

Association of Accounting Technicians (AAT) response to the HM Treasury call for evidence “VAT and the sharing economy”

1. Executive summary

- 1.1. **AAT believes that the sharing economy offers a range of employment and consumer benefits that can benefit the British economy in a range of ways.**
However, AAT also has a number of concerns about the tax treatment of the sharing economy.
- 1.2. **AAT campaigned for online platforms to become liable for the collection and remittance of VAT and so welcomed this new requirement that came into effect in January 2021.**
However, the failure to take action against historic VAT evaders in this area and the poor enforcement/loopholes that have become obvious in recent months are immensely disappointing.
- 1.3. **In response to concerns about the distinction between VAT registered and non VAT registered businesses, AAT recommends HM Treasury give serious consideration to reducing the VAT threshold to £0 or to matching the personal allowance, as supported by 37.5% of AAT members in a recent survey.**
Please see 2.27-2.38 below for further information
- 1.4. **AAT urges HM Treasury to engage with the likes of RAVAS and VATfraud.org on challenging issues in relation to cross-border VAT rules given their long history of successfully identifying problems in this area and proposing effective, practical solutions.**

2. AAT response to the consultation document

What are your initial impressions of the sharing economy? Is the government right to be looking into it in the context of VAT?

- 2.1. AAT believes that the sharing economy provides many benefits, from the provision of flexible working to the provision of supplementary income, to say nothing of the greater convenience and benefits afforded to the consumer of goods and services acquired via the sharing economy.
- 2.2. However, AAT has considerable concerns about its tax treatment and the Government's apparent inability to deal effectively with widespread abuses and avoidance. AAT therefore believes that the Government is absolutely correct to be examining what action needs to be taken in relation to VAT and the sharing economy.
- 2.3. For example, the Treasury highlight an obligation on online platforms to collect and remit VAT, something AAT long campaigned for¹ with an initially reluctant HM Treasury. Whilst this is undoubtedly a helpful measure that could substantially reduce VAT avoidance, like much policy in this area it has been poorly implemented and badly enforced. Indeed, earlier this month the Financial Times reported that the number of HMRC enquires about sellers on online platforms had decreased to just 80 for the whole of 2020 compared to 2,684 in 2019².
- 2.4. Furthermore, AAT is immensely disappointed by the apparent lack of interest in taking any action to address widespread historic VAT fraud by sellers using online platforms. With significant numbers of sellers increasing their prices by 20% since January 2021 when the new rules came into force, such rises strongly indicate they were previously evading VAT³. This provides an incredible opportunity for the Government to reclaim very large sums of illegally avoided VAT, together with substantial additional penalties.
- 2.5. In relation to split payments, AAT was interested to note the reference to these at 1.21 of the consultation document given the proposals were rightly abandoned due to prohibitive complexity and cost.

¹ Sir Graham Brady MP, Hansard, February 2020:

<https://questions-statements.parliament.uk/written-questions/detail/2020-02-04/12216>

² HMRC reduces checks on online sellers despite risk of VAT import fraud, 15 February 2021:

<https://www.ft.com/content/ed4aa529-b033-422a-8d3d-0583ad209ed0>

³ The Times, Amazon prices rise as Chinese sellers' VAT loophole is closed, January 2021:

<https://www.thetimes.co.uk/article/amazon-prices-rise-as-chinese-sellers-vat-loophole-is-closed-j9wnplf0b>

