gross income of around EUR 206 million.

In **Spain**, the total size of the collaborative economy at present has been estimated by the Spanish Tax Agency (AEAT) to be around EUR 750 million, with tourist accommodation being the principle sector. The emergence of online platforms has changed the accommodation sector in Spain with tourist housing now offering more beds than hotels.

In the **United Kingdom**, research commissioned by HMRC estimated that around 11 % of the working age population in 2015/16 derived some income from taking part in sharing economy activities, equating to around 5.3 million people. The estimated total gross income was approximately GBP 8 billion and the annual mean individual income around GBP 1 700.

1.3. Opportunities, challenges and risks

1.3.1. Opportunities

16. The growth of sharing and gig economy platforms presents significant opportunities for tax administrations, if ways can be found to ensure the effective taxation of platform sellers.

17. First, the features of these platforms outlined above may bring activity previously carried out in the informal cash economy onto the platforms, possibly shrinking some parts of the cash economy. For sellers, these platforms offer a relatively inexpensive way of reaching a larger market. For buyers, the trust enhancing mechanisms and the competitive market place may outweigh the perceived advantages of cash discounts often offered in the informal economy. Unlike cash transactions, payments facilitated by the platforms are recorded in electronic form, including the identity of the parties (albeit to a

varying extent). The recording of transactions itself may encourage greater voluntary compliance. If the information is accessible to tax administrations, this will also provide a better audit trail to track and encourage compliance or even for moving to compliance-by-design approaches such as pre-filled tax returns or withholding.

18. Second, these platforms often provide new opportunities for economic activity, potentially increasing productivity and innovation. This may help to drive growth and have positive impacts on government revenue. The growth impacts can take place directly through increased economic activity as well as indirectly through positive spillover effects on other parts of the economy. This can arise, for example, through increased tourism or greater demand for services as a result of increased transport opportunities etc. While important in all jurisdictions, the positive growth and revenue impacts may be particularly significant for those developing jurisdictions with large informal economies.

1.3.2. Challenges

19. There are a number of significant obstacles, though, to obtaining these benefits:

- There may be uncertainty among some platform sellers as to what their tax liabilities are which may therefore reduce self-reporting. (This can be a difficult area. For example, there may be different liabilities and different methods of calculating tax liabilities for different transactions and types of taxpayer). This can both lead to genuine uncertainty and possible exploitation by those who may seek to use it as an excuse for non-reporting.
- While most tax administrations will have legal powers to access information on an individual under investigation from a platform, those powers may not extend in all cases to accessing bulk information as regards all of their tax residents.
- Tax administrations may not have legal powers to access information directly from a platform located in another jurisdiction. While exchange of information agreements between jurisdictions allow one tax administration to request tax relevant information from the host tax administration of the relevant platform, such requests usually have to be on the basis of named individuals or an identifiable group. Such information can be difficult to obtain by accessing the platform's public website, both for technical reasons and because of restrictions arising from relevant data protection requirements. Even where such requests have been successfully made, the structure of the data supplied has not always been easy for the receiving tax administration to use.

1.3.3. Risks

20. As for risks, they are perhaps threefold. First, while effective taxation of platform sellers may reduce the informal economy as set out above, if this is not achieved then there could potentially be a significant growth in the informal economy. This could result both from the movement of some people from traditional employment (where their income is often reported by their employer) to sharing and gig economy work, and from the expansion of unreported sharing and gig economy activity in general. Second, this could lead to unfair competition with other businesses, which may reduce the profitability of those businesses and public revenue. Third – and this is outside the scope of this project – changes in the mix of taxable status in the economy (for example from employee to self-employed or incorporated status) can have important consequences for government revenue as different rules may apply for example on deductions and

thresholds for income tax purposes and as regards social security contributions. This may generate other public policy concerns in addition, including from changes to certain employment rights.

Notes

¹ Multi-sided business models are defined in section 4.3.4. of *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*.

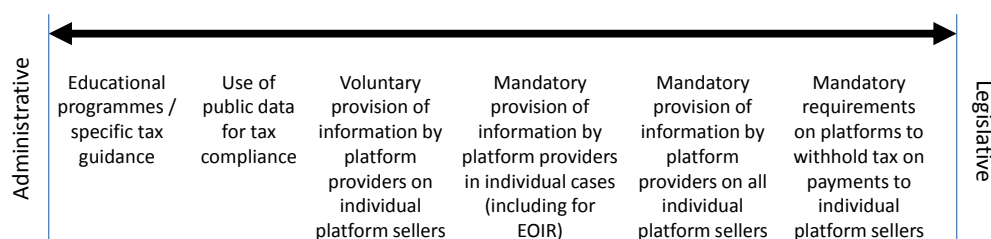
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Chapter 2. Current tax administration approaches and limitations

Figure 2.1. Spectrum of approaches / measures to address tax issues arising from the sharing and gig economy



21. Tax administrations which participated in the Forum on Tax Administration (FTA) project on the effective taxation of platform sellers in the sharing and gig economy, completed a survey setting out the range of approaches they are currently taking and their limitations. The survey looked at general issues around definitions; education and engagement with individual platform sellers, including special legislative simplifications; approaches to identifying platform users, including through voluntary arrangements; and legal powers to access information and their application in different scenarios. These are discussed below together with some examples provided by tax administrations.

2.1. General issues

2.1.1. Definitions

22. A number of jurisdictions use the term “sharing economy” or “collaborative economy” to cover a wide range of online platforms, while others differentiate between the sharing economy and the gig economy. The definition used in Greece is:

“The sharing economy is defined as any model where digital platforms create an open market for the temporary use of goods or services which are often provided by individuals.”¹

23. In 2016 Italy had a draft proposal for a legal definition (not adopted):

“A business model based on the optimal allocation and sharing of resources such as time and space, goods and services, through on-line platforms. Platform operators act as facilitators connecting users and offer value added services.”

24. For other jurisdictions there is a mix of public definitions used in explanatory material or to inform wider strategies and public discussions. Within that, there is a

further mix of those who define the activity as entirely individual-to-individual and those who include (explicitly or implicitly) businesses operating within platforms that are primarily individual-to-individual. Some jurisdictions exclude the outright sale of goods from their definitions.

Box 2.1. Definitions – Country example: Norway

The **Norwegian Tax Administration** uses the definition from a government appointed committee, which delivered an Official Norwegian Report on the topic early in 2017.²

The Committee used the following definition: “Sharing economy means economic activity enabled or facilitated via digital platforms that coordinate the provision of a service or the exchange of services, skills, assets, property, resources or capital without transferring ownership and primarily between private individuals.”

Further, the Committee stated: “The sharing economy has a number of defining characteristics:

- One such characteristic is that the sharing economy involves services enabled or facilitated via digital platforms. Emphasis is given to the fact that the platform facilitates the activity, rather than being the supplier of the actual service. The Committee has concentrated on commercial sharing initiatives rather than non-commercial schemes, since commercial sharing services raise more regulatory challenges than non-commercial ones.
- Another key characteristic is that ownership is not transferred. Traditional internet sales and, for example, media services delivered via electronic platforms are therefore excluded from the definition.
- A third characteristic is that economic activity primarily occurs between private individuals – referred to as peer-to-peer sharing – or between businesses and private individuals, i.e. business-to-peer sharing. This distinction is made partly because new sharing initiatives are founded on the concept of selling unutilised household resources in a market and partly because this area presents the main regulatory challenges. Service providers and lessors will therefore either be private individuals or be defined as businesses (if the activity is sufficiently large in scale), whereas demand will primarily come from private individuals.”

25. At this stage, it appears from the survey that most tax administrations are primarily looking at how to ensure effective taxation of platform sellers who are generally not known to the tax administration and thus less likely to self-report. These platform sellers will often be individuals, including the self-employed.

