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Global Tax Alert

OECD releases model rules for data reporting by platform operators for sellers in the sharing economy

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Executive summary

On 3 July 2020, the Organisation for Economic Cooperation and Development (OECD) released [Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy](#) (the Model Rules or the report) as approved by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) on 29 June 2020. The Model Rules lay out a system for requiring digital platforms to collect information on the income realized by those offering accommodation, transport and personal services through platforms and to report the information to tax authorities.

The [press release](#) accompanying the release of the Model Rules includes a comment from Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration, that "The approval of the [Model Rules] by the G20/OECD Inclusive Framework on BEPS proves that multilateral solutions to address tax challenges in the digital economy are possible and that they are to the benefit of tax administrations, taxpayers and businesses alike."

Work on the parallel effort led by the European Commission on this topic also has continued.¹ A Commission proposal for amendment of the European Union (EU) Directive on Administrative Cooperation (Directive 2011/16/EU, also known as the DAC) to facilitate the collection and exchange of data from digital platform operators by national tax authorities is expected to be released in the coming days.

Detailed discussion

Background

At the 11th Plenary meeting of the Forum on Tax Administration (FTA)² in 2017, FTA members agreed to work on a project to help ensure the effective taxation of the sale of goods or services in the sharing and gig economy. This project was referenced in the March 2018 OECD interim report to the G20 on *Tax Challenges Arising from Digitalisation*.³ 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 engaged with selected sharing and gig economy platform operators. At the 12th Plenary meeting of the FTA in 2019, the FTA members welcomed the publication of a report on the effective taxation of platform sellers in the sharing and gig economy, which summarizes the findings of the project group.⁴

On 19 February 2020, the OECD released a consultation document (the Consultation Document) on draft model rules for reporting of data by platform operators with respect to sellers in the sharing and gig economy.⁵ The Consultation Document set out 17 questions regarding key aspects of the draft model rules. On 15 April, the OECD released the [public comments](#) submitted on the draft model rules.

Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy

On 3 July 2020, the OECD released its Model Rules for reporting of data by platform operators with respect to sellers in the sharing and gig economy. The report states that the existence of online platforms facilitating a variety of transaction between users in the “sharing” or “gig” economy is changing many business sectors and suggests that tax administrations may wish to consider adapting their compliance strategies to reflect this development. It notes both that there are significant opportunities for tax administrations to benefit from the move of activities previously carried out in the informal cash economy onto digital platforms and that certain activities carried out through online platforms may not always be visible to tax administrations. The report acknowledges that some jurisdictions have already introduced reporting measures for platform operators and notes that dealing with multiple different reporting requirements could lead to costs and barriers to further development for platform providers.

The report identifies several objectives of the Model Rules:

- ▶ Ensuring that taxpayers and tax administrations get timely access to high-quality information on the consideration earned by platform sellers
- ▶ Promoting standardization of reporting rules (which will help platform operators comply with their reporting obligations across jurisdictions)
- ▶ Ensuring that the information collected, reported and exchanged is of high quality and relevant to tax administrations
- ▶ Promoting international cooperation
- ▶ Providing a reporting regime that can also be used for other tax-related purposes (e.g., value-added tax (VAT) risk analysis and monitoring)
- ▶ Promoting the development of new technical solutions to support the performance of due diligence (which eliminate most of the compliance burdens for platform operators)
- ▶ Ensuring that the scope of the reporting regime is and remains adequate, efficient and targeted (recognizing that digital markets are rapidly evolving)

The report describes the overall architecture of the Model Rules as driven by three dimensions:

- (i) A targeted scope of transactions to be reported focusing on accommodation, transport and other personal services
- (ii) A broad scope of platform operators and relevant sellers, to ensure as many relevant transactions as possible are being reported
- (iii) Due diligence and reporting rules that ensure relevant information is reported without overly burdensome procedures for platform operators

The report summarizes the structure of the model rules as follows:

- ▶ Section I sets out the key definitions and it is split into three parts: The first part defines the scope of platform operators that are subject to the rules; The second part defines the scope of sellers; The third part contains a set of other definitions that are relevant for applying the Model Rules.
- ▶ Section II contains the due diligence procedures to be followed by platform operators in order to identify sellers and determine the relevant tax jurisdictions for reporting. This includes procedures for identifying sellers not

subject to the collection and verification requirements, identification of the information items that platforms are required to collect, rules for determining the tax residence of sellers and specification of the timing for completion of due diligence procedures and confirmation of documentation.

