The Role of Digital Platforms in the Collection of VAT/GST on Online Sales

OECD

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BETTER POLICIES FOR BETTER LIVES

Please cite this publication as:
OECD (2019), *The Role of Digital Platforms in the Collection of VAT/GST on Online Sales*, OECD Publishing, Paris, *https://doi.org/10.1787/e0e2dd2d-en*.

ISBN 978-92-64-73705-1 (print)
ISBN 978-92-64-34411-2 (pdf)

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Foreword

The OECD's work on Value Added Taxes (VAT)/Goods and Services Taxes (GST) has in recent years primarily focused on the development of internationally agreed standards and recommended approaches for the consistent, efficient and effective application of national VAT/GST systems in the context of an increasingly digitalised and globalised economy.

These standards include the recommended rules and mechanisms to address the challenges of collecting the VAT/GST on digital sales, which had been identified in the context of the OECD/G20 Project on Base Erosion and Profit Shifting (the BEPS Project). This report, *The Role of Digital Platforms in the Collection of VAT/GST on Online Sales* is the latest addition to this work.

Electronic marketplaces and other digital platforms that facilitate online transactions between buyers and sellers play a central role in the continuous strong growth of online trade. Evidence suggests that two-thirds of all cross-border e-commerce sales of goods are made through online marketplaces. It has become increasingly obvious that this reality presents significant opportunities for a more efficient and effective collection of VAT/GST on online sales of goods, services and intangibles, particularly sales to private consumers. An increasing number of jurisdictions started work on possible measures to involve digital platforms in collecting VAT/GST on online sales. The jurisdictions that effectively implemented these measures reported positive outcomes in facilitating and improving compliance and securing tax revenue. Against this backdrop, the OECD was requested to develop internationally agreed guidance on measures for the efficient involvement of digital platforms in the VAT/GST collection on online sales that can be implemented consistently across jurisdictions.

Accordingly, this report provides practical guidance to tax authorities on the design and implementation of a variety of solutions for involving e-commerce marketplaces and other digital platforms in the effective and efficient collection of VAT/GST on digital trade of goods, services and intangibles. It includes new measures to make digital platforms liable for the VAT/GST on sales made by online traders through these platforms, along with other measures such as data sharing and enhanced co-operation between tax authorities and digital platforms. It builds further on the solutions for the effective collection of VAT/GST on digital sales presented in *International VAT/GST Guidelines* and *Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report*. It also complements the report on the *Mechanisms for the Effective Collection of VAT/GST*, which was delivered in 2017.

This report has been developed through an inclusive process, involving representatives from OECD members and from a large number of partner countries as well as through the active engagement of the business community. It was endorsed by the representatives from over 100 jurisdictions and international and regional organisations as well as from the business community at the fifth meeting of the Global Forum on VAT in Melbourne on 20-22 March 2019.

This report was approved by the Committee on Fiscal Affairs on 10 May 2019 and prepared for publication by the OECD Secretariat.

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Executive Summary

This report, *The Role of Digital Platforms in the Collection of VAT/GST on Online Sales*, was developed by the OECD to complement its report *Mechanisms for the Effective Collection of VAT/GST*. The latter report, which was delivered in 2017, provides detailed guidance for the consistent and effective implementation of the mechanisms for the collection of VAT/GST on online sales as recommended in the *International VAT/GST Guidelines* and in *Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report* of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project.

Against the backdrop of the continuous strong growth of online trade, the OECD's Working Party No.9 on Consumption Taxes (WP9) consisting of VAT/GST policy officials from OECD members and Partner countries, signalled an urgent need to continue work on possible approaches to further increase the efficiency of VAT/GST collection, particularly on online sales to final consumers (business-to-consumer or B2C trade). WP9 requested in particular that the possible involvement of digital platforms in the collection process be explored, recognising that such platforms may significantly enhance the effectiveness of VAT/GST collection given their important role in generating, facilitating and/or executing online sales. A number of jurisdictions indeed have implemented measures to involve digital platforms in collecting VAT/GST on online sales and reported positive outcomes in securing tax revenue. Other jurisdictions are considering similar reforms.

Against this background, this report analyses the possible roles of digital platforms in supporting the collection of VAT/GST on online sales of goods and services/intangibles, and provides guidance on possible implementation measures. It also recalls the range of other measures beyond possible VAT/GST obligations for digital platforms that tax authorities can implement to further enhance the effectiveness of VAT/GST collection on online trade.