2.2. Education, engagement and legislative simplifications

2.2.1. Education and engagement

26. There is some evidence which indicates that a significant proportion of platform sellers do not fully understand their potential tax liabilities nor the interaction with social security payments. For many platform sellers this will be new activity or it may be part-time or casual in nature and/or on top of existing employment.

27. In order to make platform sellers aware of their potential tax obligations, thus fostering compliance, tax administrations are undertaking a range of educational activities. The most common educational activity consists of information and guidance provided through the tax administration website, in most cases via a dedicated page.

28. Almost all participating tax administrations also report engagement with sharing and gig economy platforms on alternative ways in which the platforms can help in educating platform sellers on tax obligations. This may be by providing links to the tax administration website, maintaining information on their own website or direct communications with their users. A number of tax administrations have also engaged directly with those they know are undertaking activity through such platforms, have run targeted campaigns, including through different media, and have worked with relevant trade associations or industry bodies. Some examples are set out in the box below.

29. As yet, though, most participating tax administrations have not evaluated the effectiveness of educational programmes in the specific area of the sharing and gig economy, including which channels work best. A number of jurisdictions are recording the traffic on their own dedicated webpages as well as evaluating comments/retweets etc. on social media. As more information becomes available about how to engage with individual platform users most successfully, it would be useful to share this between tax administrations.

Box 2.2. Education and engagement – Country examples

Tax authority websites

In **Greece**, after the approval of the 2017 law on the sharing economy in the accommodation sector, the Independent Authority for Public Revenue (IAPR) issued a decision on its website, which sets the details for the operation of the Register of Short-Term Property Lets, the procedure for submitting the Short-Term Letting Declaration, the carrying out of inspections, as well as information on tax obligations and penalties. In August 2018, the electronic applications of the Register of Short-Term Property Lets and the Short-Term Letting Declaration were put into operation. All the relevant decisions, circulars and provisions, videos/demos of the applications, FAQ and a manual for the applications are posted on the website of IAPR.

The **Danish Tax Agency** (SKTST) has a dedicated webpage containing online guides. These can also help people with calculating potentially taxable income from renting out property and in filling in their tax return. The website was promoted in social media campaigns in 2017 and 2018. In 2018, SKTST also engaged with some of the largest online platforms and provided the platforms with checklists and short text guides for email communication or websites. In return, the platforms have been helpful with insights to help optimise checklists and guides, e.g. the fact that information from the platforms is also requested in English. Furthermore, the Danish government has launched a portal that sharing and gig economy businesses can use to access authorities. The platform (www.challenges.dk) aims to become a national hub for “challenges” where people and businesses can contribute with suggested solutions. In 2019, SKTST will also initiate a communication campaign for the increased basic allowance on housing, boat and car rentals (see further below in the box within the section of ‘legislative simplifications’). This is aimed at increasing the awareness and understanding of the new legislation among taxpayers in Denmark.

In **France**, the French Tax Administration has posted guidance notes on the tax obligations of platform sellers and a summary of the content of the notes was published in several media.

In **Hungary**, the administration publishes leaflets, which are regularly updated, to inform platform sellers of their obligations. Information has been published on a number of platforms.

Irish Revenue has issued guidance by way of a publicly available Tax and Duty Manual on the tax treatment of income arising from the provision of short-term accommodation.

The **Spanish Tax Agency** (AEAT) provides information and guidance on its website in Spanish and English regarding the taxation of private holiday home rentals. The guidance note explains all the taxes and obligations applying to private holiday home rentals.

Campaigns and use of other media

In **Italy** and **Japan**, tutorial videos have been developed in order to provide an explanation of short-term renting contract provisions and the tax obligations for individual platform sellers.

In **Australia**, the Australian Taxation Office (ATO) has run an ongoing campaign through social media focused on the sharing economy to complement mail-outs and website information. The programme includes media releases, radio promotion for diverse audiences in seven different languages, social media, video and advertising.

In **Norway**, the Norwegian Tax Administration has used social media campaigns to make taxpayers aware of their tax obligations, in particular directing people to their dedicated website.

In **Greece**, IAPR releases announcements to the media, in order to provide information to lessors of short-term accommodation and help them to comply with their tax obligations. Greece is also using videos on YouTube to educate property owners on the registration process.

Cooperation with peer-to-peer online platforms

In **Singapore**, the Inland Revenue Authority has reached out to a number of sharing and gig economy platforms and relevant trade associations in Singapore to disseminate tax information to individual platform sellers to clarify tax rules. This may be done through email communications they have with their users or via links to the dedicated tax administration webpage on their respective websites.

In **Italy** and **the Netherlands**, a number of platform websites have a Q&A or a summary of relevant regulations. As well as information on tax obligations, these will also often contain other regulatory information, for example on health and safety or local legal requirements.

In **Greece**, IAPR has reached agreement with a number of property rental platforms for them to show the Property Registration Number on the listing page for all Greek listings. In addition, the platforms agreed to inform the lessors of Greek listings about their tax obligations and to communicate to them links to the website of IAPR, where all the relevant information is stored. Discussions with these platforms on further cooperation will continue and other platforms will be invited to join the discussions.

In **Japan**, the National Tax Agency cooperates with industry groups involved in the sharing economy with the aim of (i) increasing the level of compliance by individuals engaged in person-to-person transactions, and (ii) enhancing tax knowledge among individuals who are obliged to file tax returns for the first time. This cooperation involves the industry groups in providing guidance to affiliated platform providers, who in turn inform individual platform sellers, via their website and via email, of their obligation to file tax returns.

Direct engagement

In **Australia** the ATO has an extensive programme to write to all new ride-sharing drivers on a quarterly basis that are not registered for Goods and Services Tax (GST) to tell them about their obligations. (The relevant data was collected from an Australian subsidiary following agreement between the parent company and subsidiary.) Drivers that continue to drive and remain unregistered receive on-going communications from ATO and can be registered by ATO.

In **Ireland**, Irish Revenue have legislation requiring those providing short-term accommodation services to furnish details to Irish Revenue of payments made to customers chargeable to tax under Irish tax legislation. To encourage voluntary compliance and to assist taxpayers in meeting their obligations, Irish Revenue used this information to identify and write to approximately 12 000 taxpayers who had received income from the provision of short term lettings, as a reminder to include this income on their tax returns. The letters also provide guidance on the correct tax treatment of this income and give details on how to correct returns already made, where necessary. Additionally, Irish Revenue recently issued guidance on the tax treatment of income arising from the provision of short-term accommodation. This is published on Irish Revenue's website, www.revenue.ie.

In **the United Kingdom**, Her Majesty's Revenue and Customs (HMRC) launched an online small business forum where businesses can get help and support from each other and from HMRC. It includes a web chat facility for new small businesses to provide help and support about filing and paying their taxes for the first time. HMRC have also translated VAT guidance into Chinese and promoted it via their international network.

2.2.2. Legislative simplifications

30. In addition to uncertainty around tax obligations, some platform sellers may choose not to engage with the tax system due to concerns about the formalities of registering for tax and social security purposes and complexities involved in comparison to what, for many, may be relatively low amounts obtained from sharing and gig economy activity.

31. In the light of this and also to avoid creating excessive burdens that might negatively impact the growth of the sharing and gig economy, some tax administrations reported the introduction in their jurisdiction of legislative simplifications. These are often aimed at reducing complexity for some platform sellers and thus encouraging greater compliance. Other tax administrations have taken the view that nothing separate is needed for the sharing and gig economy beyond any existing regimes aimed at small businesses (which are features of many jurisdictions' tax regimes).