- 2.6. More widely, in relation to the new Digital Services Tax, described by the Financial Secretary to the Treasury as “...*highly innovative*” “...*a very good one...*” and “...*well designed...*” in his evidence to the Treasury Select Committee in January 2021⁴, despite reality suggesting it is a very blunt instrument, poorly designed and therefore easily avoided.
- 2.7. By way of example, Amazon has avoided any increased taxation by directly passing on the charge to the tens of thousands of micro and small businesses who sell products on its marketplace – whilst paying absolutely nothing on the products it sells directly to consumers itself, further creating an uneven playing field for small UK businesses wishing to sell online.
- 2.8. Likewise, Google is simply charging UK advertising clients an additional fee for adverts placed on Google and YouTube in the UK to cover the new 2% tax on revenues.
- 2.9. In contrast, Netflix has confirmed that, as of last month, revenue generated in the UK will be recognised in the UK, and corporate income tax will be paid accordingly. It has done this primarily as a result of bad publicity not because of any legal obligation, which demonstrates how ineffective the British tax regime has become in dealing with online businesses.
- 2.10. The DST does not appear to be working as intended, with micro and small businesses bearing the brunt of taxes that were supposed to be limited to large multi-nationals.
- 2.11. Whilst international attempts to resolve these issues have again been delayed, the UK could do more to ensure UK generated profits are taxed as such rather than indirectly penalising small businesses as the existing DST appears to do.
- 2.12. With regard to the topic of international action, AAT notes that under the new OECD global tax reporting framework published in July 2020, the *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy* (“MRDP”⁵), digital platforms are required to collect information on the income realised by those offering accommodation, transport and personal services through platforms and to report the information to tax authorities.
- 2.13. The consultation document acknowledges the existence of these new rules and positively described the MRDP, “*The benefit of this global approach for the platforms is that it sets out clearly what data is required and ensures a consistent international approach and a level playing field.*”
- 2.14. However, the call for evidence provides no detail as to whether or not the UK will adopt the rules and if so how or by when. As HM Treasury knows, MRDP was approved by the G20/OECD Inclusive Framework (IF) on BEPS, so there is little reason for any of the current 137 IF member countries and jurisdictions, including the UK, not to adopt them but some will inevitably be quicker to do so than others.

Question 2: Are there any sharing economy business models which the definition and guidance we have set out do not cover but which we should be aware of?

- 2.15. AAT is not immediately aware of any sharing economy business models which fall outside this definition.

Question 3: Do you agree with the government’s assessment of the size and nature of the sharing economy in the UK? Have you or your organisation produced analysis not listed above on the size and nature of particular sectors of the sharing economy in the UK?

- 2.16. AAT has not undertaken any analysis of the sharing economy in the UK or elsewhere and cannot usefully add to assertions around the size and nature of any particular sectors of the sharing economy in the UK.

⁴ Treasury Select Committee, 18 January 2021:
<https://committees.parliament.uk/oralevidence/1540/html/>

⁵ OECD, July 2020:
<https://www.oecd.org/tax/exchange-of-tax-information/model-rules-for-reporting-by-platform-operators-with-respect-to-sellers-in-the-sharing-and-gig-economy.htm>

- 2.17. However, AAT does note the scale of the challenge in being able to assess the sector, as recently highlighted by the Office for National Statistics.⁶

Question 4: If not covered in your response to the previous question, could you please provide us with any projections which you or your organisation have produced regarding the future growth of the sharing economy in the UK?

- 2.18. AAT has not produced any projections about future growth but taking into account the nature of the sharing economy, the economic disruption caused by a global pandemic and Brexit, it is reasonably safe to conclude that the sharing economy will continue to enjoy significant growth in the short to medium term.

Question 5: Do you consider the balance to be changing between VAT registered and non-VAT registered businesses in terms of relative contribution towards the UK's economic output?