This report does not try to define the term "digital platforms", as it is a concept that is likely to evolve over time. They have notably been denominated "platforms", "(online) marketplaces", or "intermediaries" by the jurisdictions that have involved such actors in the collection of VAT/GST on online sales, or are considering doing so. This report uses the term "digital platform" as a generic term to refer to the actors in online sales that carry out the functions that can be considered essential for their involvement by tax authorities in the collection of VAT/GST on online sales. These can generally be described as the platforms that enable, by electronic means, direct interactions between two or more customers or participant groups (typically buyers and sellers) with two key characteristics:

(i) each group of participants ("side") are customers of the platforms in some meaningful way, and (ii) the platform enables a direct interaction between the sides. These platforms are also known as multi-sided platforms.

This report endeavours to use neutral terminology rather than terminology which may already be used in specific jurisdictions or may have a different meaning across jurisdictions. It is important, therefore, for jurisdictions to take account of the broad

meaning of the terms used together with the design and implementation considerations which also allow jurisdictions to tailor implementation to their own needs.

This report is intended to assist tax authorities in evaluating and developing possible measures to involve digital platforms in the VAT/GST collection on online sales, with particular guidance on transactions involving the importation of goods, with a view to maximising the effectiveness of such measures and their consistency across jurisdictions. International consistency will facilitate compliance, lower compliance costs and administrative burdens, and improve the effectiveness of VAT/GST collection, recognising in particular that digital platforms are likely to be faced with multi-jurisdictional obligations.

This report does not aim at detailed prescriptions for national legislation. Jurisdictions are sovereign with respect to the design and application of their laws. Rather the report seeks to present a range of possible approaches and discusses associated policy considerations. Its purpose is to serve as a reference point. It intends to assist policy makers in their efforts to evaluate and develop the legal and administrative framework in their jurisdictions taking into account their specific economic, legal, institutional, cultural and social circumstances and practices. This report also recognises the desirability for jurisdictions to consider the *Ottawa Taxation Framework Conditions*, notably in respect of neutrality, efficiency, certainty and simplicity, effectiveness and fairness, and flexibility, in framing and implementing the policy and administrative measures identified in the report.

This report is evolutionary in nature and will be reviewed regularly in light of the rapid development of technology, online sales and delivery processes.

Chapter 1. The VAT/GST collection challenges of digital trade and the role of digital platforms in addressing them

This chapter provides the overall context for this report, most notably the explosive growth in online sales to private consumers, its challenges for VAT/GST collection and competitiveness and the possible role of digital platforms in the efficient and effective collection of VAT/GST on these sales. The chapter also describes the objective and the scope of this report and provides an overview of the measures identified and analysed by this report.

1.1. Introduction

This chapter outlines the overall context for this report, most notably the explosive growth in online sales to private consumers, its challenges for VAT/GST collection and for competitiveness and the possible role for digital platforms in more efficient and effective collection of VAT/GST on these sales. The chapter also describes the objective and the scope of this report and provides an overview of the measures identified and analysed by this report.

1.2. Digital trade growth and its challenges for VAT/GST collection

1.2.1. Increasing digitalisation and the growth in e-commerce

The increasing digitalisation of the economy[1] has fundamentally changed the nature of retail distribution channels for sales of goods and services/intangibles to private consumers (business-to-consumer or B2C sales). Traditionally, a consumer would make a purchase from a local store. Now their first port of call is frequently a website of that store, an online supplier in the case of digital goods, a seller based in another country or increasingly a digital platform through which many suppliers make sales.

Global B2C e-commerce sales of goods alone are now estimated to be worth in the region of USD 2 trillion annually with projections indicating they may reach USD 4.5 trillion by 2021, USD 1 trillion of which is estimated to be cross-border e-commerce (eMarketer, 2018[1]) (Asia-Pacific Economic Cooperation, 2018[2]) (United Nations Conference on Trade and Development, 2019[3]) (World Trade Organization, 2018[4]) (Accenture and AliResearch, 2016[5]).[2] Currently, approximately 1.6 billion consumers are buying online and this is estimated to grow to 2.2 billion consumers by 2022 (Statista, 2017[6]). While growth is slowing in mature markets, it has not yet reached saturation taking into account the scope for increasing Internet penetration in certain regions and the clear potential for increased spending together with higher value purchases as consumers gain greater confidence in using online channels.