32. This is obviously a matter for each jurisdiction depending on its circumstances, with potential trade-offs between encouraging new economic activity and reduction of the cash economy, and potentially impacting competition in particular sectors. Some examples of legislative simplifications are in the box below.

Box 2.3. Legislative simplifications – Country examples

Hungary has introduced a special rule for those renting out accommodation for less than ninety days and who have no more than three properties (with a maximum of eight rooms overall) and the properties are in his/her name in the land registry. In this case, there is only a nominal annual personal income tax sum to be paid of around EUR 120 per room.

In **Denmark**, a political agreement has been concluded to increase the basic allowance on holiday home rental from around EUR 2 900 to around EUR 5 300. The new allowance is conditioned by the rental being handled through a third party (e.g. a platform or a rental agency) which reports the income to the Danish Tax Agency. Without reporting via third parties, the basic allowance will be approximately EUR 1 500. In addition, a similar incentive will also be made for short-term rental of permanent residences. With this initiative, the basic allowance will be approximately EUR 4 000. A 40% deduction of any income above the basic allowance is available if income is reported to the tax administration. If not, the basic allowance will be approximately EUR 1 500. Similar initiatives have been made as regards the rental of boats, cars and campers.

Italy allows those renting short-term to opt for a substitute fixed income tax rate of 21%. In this case, the platform intermediating the payment will apply a withholding tax of 21% and provide the lessor with a certificate containing all relevant data. The certificate is also transmitted online to the Italian Revenue Agency that will use it to pre-fill the lessor's tax return. In addition, the recently approved Budget Law for 2018 has introduced a withholding tax on capital income received by occasional lenders acting through on-line platforms (peer-to-peer lending). This procedure relieves the taxpayer of the need to include this income in the annual income tax return.

In **Norway**, as of the 2018 tax year, new rules have been introduced for short-term rentals of less than thirty days. Tax is due on income exceeding around EUR 1 000 with a standardised deduction of 15% and tax on the remainder at 23%. (While a simplified regime, previously such income was often tax-free.)

From April 2017/18 tax year **the United Kingdom** introduced tax-free allowances on property and trading income so taxpayers would no longer have to declare income from these sources where the annual gross income was GBP 1000 or less.

2.3. Withholding arrangements

33. Given the large and potentially growing number of platform sellers, many of who may receive relatively small amounts of income, it will usually not be cost effective to undertake large numbers of individual investigations and audits. As the size of the sharing and gig economy increases, this could become a more significant part of the tax base with people who were previously solely salaried employees (and often subject to withholding tax), earning income through one or multiple platforms as self-employed persons.

34. One option to cover large numbers of people could be through withholding arrangements such as have been entered into by a few jurisdictions as regards some platforms. Withholding can be an efficient tool to ensure compliance. Tax gap analysis published by the United States Inland Revenue Service in 2016 found that compliance is higher when amounts are subject to tax information reporting and even higher when also subject to withholding.

35. Withholding taxes are taxes paid directly to the government, usually by a principal who pays the income to the recipient, or as an intermediary between the payer and customer. The most common withholding tax in operation globally is income tax on employment income. Other examples include withholding taxes on interest, dividends, royalties or property income for non-residents. Depending on the underlying tax regime and nature of the payments, withholding can vary from a simple system, at a universal set rate, to a more complex system that is responsive to the customer's wider circumstances.

36. Withholding taxes may also apply to foreign platforms, in which case a tax representative might be needed in order to address potential data protection or enforcement issues depending on the circumstances of the jurisdictions concerned.

Box 2.4. Withholding arrangements – Country examples

Italy recently introduced new requirements for intermediaries acting in a traditional way (agencies) or through online platforms. Intermediaries can be tax residents in Italy or non-resident acting through a permanent establishment or a tax representative. Under these requirements, intermediaries that intervene in the payment will have to withhold tax at 21% on gross payments. Other intermediaries intervening in the transaction transmit basic identification data to the Italian tax administration (beginning in 2018). The taxpayer may claim tax refunds of the withholding tax, with the credit granted against the final tax liability due.

In **Mexico**, the Tax Administration Service (Servicio de Administracion Tributaria) has issued a tax rule that facilitates compliance by taxpayers that independently provide passenger transportation or food delivery services through online platforms. Under the rule, the platforms calculate and withhold the relevant income tax and value added tax that would otherwise have to be paid by the taxpayer on a monthly basis.

2.4. Identifying platform sellers

37. Other options for engaging with large numbers of platforms sellers may be using information obtained from platforms to pre-fill tax returns, issue communications to prompt and encourage voluntary compliance (sent either by the tax administration or platform) or other targeted compliance activities. These options rely on tax administrations being able to identify platform sellers such that they can be matched with existing taxpayers, or registered as new taxpayers.

38. Participating tax administrations were asked what information they would need to receive for these purposes. For most administrations this is broadly the same information as required under the Common Reporting Standard for financial account information and other third party reporting regimes, namely:

- First and last name

- Taxpayer Identification Number (TIN) if any
- Date of birth
- Address
- Bank account number(s) to which payments are made
- Amounts paid to the platform seller.

39. Some other participating tax administrations also wanted to receive the e-mail and mobile phone number of platform users as well as fees paid by the platform to the platform seller. Where the activity was short-term rental, a number of administrations also wanted information on the duration of the contract (since there may be local thresholds) as well as the property address and/or property registration number.

40. Further work will be needed to refine the minimum information requirements, both to ensure that tax administrations have sufficient information and to avoid placing excessive burdens on platforms. Ideally, a single set of information could be agreed between tax administrations, which applied to all sharing and gig economy platforms, both domestic and operating in a multinational context, to avoid them having to report different sets of information. (There may also be benefits for this information to meet the needs of tax authorities for indirect as well as direct tax compliance.) There may, though, need to be an enhanced set of information for transactions involving immoveable property given that the income may be taxable in more than one jurisdiction (subject to appropriate double taxation relief).

2.4.1. Public sources of information

41. The vast majority of the jurisdictions involved in the project make use of information technologies to collect information automatically from websites. A wide set of IT techniques has been applied, such as web scraping or web crawling. Some jurisdictions have developed tools in-house to take into account the specific features of data to be collected from particular platforms, while others have used open-source software. Data collected from the web can provide information on prices, transactions, duration of stay etc. as well as make estimates on turnover.

42. Despite the use of these tools, most tax administrations did not find data collected from websites to be entirely reliable, especially regarding the platform seller's identification (which may for example be just a first name or a nickname). In addition, the transformation from unstructured data to data that can uniquely identify taxpayers can be extremely resource-intensive. Some tax administrations have nonetheless found public data obtained in this way to be useful for monitoring the business models of the platforms and tax risks, as well as helping them to provide evidence for government bodies looking into wider public policy issues. Some jurisdictions have also developed data analytics tools and systems to analyse taxpayer declarations, tax returns and other third party information to risk assess for under-declarations of tax or to strengthen risk analysis procedures.

Box 2.5. Public sources of information – Country examples

In **Ireland**, Revenue uses advanced analytics to detect patterns of non-compliant behaviour from the extensive sources of Revenue and third-party data available. Revenue's Risk Evaluation Analysis and Profiling system uses data from multiple sources to inform compliance activities.

The **Spanish Tax Agency** (AEAT) is running parallel process platforms (Apache Spark) using Big Data tools such as Hadoop and Graphx to provide auditors with a picture of the networks of companies involved in these types of activities. Also, AEAT has used data collected from websites to communicate to taxpayers that AEAT is aware of a possible renting activity. The communication was included in pre-populated income tax returns and resulted in a 26% increase in declared income.

