A new role

International Tax | Large Corporate



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Bill Dodwell examines the ways in which digital platforms are taxed, and considers alternatives

One of the most amazing inventions in recent years is the digital platform. The purpose of the platform is to connect two parties – typically sellers and buyers of services and goods.

Older readers may recall the grubby newsprint of titles such as Exchange & Mart. Businesses or individuals with something to sell posted off a form to place an advert, paying for it with a cheque or postal order. Buyers avidly scoured the weekly

magazine’s pages and telephoned the seller to enquire if the item was available, before visiting with the necessary cash. Today’s technology is so much more versatile – and of course Exchange & Mart now lives online.

Platforms can take the place of travel agents and connect people with holidays; the takeaway menus from local restaurants; insurers and those seeking to compare costs; car buyers with a range of dealers; local tradespeople and customers wanting a household repair. The list is almost endless and there are thousands of platforms available to consumers and businesses.

Platforms have enabled small and micro businesses to reach customers remote from their physical locations. Platforms boost economic growth, by making a much wider range of services (and goods) available.

The major new role taken in the economy by platforms means that we need to consider their role in the tax system, too. The UK tax system functions on the basis that a relatively small number of businesses collect tax and provide information to HM Revenue & Customs. Less than one third of individuals liable to income tax currently file a Self Assessment tax return – and the plan is that this should be reduced significantly over the next few years.

HMRC has powers to collect data from certain intermediaries. In 2013 HMRC obtained new powers to collect data from merchant acquirers (businesses that process credit and debit card transactions). HMRC say this has helped them identify businesses not declaring their profits, as well as those under-declaring. Research has shown that taxpayers are much more likely to submit accurate tax returns when they are aware there is a check in the form of third party data provision.

In 2015, the government consulted on extending those powers to data held by electronic payment providers and business intermediaries. The new law was included in Finance Act 2016 (sections 176-177).

Electronic payment providers are ‘businesses that perform a similar function to merchant acquirers by handling monetary transactions, but not necessarily in relation to credit and debit cards (increasingly these transactions are online and take different digital forms).’

Business intermediaries ‘provide services to enable or facilitate transactions between business suppliers and their customers or clients (other than services

provided solely to enable payments to be made)' where the intermediary receives information about the likely quantity or value of transactions.

HMRC said during the consultation that they would work with data providers on exactly what data should be provided and in what format. Although this is obviously helpful, part of the difficulty for businesses is that HMRC have not set out a data format they would like platforms to adopt – and allowed time for the necessary systems changes to achieve this. It will also not be easy for some platforms to distinguish between business and personal suppliers. If I offer a room to rent in my house, am I a business?

Estonia has an interesting voluntary regime. It asks platforms to provide information about business suppliers to the tax authority. This requires the agreement of the supplier, but many value the ease of preparing tax returns that this provides – as data fields are then pre-filled on tax returns. To date, three platforms have signed up and the tax authority hopes to encourage others to join the initiative.

Many platforms operate internationally – which leads to the obvious point that this could be an area for the BEPS Inclusive Framework (now 103 jurisdictions) or the Global Forum on Transparency (146 jurisdictions) to set a global standard. Such a global standard should consider data format as well how data should be passed to all the countries in which the platform serves sellers. It would also need to define the circumstances in which data should be provided by platforms to tax authorities and deal with important issues such as data privacy. Without a global approach, platforms with a physical presence in a particular jurisdiction could be liable to gather and provide data whilst those outside the jurisdiction would not.

The next issue to consider is whether the platforms could be asked to play a role in tax collection. This would be highly controversial and, as with information provision, could encourage some suppliers to use platforms outside their jurisdiction. There would also be an obvious difference between those platforms that collected money from customers and those which acted as a booking agent or other intermediary, leaving money to be collected by the supplier. Interestingly, the well-known accommodation platform Airbnb says it collects tourism or city taxes for some 50 EU cities.

What is clear is that platforms have an important role to play in the tax system. It would help many comply with national obligations if there was international agreement on how this should work, leading to common standards.