- 2.19. AAT agrees with the government that the VAT base is changing and could experience long-term changes as a result of the new opportunities which the sharing economy creates for both individuals and small businesses. However, although digital platforms that make up the sharing economy may be enabling unregistered individuals, micro-businesses and small-scale enterprises to market their services to an extremely large audience of potential customers, *"...in a way that might have been much more difficult for a traditional small or microbusiness to achieve"*⁷, this ignores the fact that many of those traditional small or microbusinesses now operate as part of the sharing economy. Take for example the number of small retailers utilising eBay or Amazon and the increasing number of traditional bed and breakfast establishments that are listing on Airbnb.
- 2.20. The consultation document was also written at a time when the Uber case outcome was uncertain – although it was always likely given even the firm had acknowledged as much by including almost 50 pages of risk factors in its 2018 flotation prospectus, much of which centred on the classification of "independent workers" and the potential for being obliged to reclassify them as employees or workers.
- 2.21. Last month, this five year legal battle ended with a final ruling from the Supreme Court, determining that Uber drivers are in fact workers rather than independent contractors, as the firm had repeatedly claimed, and are therefore entitled to the minimum wage and paid holidays.
- 2.22. The confirmation of their status in this case, brings the resolution of the ongoing dispute between HMRC and Uber over VAT much closer to a conclusion, helping inform the debate as to whether Uber acts as an agent or principal for VAT purposes. This will not only result in an estimated £1.5bn VAT liability, it will seriously undermine other platforms attempts to evade VAT and could potentially lessen the problems identified within this consultation document.
- 2.23. This Uber case certainly demonstrates that requiring the courts to decide on these issues, which takes many years, costs huge sums and rarely benefits low earners who are unlikely to ever bring such cases, is far less preferable than having Parliament introduce and enforce legislation that removes or seriously reduces the many incentives for firms to impose forced self-employment on workers – the biggest factor being the avoidance of employer NICs.
- 2.24. Despite HM Treasury concerns about a shrinking VAT base, the ONS UK business; activity, size and location: 2020⁸ shows that the number of VAT registered businesses continues to grow.
- 2.25. At its most simplistic level, given that a turnover of £85,000 is required before being compelled to register for VAT, this suggests that VAT registered businesses are likely to make a greater contribution towards the economic output than those below the threshold.

⁶ The feasibility of measuring the UK sharing economy, October 2020:

<https://www.ons.gov.uk/economy/economicoutputandproductivity/output/articles/thefeasibilityofmeasuringthesharingeconomy/october2020progressupdate>

⁷ VAT and the sharing economy: Call for Evidence, December 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942573/Call_for_Evidence_-_VAT_and_the_Sharing_Economy.pdf

⁸ UK business; activity, size and location: 2020

<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/bulletins/ukbusinessactivitysizeandlocation/2020>

- 2.26. However, this ignores the reality that 44% of VAT registered businesses actually fall below the threshold but have registered voluntarily, indicating that many below the threshold recognise there are benefits to registration.
- 2.27. In 2017 AAT surveyed its licensed members to establish their views on the VAT threshold and found that 36% wanted a big increase to match Singapore (£500,000) 32% supported the current threshold and just over 13% wanted a reduction either to the personal allowance (then £11,500) or to £0 as in Sweden and various other countries.
- 2.28. The world has moved on quite dramatically since 2017. For example, the Making Tax Digital programme has largely proven itself as a time saving, productivity boosting programme of improved reporting efficiency for most that use it. The British economy has become saddled with significant Coronavirus debts in addition to an already substantial structural deficit. Brexit has been finalised, but much disruption remains.
- 2.29. Finding ourselves in a markedly different place to 2017 certainly makes reinvestigation of the VAT threshold worthwhile.
- 2.30. There is probably merit in requiring all businesses to register for VAT.
- 2.31. Such an approach would eliminate competition challenges between VAT registered and non-registered businesses and would also remove the significant “cliff edge” problem that greatly impacts many small businesses’ behaviour and productivity i.e. ceasing to work or reducing work when close to the threshold.
- 2.32. As a result, there would likely be increased economic output amongst an already productive sector of the economy, benefitting individuals and employers and in turn an increased tax yield for the Exchequer. It would likely result in much higher levels of compliance too.
- 2.33. In addition, requiring all businesses to become VAT registered would likely result in a significant reduction in VAT evasion and fraud.
- 2.34. The UK would not be the first country to implement such an approach. Spain, Sweden and Italy already require all businesses to register for VAT/GST (Goods and Services Tax) and this appears to work well in those countries.
- 2.35. To demonstrate that such an approach is now more likely to be accepted, it is worth considering the February 2021 AAT member survey results⁹.
- 2.36. Whilst the number of AAT members wanting the current threshold maintained was very similar to the 2017 results (33% compared to 32%) there was much greater support for a reduction (37.5% compared to 14% in 2017)
- 2.37. The results of the survey, which attracted responses from more than 800 AAT members were as follows:
- 37.5% favoured a reduction to the personal allowance (£12,500) trading allowance (£1,000) or £0
 - 33% support the current threshold of £85,000
 - 24% would like to see a substantially higher threshold like that in Singapore
 - 5.5% were unsure
- 2.38. Requiring all businesses, no matter how large or small, to register for VAT would be one way of addressing policy concerns about distinctions between the two groups and is surely worthy of further investigation.