2.4.2. Data protection

43. A number of jurisdictions highlighted potential proportionality concerns of using publicly available information automatically collected from websites if done on an indiscriminate basis (i.e. outside of audits and investigations). Some jurisdictions also noted that data collected through web scraping tools may only be capable of being used as circumstantial evidence that needs to be verified within an administrative procedure in which taxpayers retain their rights to present alternative evidence. It was also noted by some that there were limitations on tax officials from accessing open source content without appropriate permissions.

44. The wider legal framework regarding privacy or security limitations for using public data sources is covered by a multiple level of provisions. EU Member States, for example, have to comply with the General Data Protection Regulation (EU) 2016/679 as well as national laws and internal regulations. Generally speaking, the processing of personal data is lawful to the extent that it is necessary for the tax administration's performance of tasks carried out in the exercise of official authority as described in the national laws.

2.4.3. Voluntary agreements to supply data

45. A few tax administrations have entered into small-scale voluntary agreements with platforms regarding the provision of information on platform sellers and/or direct withholding and payment of local taxes or fees for services offered through the platforms. In some jurisdictions, municipalities in particular have concluded agreements with short-term rental platforms for the platform to collect city taxes on behalf of the municipality.

46. Voluntary arrangements may be an effective solution in the case of more established platforms particularly in jurisdictions where the tax compliance culture means that a large percentage of platform users might be expected to give consent. However, as the number of platforms operating across border grows, with platform sellers having a greater choice of platforms they can use for the same activity, voluntary arrangements may become more difficult to negotiate and to control. A number of tax administrations raised concerns with relying on voluntary agreements for large populations of taxpayers in the light of data protection and privacy issues, in particular the need for informed taxpayer consent, which in many countries needs to be freely given and capable of being withdrawn at any time.

Box 2.6. Voluntary agreements to supply data – Country examples

The **Danish government** is exploring options regarding the exchange of information on income from rentals in Denmark through online platforms. In this context, the Danish Customs and Tax Administration will develop a digital solution for declaring income. This is through an Application Programming Interface (API) that can be integrated by the platforms. The API will integrate authorisation and consent between the supplier (e.g. the user renting out property), a third party (e.g. a platform) and the Danish Customs and Tax Administration.

In **France**, a law passed in late 2017 will impose from 2019 the collection of the occupancy tourist tax (known as “taxe de séjour”) by platforms offering holiday rentals. This tax is to be paid by tourists for each night spent in commercial accommodation. This tax historically applies to hotel residents but also applies to private holiday rentals. Before 2019, platforms can collect the occupancy tourist tax from customers to remit it to municipalities on a voluntary basis. Short-term rental platforms agreed to do so in major French tourist cities, including Paris.

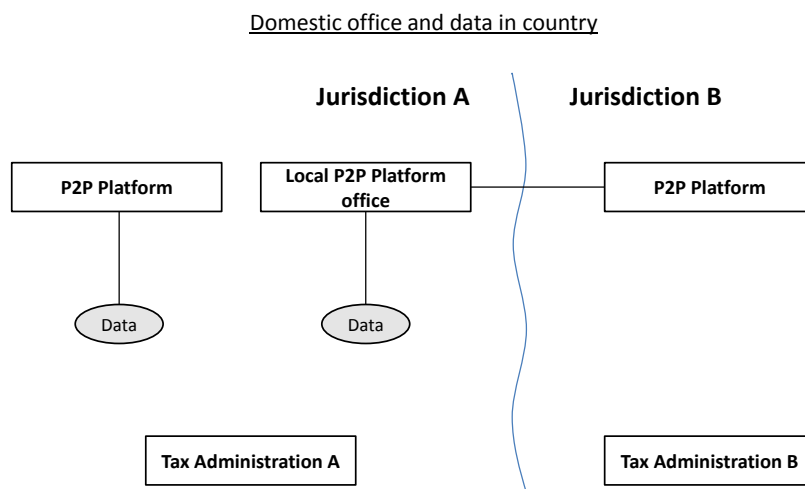
In **Italy**, some municipalities have concluded special agreements with the platforms for the collection of the local city tax.

2.4.4. Legal powers to access data

47. There appears to be no obstacle to jurisdictions legislating to require online platforms to provide them with information on all platform sellers who are tax resident in the jurisdiction provided it is relevant for tax purposes. This will generally be unproblematic as regards enforcement where a platform has structures in place in the jurisdiction in question that allow a local office or representative to be able to obtain the information. In other situations, i.e. where those structures are not in place or the platform has no presence in the jurisdiction, the legislation, or its practical implementation, should foresee approaches that facilitate enforceability. This may not be straightforward.

48. Participating tax administrations were asked to specify the extent of their legal powers to obtain information on platform sellers in two different scenarios. These were:

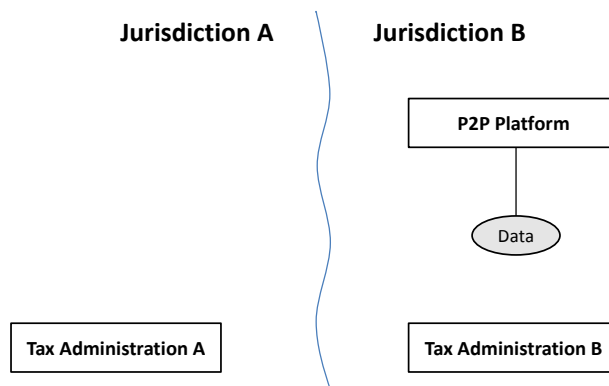
- Scenario 1: where the information is held in their territory by a sharing and gig economy platform or its agent
- Scenario 2: where the information is held in another jurisdiction.

*Scenario 1 – Information is held domestically***Figure 2.2. Domestic office and data available in country**

Note: In this case, the information collected by the platform is held in tax administration A's jurisdiction either by the platform or by a local office (Scenario 1).

49. It will be a matter for each administration as to how to obtain information held within their jurisdiction and on which taxpayers. This will depend on national circumstances, including legislative provisions, and identified risks.

50. All participating tax administrations reported having powers to enable them to access data held within their jurisdiction when checking any individual taxpayer's position, for example after an investigation or audit is opened. A number of tax administrations also indicated that they had legal powers to ask third parties for information about all of the individual platform sellers resident in their jurisdiction on a bulk basis (i.e. as a class of taxpayers). However, relatively few tax administrations seem to be collecting information on a bulk basis at present.

*Scenario 2 – Information is held abroad***Figure 2.3. Platform and data in a third country**

Note: In this case, the platform provider has no local office in tax administration A’s jurisdiction and the data collected by the platform is held abroad (Scenario 2).

51. In this scenario, most tax administrations reported that they are unable to obtain data from a platform without the use of administrative assistance instruments, such as EU Directives, bilateral or multilateral instruments.

52. All tax administrations do, though, have the ability, under international agreements for exchange of information on request, to obtain data on individual platform sellers resident in another jurisdiction. This is subject both to an international agreement being in effect between the tax administrations in question and the request meeting the requirements set out in that agreement, including that the information is “foreseeably relevant”.

53. In this case, there is no contact with the platform, but only with tax administration B in the diagram. In the survey, most of the jurisdictions reported a satisfactory success rate of exchange of information requests when the taxpayers were identified. One obstacle identified by a number of tax administrations in this regard is that it can be difficult to identify taxpayers adequately from internet searches for exchange of information request purposes. It was also reported that where information was provided by a platform it was sometimes unstructured and difficult to use.

54. No tax administration yet appears to have agreed to group requests for information on all individual platform sellers made by another tax administration. This may be on the basis that these requests have not met the tests for “foreseeable relevance” and have been treated as “fishing expeditions” which do not meet the requirements of the international agreements.