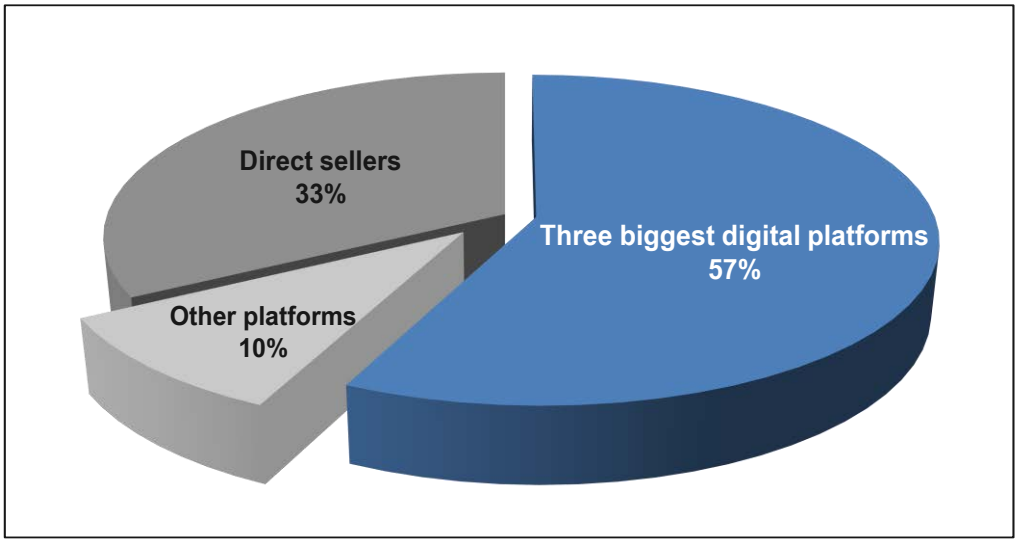
It is mainly the growth in international online B2C trade, both in volume and in numbers of participants, which has created the most pressing challenges for VAT/GST collection. The VAT/GST on cross-border business-to-business (B2B) trade in services and intangibles, which also continues to grow, is generally collected through a reverse-charge or self-assessment mechanism, as recommended by the *International VAT/GST Guidelines* (the "Guidelines") (OECD, 2017[7]).[3] These self-assessment mechanisms generally work well in a B2B context – however, they are largely ineffectual in a B2C context and this is becoming more and more relevant in light of the exploding B2C online trade.

A key driver in the rapid growth of e-commerce is the role of multi-sided platforms such as e-commerce marketplaces. Multi-sided platforms are platforms that enable, by electronic means, direct interactions between two or more customers or participant groups (typically buyers and sellers) with two key characteristics: (i) each group of participants ("side") are customers of the multi-sided platforms in some meaningful way, and (ii) the multi-sided platform enables a direct interaction between the sides. For the purposes of this report, these multi-sided platforms are hereafter referred to as "digital platforms".

Digital platforms allow business, particularly smaller businesses, to efficiently access millions of consumers in what is now a global marketplace. Indeed recent research suggests that 57% of cross-border supplies of goods are purchased via only the three biggest digital platforms, with many other platforms operating at a domestic level and in geographic

clusters (International Post Corporation, 2017[8]). As a result, it is estimated that approximately two in every three e-commerce supplies of goods are made via digital platforms with one out of three made through direct sales (see Figure 1.1).

Figure 1.1. Global E-Commerce sellers by category (2017)



Note: The survey covers a number of markets, including North America, Europe, Latin America and Asia-Pacific regions. While the survey covers B2C e-commerce in the United States, it is relevant to note that the U.S. does not apply a VAT and therefore these supplies are not subject to VAT although they may be subject to sales taxes at sub-national level. For more details, please see the survey report available at https://www.ipc.be/services/markets-and-regulations/cross-border-shopper-survey
Source: OECD analysis based on the Cross-border E-Commerce Shopper Survey 2017 by International Post Corporation (IPC) (International Post Corporation, 2017[8]).