⁹ 819 AAT members surveyed in February 2021

Question 6: Have you or your organisation produced analysis of the revenues which underlying service providers generate on digital platforms; if so, please could you summarise the results for us?

2.39. AAT has not undertaken any such work.

Question 7: Should the government consider alternative VAT rules to the agent-principal rules in the context of the sharing economy? Should we consider solutions which, under certain circumstances, would require sharing economy digital platforms to account for VAT on the supplies that underlying service providers make to consumers?

2.40. Again, this issue may have been lessened by the Uber v Aslam (2021) Supreme Court ruling. As noted in the consultation document, the courts generally uphold the contractual relationship between two parties, “...except where the contractual relationship between the agent and the principal is found to be, in the words of the courts, a ‘sham’ or do not reflect the economic and commercial reality¹⁰” as in the Uber case.

2.41. This may be worthy of consideration but is undoubtedly a complex and potentially troublesome area of law given the likely legal argument that will follow.

2.42. AAT notes the suggested reliance on any new laws in this area concentrating on the degree of control that platforms have over their users but given it was precisely issues relating to the degree of control exercised by Uber that ultimately determined the case, is unclear as to what new legislation based around existing concepts would achieve in practice.

Question 8: Does your view about the need for alternative VAT rules in the context of the sharing economy vary according to economic sector and business model, or does it apply across all sectors and business models?

2.43. AAT is not convinced that new laws in this area are necessarily practical or desirable but if they were to be introduced then in the interests of both fairness and simplicity it would logically appear sensible to ensure that they should apply to all sectors and business models equally.

2.44. AAT strongly suggests that HM Treasury engages with those with a considerable degree of expertise, experience and practical understanding of these issues such as Richard Allen from Retailers Against VAT Abuse Schemes (RAVAS) and Neven Juretic from Vatfraud.org both of whom have repeatedly warned about such issues and recommended a range of sensible, practical, effective solutions.

Question 9, 10 & 11: Should the government review the cross-border place of supply rules in this context; specifically, in light of that fact that these give an unfair VAT advantage to digital platforms based outside the UK? If so, how would you recommend we address this? What do you think about solutions that would require sharing economy digital platforms, wherever they are established, to register and account for UK VAT on the commission fees that they charge their underlying service providers? Bearing in mind HMRC’s desire to develop compliance measures which can be enforced with equal effectiveness upon both UK and offshore businesses, what do you think would be a proportionate and effective set of obligations, sanctions and administrative easements that HMRC could use to encourage compliance among digital platforms and underlying service providers?

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¹⁰ VAT and the sharing economy: Call for Evidence, December 2020:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942573/Call_for_Evidence_-_VAT_and_the_Sharing_Economy.pdf

3. About AAT

- 3.1. AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 80,000 student and affiliate members worldwide. Of the full and fellow members, there are more than 4,250 licensed accountants who provide accountancy and taxation services to over 500,000 British businesses.
- 3.2. AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

4. Further information

- 4.1. If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Phil Hall, AAT Head of Public Affairs & Public Policy:
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