55. The OECD Model Tax Convention on Income and on Capital (OECD, 2017^[1]) and its commentary provides guidance at paragraph 12 of its commentary on Article 26 (Exchange of Information Article) on how the standard of “foreseeable relevance” can be met in the case of a request relating to a group of taxpayers not individually identified.

56. The commentary notes that in such a case it is necessary that the:

- “requesting state provide a detailed description of the group and the specific facts and circumstances that lead to the request, an explanation of the applicable law

and why there is reason to believe that the taxpayers in the group for whom information is requested have been non-compliant with that law supported by a clear factual basis”.

57. In general, it should be noted that laws in a requested jurisdiction may allow a third-party information holder to appeal or challenge such a group request by way of court proceedings.

58. At present, it appears that only a small number of jurisdictions have legislated to collect data from sharing and gig economy platforms on all of their tax resident platform sellers regardless of the location of the platform and data.

Box 2.7. Legal powers to access data – Country examples

In **France**, from 2020 (i.e. covering 2019 revenues), French or foreign platforms will have the obligation to communicate to the tax authorities the revenues received by users.

In **Spain**, from January 2019, platforms that intermediate in the rental of tourist housing have the obligation to communicate to the tax authority information on the activity in which they intermediate: identification of the owner of the property, identification of the property, rental income and other information.

Norway is introducing regulations for third party reporting, both for domestic and foreign platforms. The regulations will apply to foreign platforms having sufficient activity in Norway, for instance if the platform is used to rent out a property in Norway or a service taking place in Norway. Norway expects to have these regulations in place from 2020. The information on rental collected from platforms will be used to pre-fill the tax return for individual taxpayers.

Notes

¹ Law 4472/2017 Article 84.

² www.regjeringen.no/en/dokumenter/nou-2017-4/id2537495/.

References

OECD (2017), *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing, Paris, https://dx.doi.org/10.1787/mtc_cond-2017-en.

[1]

Chapter 3. Considerations for effective taxation of platform sellers

59. The nature of the sharing and gig economy is such that a significant number of individual platform sellers may not be fully aware of their tax obligations. This is for a number of reasons, in particular:

- tax obligations might not be clear, with more focus needed in terms of guidance than for traditional forms of employment and self-employment
- some of the activities may be entirely new, or may be an expansion of previously untaxed or non-taxable transactions such as occasional short-term rental or even hobby sales
- for some platform sellers, these might be second or third incomes, and the activity may be of an occasional nature or spread across different platforms.

60. In addition, where there is knowledge that information on the transactions may not be visible to tax administrations, some platform sellers may decide not to report even if they are aware of possible tax obligations. Where tax is not paid, whatever the motive, it can have impacts on competition and, at scale, on public revenues. Further evidence and analysis is required to better understand the risks to tax compliance and the potential for those risks to continue and to grow. Deeper analysis will allow countries to make informed decisions about which options they want to consider to tackle these issues.

61. In order to mitigate the risks, many governments are already now seeking to improve taxpayer education to encourage self-reporting of income. This includes cooperation with platforms in a number of jurisdictions.

62. Some governments are also legislating to require that online platforms operating in their jurisdictions provide information on platform sellers who are tax residents. In some cases, requirements for withholding and remitting tax by the relevant platforms have been put in place. Such legislation may cover individual sectors, a wide range of sectors or even all online platforms.

63. Legislation will generally be effective where platforms operate within a jurisdiction in a legal form (which may be through a branch, subsidiary or agent) or otherwise have access to information on individual platform sellers who are tax residents, e.g. via a data controller. However, there may be some concerns around enforceability and data protection where platforms are based in another jurisdiction.

64. As the sharing and gig economy grows and as individual platforms mature, it will become more likely that there will be an increasing number of platforms operating across borders for reasons of cost efficiency. Where a platform seller makes income through a platform wholly located in another jurisdiction, then enforceability of legislation for the provision of information or withholding may become increasingly more difficult and complex without enhanced international cooperation.

65. Taking into account that platform sellers may operate through platforms located in their jurisdiction of tax residency or through platforms located in another jurisdiction, there are three main options (which are not exclusive or exhaustive) that tax administrations may wish to consider in implementing strategies for tax compliance:

- (i) **improving self-reporting** by individual platform sellers
- (ii) **introducing legislation** applying to platforms which provide services in the jurisdiction of the tax administration. Such legislation could require the reporting of information, and may be based on a standardised model, or reporting combined with withholding of tax; and
- (iii) **multilateral agreements for the exchange of information** held by platforms on platform sellers tax resident in another jurisdiction. (This would be restricted to information that is foreseeably relevant for tax purposes.) This could either be on the basis of information available under existing powers to gather information or under new legislative requirements, including for standardised reporting.

3.1. Improving self-reporting by platform sellers

66. Many tax administrations are already undertaking a range of activities to improve taxpayer education including through guidance, social media and wider publicity. The impact of such activities is likely to vary greatly between and within jurisdictions, particularly outside of the most well-known platforms where there will often be extensive media reporting and greater public awareness.

67. Where such activity is carried out by the tax administration, it will inevitably be largely impersonal and targeted at a group rather than an individual. While strategies can be informed by the use of behavioural insights, it will remain the case that the information will only have an effect if the person actively accesses the tax administration website or pays attention to general information put out through the media.

68. The source most likely to receive greater attention from individual platform sellers is information that they receive from the platform itself or information that they are required to provide to the platform, such as tax identification numbers. This is because they are actively accessing the platform to undertake activities; they are receiving information in accessible electronic form; and contact will usually be personal in the sense that it will be addressed to the individual platform seller.

69. A number of tax administrations have reported that cooperation with individual sharing and gig economy platforms on engagement with platform sellers can be effective in increasing compliance. Tax administrations which are not yet working with platforms in this area, may wish to consider whether it would be beneficial for them to do so. However, it can also be resource intensive for tax administrations to negotiate with an increasing number of platforms individually, particular where they are based in other jurisdictions. This may result in the focus being on a relatively small number of platforms.

70. An alternative to negotiations with individual platforms can be to set out general expectations of what platforms should do to engage with, and to prompt platform sellers as to their potential tax obligations. This could be delivered, for example, through legislation on minimum requirements or through tax administration guidance.

71. Given the increasing cross-border activity facilitated by sharing and gig economy platforms, it could be useful to seek to agree a model Code of Conduct at a multilateral level. This could be either voluntary or mandatory in participating jurisdictions. While this may be adapted in its application in individual jurisdictions, the more it is used, and used consistently, the more it will reduce burdens for platforms compared to complying with multiple different requirements. If used by a large number of jurisdictions and platforms it could also help to deliver a high degree of standardisation as regards information collected by platforms and the due diligence undertaken.

72. Annex A contains a draft model Code of Conduct which has been subject to some discussions between tax administrations. The main proposed elements are:

- Communication on possible tax liabilities with platform sellers in general and on a jurisdiction-specific basis
- On-boarding procedures to ensure that information relevant to tax authorities is collected and is capable of being exported in searchable format when required under law or by agreement of the taxpayer
- Minimum expectations of due diligence
- Annual statements of income to be available to platform sellers
- Annual reporting to tax administrations, on a confidential basis, of the aggregate numbers of sellers and income on a country-by-country basis (to facilitate analysis of compliance). This would of course be subject to existing legal limitations.

3.2. Legislation applying to platforms providing services in a jurisdiction

73. A jurisdiction can place a range of legislative obligations on platforms if the platform has sufficient activity in the jurisdiction in question. Among other things, such legislation can require platforms to provide information to its users; to provide tax relevant information on platform sellers to the tax administration; and to withhold on behalf of the tax authority and remit payments.

74. Legislation would need to meet proportionality and public interest tests, including as regards data protection and privacy considerations. However, there ought to be no difference in principle as regards these tests between information exchange and withholding arrangements which also involve information transfer.

