

Ensuring payment of taxes to the appropriate authorities is essential for the effective operation of any tax system. Efficiency of tax collection requires significant investment in developing the administrative competencies of the tax system and enforcing compliance with existing rules.

This burden can be partially shifted onto entities outside of the tax administration, involving third parties to enhance tax collection efforts. The imposition of obligations on third parties is a common feature of tax systems and does not represent a penalty or sanction. Currently, there is a trend towards shifting an increased burden of tax collection from states to private entities. An instance of this trend can be seen in the involvement of digital platforms in the EU VAT collection.

Over recent years, the platform economy has evolved from a community-driven practice, primarily focused on sharing private resources, into lucrative business models. This has had a tremendous impact on the entire EU economy. An example of a sector that has undergone significant transformations due to the activities of digital platforms is the short-term rental (accommodation) industry.

This sector of the platform economy is fascinating for research on several fronts. First, it holds significant economic and social importance, influencing the development of tourism, the housing market, and the hospitality industry. Second, it is a highly innovative and competitive sector. Third, the sector grapples with regulatory complexity, facing numerous challenges and problems related to ensuring compliance with existing regulations, including EU VAT rules.

The development of the platform economy creates a lot of ambiguity regarding the VAT treatment of transactions provided via short-term rental platforms. The most significant problems are mainly related to divergent interpretations regarding the status of entities involved in the supply of services through platforms and the nature of the platform services. There are also some doubts as to whether platforms in the accommodation sector can qualify as so-called undisclosed agents (Article 28 of the VAT Directive) and therefore be obliged to collect VAT on the transactions they facilitate.

However, the intermediation of accommodation platforms also opens up new opportunities. With access to relevant transaction information, these platforms have the potential to play an important role in VAT collection. These new opportunities include, among others, the potential educational and communication role of platforms, formal cooperation agreements with platforms, reporting obligations of platforms, joint and several liability, their tax withholding function, and the most far-reaching solution – the deemed supplier regime. In essence, the deemed supplier regime is a mechanism whereby the platform mediating the underlying transaction is liable to account for it for VAT purposes. This liability is therefore shifted from the underlying supplier (host) to the platform.

To engage platforms in VAT collection, the EU legislator decided to introduce this solution into the EU VAT system. This process has unfolded gradually and was correlated with the development of the platform economy within the EU.

Initially, the platforms primarily facilitated users' distribution of various digital content. When there was a strong increase in this type of supply, this led to problems with VAT taxation, notably no VAT collection or an inappropriately low amount of VAT collection. In response, the EU legislator decided to introduce a rebuttable presumption in 2015, whereby platforms became liable for collecting VAT "on behalf of" their actual suppliers in certain circumstances (the digital model of the deemed supplier regime).

In parallel, the e-commerce sector of the platform economy was thriving. Platforms intermediating the sale of goods enabled small consignments to be easily imported into the EU, resulting in, among other things, unfair competitive pressures on EU retailers in terms of VAT. This factor led the EU legislator to decide in 2021 to impose on platforms facilitating the supply of goods full liability for collecting VAT on the underlying supplies in certain cases (the e-commerce model of the deemed supplier regime).

The development of new technologies has also made it possible for platforms to mediate the supply of services in the real world, particularly in the area of accommodation. The growing popularity of this solution has begun to provide a competitive advantage for private operators and small businesses not paying VAT, as opposed to traditional suppliers (such as hotels) who are required to pay this tax. For this reason, the EU legislator plans to adopt solutions in 2025 according to which short-term rental platforms will, in certain cases, bear the full liability for collecting VAT on underlying transactions when their hosts are not required to do so (the service model of the deemed supplier regime).

The EU legislator's approach means that platforms intermediating different transactions are not treated similarly. However, it seems impossible to introduce a single deemed supplier model for all platforms. This is due to the fact that transactions of supply of goods and services are treated differently under the EU VAT system, which also requires differentiation in the deemed supplier regime.

It should be noted that the deemed supplier regime generates much controversy and differing opinions.

The introduction of this arrangement can bring many benefits, providing both clarity about a platform's obligations regarding VAT on underlying supplies, as well as increased efficiency in the collection of this tax. The costs and risks associated with VAT control may be reduced by shifting VAT obligations from smaller underlying suppliers to bigger market players such as platforms. At the same time, such a system also potentially reduces compliance costs for the underlying suppliers. Moreover, the introduction of the service model dedicated to accommodation platforms can contribute to levelling the playing field between traditional suppliers of short-term rental services and hosts operating through platforms.

However, there are also concerns about the potential negative effects of placing responsibility for VAT collection on platforms instead of individual suppliers. Firstly, implementing the deemed supplier regime could result in additional administrative burdens and compliance difficulties for platforms. To introduce this solution into the tax system, platforms must have the ability to exert a certain level of influence and control over the underlying transaction. The platform operators under deemed supplier regime essentially become unpaid tax collectors. While they assist governments in collecting significant tax revenue, they also incur substantial costs. For many platforms it would necessitate significant IT system changes to ensure the efficiency of the new regulations. Therefore, when introducing deemed supplier regime, the financial capability of platforms to collect VAT on such transactions should also be taken into account. If the cost of compliance associated with this regime is considered high, smaller platforms may struggle to meet their obligations. This measure can potentially disadvantage smaller platforms and new market entrants, inadvertently reinforcing platform monopolies. Larger platforms are better equipped to handle the complexity and regulatory burden. Therefore, the deemed supplier regime can have a detrimental effect on market competitiveness. Hence, it is worth considering the introduction of a threshold below which platforms would not be deemed suppliers, or the regime would be optional for them. The threshold would aim to reduce or eliminate the administrative burden and costs associated with the role of the deemed VAT supplier for small and medium-sized platform operators. Additionally, the introduction of such a threshold would provide greater neutrality for different business models of platforms, which may have varying capacities to cope with the requirements of the deemed VAT supplier regime. Finally, a threshold for platforms would indirectly promote innovation and competition in the platform economy sector, which can be threatened by established platform monopolies. The threshold could help create a more favourable environment for growth and innovation in the platform sector.

Finally, it should be noted that, in general, the deemed supplier regime in the digital model and the e-commerce model has proven successful. Therefore, the plan to introduce a similar solution for the short-term rental platforms should be welcomed, assuming that this solution is appropriately designed. Hence, it seems worthwhile to observe countries implementing the deemed supplier solution for accommodation platforms to assess, among other factors: (i) how effective the collection is, (ii) whether it operates in a neutral manner, and (iii) whether the compliance costs justify the use of this mechanism.

It is also crucial to carefully evaluate and justify the shift of excessive liability for overseeing the VAT system to digital platforms. Any implementation of the deemed supplier regime should be proportionate to its intended purpose, ensuring a balanced approach to tax collection and regulatory compliance.