- ▶ Section III sets out the information to be reported about the platform, its operators, its sellers and their transactions by 31 January of each year, as well as the format for reporting.
- ▶ Section IV contains administration and enforcement hallmarks that jurisdictions are expected to consider when implementing the Model Rules.

The Model Rules provide for the reporting of data no later than 31 January of the year following the calendar year in which the Seller is identified as a Reportable Seller.

Under the Model Rules, the platform operator must report for its reportable sellers:

1. Identifying information, including name, address and any tax identification number (TIN) and its jurisdiction of issuance
2. Any other TIN, including the jurisdiction of issuance, available to the Reporting Platform Operator
3. Specified Financial Account Identifier(s)
4. Where different from the seller, the name of the holder of the financial account to which the consideration is paid
5. Each jurisdiction of tax residence
6. The total consideration paid or credited during each quarter of the reportable period and the number of relevant services
7. Any fees, commissions or taxes withheld or charged by the platform during each quarter

With respect to immovable property rental services, in addition to the above, the address, and where available the land registration number, of each property listing, the number of days each property listing was rented during the reportable period and the type of each property listing must also be reported.

The objective of the Model Rules is to ensure that the required information can be reported by the reportable platform operator to its jurisdiction of residence, which may exchange such information with any jurisdiction that has an agreement or arrangement in effect. However, there may be limited instances where platform operators are resident in a jurisdiction that has not implemented the Model Rules or is not an exchange partner of the jurisdiction seeking the information. In such cases, some jurisdictions may want to impose local reporting in the jurisdiction in which sellers are resident or where immovable property being rented is located. While a secondary mechanism is not part of the Model Rules, annex A of the report includes two adjustments to the Model Rules to help jurisdictions achieve this outcome.

Next steps

According to the OECD press release, to support the “swift and coherent implementation of the Model Rules,” the OECD will undertake work on the international legal and technical framework to facilitate the automatic exchange of the information collected under the Model Rules.

Several jurisdictions have already moved forward with rules in this area. The adoption of the Model Rules at the OECD level is expected to increase the likelihood of implementation by other jurisdictions.

Implications

The release by the OECD of the Model Rules for reporting by platform operators will have significant implications. As the Model Rules are implemented by individual countries, tax administrations will obtain new access to information on the platform sellers. The release of the Model Rules will make it easier for interested countries to put information reporting regimes for platforms in place. The Model Rules are also expected to support a more uniform approach to the adoption of reporting obligations for platforms by individual countries.

Potentially affected companies should follow developments and assess what changes to their processes and technology might be needed to enable reporting of the type contemplated in these projects.

Endnotes

1. See EY Global Tax Alert, [European Commission opens public consultation into collection and exchange of taxpayer information from digital platform providers](#), dated 17 February 2020.
2. The FTA was created in July 2002 by the OECD's CFA, with the aim of promoting dialogue between tax administrations and identifying good tax administration practices. The FTA's work is organized under three pillars: (i) supporting the international agenda; (ii) improving compliance; and (iii) future tax administration. The FTA's activity in recent years has included work on risk assessment and effective use of country-by-country reports, joint audits and effective taxation of sharing and gig economy participants.
3. See EY Global Tax Alert, [The OECD's interim report on tax challenges arising from digitalisation: An overview](#), dated 21 March 2018.
4. See OECD report, ["The Sharing and Gig Economy: Effective Taxation of Platform Sellers"](#), dated 28 March 2019, and EY Global Tax Alert, [OECD's Forum on Tax Administration agrees on collective actions on tax certainty, cooperation and digital transformation](#), dated 29 March 2019.
5. See EY Global Tax Alert, [OECD releases consultation document on model rules for data reporting by platform operators for sellers in the sharing economy](#), dated 27 February 2020.

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