3.2.1. Withholding

75. Withholding can potentially bring about effective compliance with low resource costs for the tax administration. Withholding tends to act in real-time, or close to real time, and presents an opportunity to move compliance upstream to address behaviours including error, evasion, fraud or non-payment.

76. Collecting tax due at the earliest point in the payment chain tends to decrease collection costs for tax administrations, gives more certainty of the revenue flow and significantly reduces the risk of it being unpaid when tax is due. Depending on the design, withholding can also streamline debt collection activities by reducing the number of parties to be pursued for monies owed. It also provides a better understanding of cash-flow and business performance for both the tax administration and the business. There are good reasons to think that having a continual understanding of tax liabilities and being

up-to-date with payment also affects people's attitudes to tax and their propensity to take risks to reduce their liability.

77. Withholding can create burdens, though, both on the tax administration and on platform users as well as sharing and gig economy platforms. These can vary depending on the design of the system, including the rates of withholding compared to any final liability, and the application of thresholds and marginal rates. For example, where there is over-withholding a large number of taxpayers may contact the tax administration for refunds, potentially of relatively small amounts. This is particularly the case given that some platform sellers will use multiple platforms and it may not be a primary source of income. Some of these burdens can be mitigated where there is a simplified tax regime, such as a flat rate tax or a threshold, for income derived from the sharing and gig economy.

3.2.2. Provision of information

78. Another possible approach is to require the provision of information, which identifies the platform seller and the payments received without withholding. The sending of such information to the tax administration can by itself have some impact on self-reporting provided that taxpayers are aware of it and of their obligations. Beyond that effect, how successful this is in tackling non-compliance depends on the use that a tax administration can make of the information. This will need to be subject to cost-benefit considerations.

79. In some cases, it may be possible to incorporate the information into pre-filled tax returns. Depending on the tax regime in place, that may still require adjustment by the taxpayer for allowable expenses etc. Where prefilling is not done, then the main alternatives are “nudge” communications to encourage self-reporting and/or the integration of the information into risk assessment models. These models allow tax administrations to decide on appropriate compliance actions and strategies given the amount of tax at risk.

80. To ensure the quality and the usability of the information, legislation would need to specify the identifying information required to enable the tax administration to match it with the relevant person. It would also need to set out the due diligence to be undertaken by the platform to check the accuracy of the information provided (as well as record keeping etc.).

81. It could be useful in this regard to seek to agree a common template at the multilateral level for both the set of information to be provided and the due diligence required. This would allow platforms which operate in a number of jurisdictions to adopt a single process which could be applied across different jurisdictions. This could also facilitate the exchange of information multilaterally (see below). The set of information reported as needed by tax administrations is set out in Annex B.

82. As to how the information is transferred to the tax administration, a number of options are available. This could be done on a periodic basis – for example monthly, semi-annually or annually – with the platform sending or uploading files to the tax administration. Alternatively, the sending of information could be built into the application programming interfaces (APIs) through which users interact with the platform. In that case, relevant identity and income information could potentially be sent direct to the tax administration in real-time, depending on cost-benefit considerations.

3.2.3. Enhanced mutual cooperation to facilitate compliance

83. There might be certain difficulties in enforcing legal requirements, whether for withholding or reporting of information, on platforms which do not have any physical presence in a jurisdiction. Administrative cross-border cooperation could potentially be a viable solution to help facilitate compliance and enforcement in such circumstances, although these would of course need to meet applicable data protection requirements. Examples of such cross-border administrative cooperation could be tax examinations abroad, joint audits and possible enhanced cooperation in relation to assistance in collection of tax claims in the case of non-compliance.

3.2.4. Requiring platforms to have a physical presence in a jurisdiction

84. Another option potentially open to a jurisdiction where there are concerns about enforcement may be to seek to make it illegal for platform sellers to use a platform unless that platform has sufficient physical presence in the jurisdiction so that domestic regulatory obligations can be applied. That is, physical presence (for example the location of a data controller) would be a condition of providing the service in the jurisdiction.

85. Another alternative would be to require platform sellers to register with the tax administration or another agency (which then passes information to the tax administration). An obligation could also be placed on platform sellers that they can only legally use platforms which maintain the registration information, for example a registration number, on the platform seller's listing page. This would enable easier compliance checking.

86. Both of these options have significant drawbacks and could potentially be difficult to enforce. Requiring online platforms to have sufficient physical presence, or to install a local data controller, would be very expensive and burdensome if required by multiple jurisdictions. This could make it difficult for smaller platforms to grow internationally, either because of high start-up costs or cliff-edges when they reach a certain size. (This might be partly mitigated through the use of thresholds.)

87. A registration requirement can also be expensive to administer – particularly if multiple sectors are covered - and will not, by itself, provide income information to the tax authority. Self-reporting will still be required and checks by the tax administration may involve significant resources given the number of people using such platforms and low average payments.

88. These options may, however, be something for tax administrations to consider if particular platforms do not cooperate on improving tax compliance or operate out of jurisdictions where exchange of information is not supported.

3.3. Multilateral automatic exchange of information

89. A third option for the effective taxation of platform sellers using platforms located in another jurisdiction is the automatic exchange of information between tax administrations.

90. The exchange of information on request is not always an efficient compliance response to online platforms because of the resources required to obtain information and because the average amounts involved may often be small. While group requests could be used, the challenge remains of defining the target of the request sufficiently to meet the requirement, as set out in international standards on exchange of information, that the request is not a “fishing expedition”.

91. Automatic exchange of information could be a more efficient approach for international exchange of information on platform sellers. International standards on the exchange of information for tax purposes require that the information exchanged is likely to be foreseeably relevant. This test would generally be met if the platform sellers are resident in the jurisdiction to which the information is to be transferred and that information is likely to be relevant to determining their tax position or in helping them to determine their tax position (for example by pre-filing).

92. A legal gateway for automatic exchange can be found in some bilateral tax treaties or Tax Information Exchange Agreements (TIEAs) and in the Multilateral Convention on Mutual Administrative Assistance (“the Convention”) in which over 120 jurisdictions participate:

- Article 6 of the Convention provides: *“With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.”*
- Article 4 provides: *“The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.”*

93. In order to undertake automatic exchange between jurisdictions the following elements are necessary:

- Conclusion of an international agreement between two or more tax administrations. This would involve the conclusion of a legal instrument (e.g. a TIEA, a tax treaty, etc.) and an implementation agreement which provides the operational basis for the exchanges, such as a bilateral or multilateral competent authority agreement between tax administrations.
- That domestic powers are in place to collect information automatically from a third party. In the case of some jurisdictions, the existence of an exchange agreement, such as a competent authority agreement, may be sufficient to trigger the use of existing powers to collect foreseeably relevant information from a third party. In other cases, it may be necessary to have legislation either to ratify the international agreement and/or in order to impose an obligation on third parties to meet the requirements of such an agreement.

3.3.1. Use of existing powers to collect information

94. While it may be possible for some jurisdictions to enter into agreements to exchange information automatically using existing powers, such exchange agreements cannot, by themselves, impose new legal obligations on third parties. The major limitations arising from this are:

- The information that can be required is limited to foreseeably relevant information which the platform has in its power and possession. For example if the only information held on platform sellers is name, address and payments made, then that would be all that could be required to be provided and exchanged. Other information such as date of birth could not be required if it was not in the power and possession of the platform without a change in the law.

- Formatting of information can only be required in so far as the tax administration has existing powers which allow it to specify the format. In the absence of that, a platform may or may not be willing to format the information on a voluntary basis for ease of use by tax administrations.
- No additional due diligence could be required of the platform as regards the accuracy or completeness of information beyond anything that already applies under legislation. (There would, though, be nothing preventing a platform from voluntarily enhancing due diligence procedures should it choose to do so.)

95. Depending on the extent of these limitations (which will vary between platforms and jurisdictions), there will be an impact on the ability of tax administrations to match data with taxpayers automatically and much information may go unmatched. However, for business reasons many platforms are likely to keep at least the name and address, email address, bank account and phone number of platform sellers. This could be useful to tax administrations for compliance purposes even if not the full set of information they would ideally like to receive to maximise matching rates. In addition, knowledge that such information is being exchanged between tax administrations could itself lead to greater self-reporting.

96. The limitations can also be overcome over time if platforms agree to make changes voluntarily and/or jurisdictions agree to legislate for the full set of tax relevant information to be collected by the platforms and for an appropriate degree of due diligence.

3.3.2. Multilateral standardisation of information and due diligence requirements

97. It is possible that standardisation could arise gradually from further legislation by individual jurisdictions. However, a quicker and more uniform process for achieving such standardisation could be through multilateral agreements reached in the relevant fora. This process could develop a standard reporting model for jurisdictions to use when introducing legislation which could be the foundation both for domestic reporting and for reporting under international automatic exchange agreements.

98. In addition to standardisation of reporting requirements and due diligence requirements, further policy discussions on a multilateral basis could be helpful to identify the scope and modalities of any exchange agreement including:

- the types of platform to be included. For example: those which are payment intermediaries; those which are not intermediaries but hold information on payments made; those which are not intermediaries but have identity information on those who have entered into contractual arrangements etc.
- size thresholds in terms of cross-border business
- whether information relevant for personal income tax and corporate income tax as well as value added tax should be collected and exchanged
- defining the information to be exchanged
- setting out the time and manner of the exchange of information, including the relevant schema
- provisions on compliance and enforcement
- confidentiality and data safeguards
- definitions, provisions on commencement, termination or amendments etc.

Chapter 4. Recommendations and considerations for further work

99. It is clear from discussions between members of the OECD Forum on Tax Administration (FTA) that there is a strong desire to find collaborative mechanisms for improving the effectiveness of the taxation of platform sellers in the sharing and gig economy, while keeping burdens at a minimum. This concerns how best to help enable compliance by platform sellers either using platforms established in their jurisdiction of residency or platforms established in third jurisdictions. This report makes three recommendations for further work.

4.1. Recommendation 1: Development of a possible Code of Conduct

100. Given that many participants in the sharing and gig economy might have uncertainty about their tax obligations, education and guidance are important aspects of improving tax compliance. This can be more effective if platforms are also providing information in this area, particularly where it is more direct and personalised. In this respect, standardisation of approaches taken by different tax administrations can have positive effects in reducing burdens, including by allowing platforms to develop solutions which are widely applicable in different jurisdictions.

101. Annex A contains a draft Code of Conduct, which has been subject to initial discussion by FTA tax administrations. It is recommended that joint work be undertaken by a working group of FTA members in consultation with sharing and gig economy platforms on developing the draft Code of Conduct, including considering the practicalities of mandating it as opposed to a voluntary model, as well as examining other options for enabling platform sellers to better understand their tax obligations.

4.2. Recommendation 2: Continuing discussions to build the evidence base of tax risks and opportunities for reducing burdens

102. While compliance issues have been identified by a number of tax administrations, the evidence base at present as to the scale and nature of non-compliance is relatively undeveloped. As a result, there may be alternative options for enabling compliance, whether through self-reporting or compliance-by-design arrangements, which remain to be explored. This is particularly important given that the sharing and gig economy, and the online platform economy more generally, is expected to grow rapidly over coming years.

103. It is therefore recommended that a working group of FTA tax administrations seeks to develop a better understanding of the scale of tax risks, including from the expected development of the sharing and gig economy, and the range of options for enabling compliance. This could also look at options for enhanced international cooperation as well as continuing exchange of information on successful practices and legislative approaches.

4.3. Recommendation 3: Development of a legislative model for standardised reporting

104. Standardisation of reporting and due diligence requirements across jurisdictions can help minimise burdens on platforms which have, or may in the future have multinational presence through helping to avoid the proliferation of different reporting requirements. For standardisation to be achieved in a uniform and timely manner, multilateral policy discussions would be necessary. Such standardisation may also facilitate the development of international automatic exchange agreements for those jurisdictions wishing to take up that option.

105. Should work on a legislative model for standardised reporting be taken forward by policy makers, then it is recommended that a working group of FTA tax administrations should provide input from the tax administration perspective. This will help to identify the full set of information and due diligence required by tax administrations for both direct and indirect tax. It will also help to ensure that a standardised model allows for the use of possible new technology solutions, for example the use of Application Programming Interfaces (APIs), to minimise burdens and that compliance-by-design options are enabled where possible and practicable.

Annex A. Draft code of conduct for sharing and gig economy platforms

Sharing and gig economy platforms are creating new economic opportunities for sellers and consumers of many goods and services, expanding the range of economic activity and consumer choices. This is to be welcomed provided that such activity does not lead to unfair competition and other public policy concerns, including around the effective taxation of income received by platform sellers.

Platform sellers have obligations to report taxable income to the tax administration where they are tax resident and, in some cases, to the tax administration where the activity takes place.

However, many platform sellers may be unaware of these obligations while some others may choose to ignore them.

This Code of Conduct sets out core elements of cooperation between tax administrations and sharing and gig economy platforms. Its purpose is to help platform sellers understand their obligations, to assist them in reporting taxable income and to facilitate exchange of information with tax authorities where required by law or where requested by the platform seller. The Code of Conduct only concerns actions which are not already required by law and which are compatible with other legal requirements.

In this Code of Conduct the term “host tax administration” is defined as the tax administration where the platform is established. The term “platform” is defined as any sharing and gig economy platform which has agreed to apply this Code of Conduct. The term “platform seller” is defined as a person selling goods or services through a sharing and gig economy platform. Proper application of this Code of Conduct should not be taken to require disproportionate efforts. [A list of platforms, which have agreed to apply the Code will be published.]

Preamble

The platform and tax administration should maintain an open and transparent relationship in relation to measures to improve tax compliance and assist platform sellers in understanding their possible tax obligations.

The platform should have a documented strategy for setting out the core elements of cooperation with tax administrations to help platform sellers understand their obligations, to assist them in reporting taxable income and to facilitate exchange of information with tax administrations where required by law.

1. Tax administrations, which wish platforms to engage with platform sellers on their tax obligations, will provide information on their respective websites or other applications setting out the circumstances when platform sellers may be liable to tax. This may include information about appropriate thresholds and exemptions, reporting requirements, allowable expenses and record keeping obligations.

2. The platform will send each platform seller a general statement agreed with the host tax administration when a platform seller first signs up to a platform and in periodic emails, texts, pop-up messages or alternative means of communication (preferably in accordance with platform sellers respective deadlines for reporting taxable income in the jurisdiction of tax residency).
3. This statement will make clear that the platform seller will be responsible to meet their tax obligations. The platform should also direct platform sellers who are resident elsewhere to consult guidance issued by their home tax administration¹. In addition, where the activity involves real estate, the platform should direct platform sellers to consult guidance issued by the tax administration where the real estate is located.
4. A general statement will also be included in the platform's terms and conditions as to the responsibility of platform sellers to meet their tax obligations of their jurisdiction of residence and, in case of rentals, in the jurisdictions where the real estate is located.
5. The platform will agree to amend its on-boarding procedures for existing and future customers within a reasonable time-frame, taking account of other business needs, in order to capture information relevant for tax purposes. The set of information will be agreed with the host tax administration. This information should also be capable of being exported in a searchable format.
6. The platform will agree with the host tax administration to undertake reasonable and proportionate due diligence concerning the verification of the tax identification number (TIN), name, date of birth, nationality and address of platform sellers, and that information recorded by the platform is consistent with documentary evidence provided (for example passport information).
7. Where the information is not already available to platform sellers, the platform will provide each platform seller a statement of payments received from the platform on an annual basis after the end of the tax year in the host jurisdiction.
8. The platform will put in place arrangements to report annually to the host tax administration the aggregate numbers of platform sellers and income on a country-by-country basis [where there are more than 1 000 platform sellers in a particular jurisdiction]. This will be shared with relevant tax administrations through appropriate legal gateways and used to facilitate analysis of taxpayer compliance.
9. The platform will report to the host tax administration annually and in general terms on how it has met the elements of this Code.
10. In jurisdictions where it is required by law that platforms forward tax-related information to the host tax administration, the platform will in its term and conditions inform platform sellers that such information will be so forwarded.
11. Where appropriate under this Code, the platform will allow its employees to cooperate with tax administrations to find solutions together, including at the technical level, which will be sustainable for both the platform and the tax administrations.

Notes

¹ For example, a statement might say: “You may be liable for tax on the income that you receive. It is your responsibility to pay any taxes due and you may be liable for penalties if you do not. Information for [host jurisdiction] can be found at [host jurisdiction website]. If you are resident elsewhere, you should check with your home tax administration.”

Annex B. Information fields reported as needed by tax administrations for direct tax purposes

Table B.1. Core information for all sharing and gig economy platforms

<u>Core information for all sharing and gig economy platforms</u>						
Last name	First name	Tax identification number (if any)	Date of birth	Address	Bank account details	Amounts paid to the platform seller
<u>Extra information for rentals</u>						
Property address		Property registration number (if any)			Duration of the contract	

Annex C. Considerations for domestic legislation for effective taxation of platform sellers for direct tax purposes

Background

One option to boost tax compliance in the area of sharing and gig economy is to introduce specific legislation as is already the case in a number of jurisdictions.

Jurisdictions may wish to consider the following elements that could be incorporated into domestic legislation focused on enhancing the effective taxation of platform sellers as well as providing flexibility to adapt to any future international standardisation or international exchange of information.

Scope

Legislation could be designed to cover all sectors of the sharing and gig economy or to address those sectors where there may be a greater risk of tax non-compliance or higher levels of tax at risk. Where only some platforms are included within scope, consideration needs to be given to competition issues.

Where legal obligations are placed on non-resident platforms, consideration needs to be given to how to enforce those obligations.

In order to ensure flexibility for future developments, consideration should be given to retaining flexibility in legislation to change the scope of legislative requirements, including the ability to collect information on behalf of other tax administrations where an international exchange agreement is in place.

Information requirements – on-boarding

Sharing and gig economy platforms have in place on-boarding procedures by which they collect data on platform sellers upon registration. Legislation could require online platforms to acquire specific data which could then be communicated to tax authorities in an appropriate format. For example, platforms engaging in the conclusion of the rental contract could be required to collect the following data: name and lessor's TIN, lessor's address (including the country of residence), date of birth, duration of contract, address of the immovable property, gross amount of rental and bank account number.

In order to ensure flexibility both for future developments in the platform economy and to respond to possible future standardization of requirements, consideration should be given to retaining flexibility in legislation to add to, or adapt future information recording requirements.

Due diligence requirements

Legislation can provide for minimum due diligence requirements by the platform to ensure a high degree of reliability of the information provided by platform sellers. These would need to be in line with data protection rules concerning the processing of personal data.

Questions to be considered include:

- what information should be provided by the platform seller during on boarding procedures, or where there are changes in circumstances
- should this information be in line with anti-money laundering requirements or are there different considerations, for example for proportionality reasons
- what records should be kept of checks done or documents received (including electronically)
- how can due diligence requirements be enforced where platforms have no physical presence in the jurisdiction.?

In order to ensure flexibility for future developments, including possible international agreements, consideration should be given to retaining flexibility in legislation to change due diligence requirements.

Withholding

Jurisdictions may wish to consider the introduction of a withholding tax levied by sharing and gig economy platforms on the gross income received by platform sellers for services provided or goods sold via sharing and gig economy platforms.

The introduction of legislative provisions implying a withholding tax obligation on intermediaries, e.g. platform providers that provide end-to-end services for their customers, may help to achieve tax certainty as to tax liabilities and a reduction in complexity for platform sellers. Moreover, given the large and potentially growing number of platform sellers, a withholding tax may be seen as an effective measure compared to resource intensive audits involving large numbers of individuals many of who may receive relatively small amounts of income.

Questions to be considered include:

- should legislative simplifications be introduced to reduce burdens on platforms from applying different rates and thresholds
- should taxpayers have the option to have withholding tax applied or to be subject to existing rules for reporting and payment of tax
- how can over-withholding be minimized to avoid large numbers of new interactions with taxpayers over potentially small amounts
- should differential tax rates and/or thresholds be applied for withholding arrangements
- should withholding be targeted to individuals not running a business activity
- how can withholding be applied where a platform has no physical presence in the jurisdiction?

Reporting requirements

Legislation could impose reporting obligations on online platforms, in particular those acting as intermediaries facilitating payments.

Questions to be considered include:

- should platforms be required to send identity information on all platform sellers to the tax administration to ensure that they are registered for tax before undertaking activity
- should platforms be required to provide all relevant data for a given period to the platform seller to facilitate self-reporting
- what data should be collected and sent to tax administrations to enable the matching of taxpayers and/or pre-filling
- are different data sets required for different types of platform (for example where immoveable property is concerned)
- how frequently should data be sent, for example to enable pre-filling of tax returns, and should this be a minimum frequency (for example allowing platforms to develop real-time options)
- what format should the information should be sent in (for example XML)
- what sanctions should be imposed for non-reporting
- how can reporting be enforced where platforms have no physical presence in the jurisdiction?

In order to ensure flexibility for future developments, consideration should be given to retaining flexibility in legislation to change reporting requirements, including format and periodicity. For example, future technology solutions such as application programming interfaces may allow real-time reporting direct into tax administration systems.

International exchange matters

To help overcome concerns about the enforceability of requirements on platforms which have no physical presence, consideration could be given to provisions enabling the reciprocal automatic exchange of information with other tax administrations where a suitable international agreement (such as a competent authority agreement under Article 6 of the Multilateral Convention on Mutual Administrative Assistance) is in place.

Such provisions could allow for the exchange of information among some tax administrations prior to the outcome of multilateral policy discussions and could also enable the swift implementation of any multilateral agreements.

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The Sharing and Gig Economy: Effective Taxation of Platform Sellers

FORUM ON TAX ADMINISTRATION

This report looks at approaches to help ensure the effective taxation of those earning income from the sale of goods or services in the sharing and gig economy. It considers the different ways that tax administrations can best engage with platform sellers, sharing and gig economy platforms, and each other to enable more effective tax compliance. The report is divided into four chapters. The first chapter sets out the background to the sharing and gig economy and the role of online platforms. The second chapter provides some examples of current approaches that are being taken by OECD Forum on Tax Administration members that participated in this work. Chapter three sets out a range of options that tax administrations may wish to consider to help enable compliance in this sector. Finally, chapter four sets out three recommendations and considerations for possible further work: joint work between tax administrations and platforms on providing information and support to platform sellers; improving the evidence base to enhance understanding of the tax at risk in relation to platforms; and assisting in the possible development of a legislative model for standardised reporting by sharing and gig economy platforms.

Consult this publication on line at <https://doi.org/10.1787/574b61f8-en>.

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