1.2.2. The relevance for VAT/GST

Taking into account the continuously expanding volume of e-commerce sales, and the fact that most of these sales should in principle be subject to VAT/GST, the amounts of VAT/GST revenue at stake are considerable. As already identified in *Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report* of the OECD/G20 Base Erosion and Profit Shifting Project ("2015 BEPS Action 1 Report") (OECD, 2015[9]), cross-border trade in goods, services and intangibles (which include for VAT/GST purposes digital downloads) creates challenges for VAT/GST systems, particularly where such products are acquired by private consumers from suppliers abroad. The digital economy magnifies these challenges, as the evolution of technology has dramatically increased the capability of private consumers to shop online and the capability of businesses to sell to consumers around the world without the need to be present physically or otherwise in the consumer's country.

The main VAT/GST challenges related to the digital economy that were identified in the 2015 BEPS Action 1 Report are (i) imports of low-value parcels from online sales which are treated as VAT/GST exempt in many jurisdictions, and (ii) the strong growth in the trade of services and intangibles, particularly sales to private consumers, on which often no

or an inappropriately low amount of VAT/GST is levied due to the complexity of enforcing VAT/GST payment on such supplies (OECD, 2015[9]).

Recommended approaches for addressing the key challenge of collecting the VAT/GST on the sales of digital products to private consumers by foreign suppliers are presented in the Guidelines (OECD, 2017[7]) and in the 2015 BEPS Action 1 Report (OECD, 2015[9]). In considering and implementing these recommended approaches, countries are increasingly examining the role that digital platforms can play in the collection of the VAT/GST. Several jurisdictions have already introduced or have signalled the introduction of measures involving the digital platform in the VAT/GST collection on sales of digital services via platforms. A key reasoning behind this approach is that the platform is viewed as taking the role of a 'store' with an offering of different supplies such as digital supplies of music, films, books, games and software applications, and in many cases act as the sole point of contact with the end consumer including in respect of service delivery. Importantly, it is also seen as an efficient and effective means for collecting the VAT/GST which has had largely positive results.

1.2.3. The particular challenge of cross-border supplies of goods

Meanwhile, the exploding volume of cross-border online sales in goods has created increasingly important challenges for VAT/GST regimes and customs authorities. Many jurisdictions apply an exemption from VAT/GST for imports of low-value goods[4] as the administrative costs associated with collecting the VAT/GST on the goods is likely to outweigh the VAT/GST that would be paid on those goods.

These exemptions for imports of low-value goods have become increasingly controversial in the context of the growing digital economy. At the time when most of these exemptions were introduced, Internet shopping did not exist and the level of imports benefitting from the relief was relatively small. Over recent years, many VAT/GST countries have seen a significant and rapid growth in the volume of low-value imports of goods on which VAT/GST is not collected resulting in decreased VAT/GST revenues and potentially unfair competitive pressures on domestic retailers who are required to charge VAT/GST on their sales to domestic consumers. It is no longer considered acceptable in an increasing number of countries that this continuously growing volume of goods from online sales is imported without VAT/GST as a consequence of the exemption for imports of low-value goods. This is not only because of VAT/GST revenue losses, but also because of the unfair competitive pressure on domestic businesses that are increasingly incapable of competing against the continuously rising volumes of VAT/GST-free online sales of goods, and the associated negative impacts on domestic employment and direct tax revenue.

Tax and customs administrations are also facing challenges in respect of the collection of VAT/GST at importation above the VAT/GST threshold. To underline this, a 2016 study by Copenhagen Economics, using real purchases, estimated a non-compliance rate of 65% for e-commerce supplies from outside the EU to EU consumers via the postal channel (Basalisco, Wahl and Okholm, 2016[10]). This study also included purchases where both customs duty and VAT were payable on importation, i.e. involving importation of goods above the VAT/GST exemption threshold and the *de minimis* exemption threshold for customs duties.[5] The VAT/GST on importation and the customs duties are generally collected by customs authorities. It is relevant to recall, however, that customs authorities carry out many other critical functions including the facilitation of trade, the control of drugs and drug precursors, the control of intellectual property rights and importantly the safety of citizens in respect of the importation of dangerous goods and the threat of

terrorism. Against this background, the World Customs Organisation ("WCO") has identified that growth of trade in goods from e-commerce is presenting significant challenges to customs and tax authorities, and has acted through the establishment of an e-commerce working group that is developing policy responses as a priority. In this context, the WCO has delivered in June 2018, a Cross-Border E-Commerce Framework of Standards (see Annex G), one of the core objectives of which is ensuring efficient revenue collection.

The challenges faced by tax authorities even where VAT/GST and customs duties should be collected, i.e. on imports above the VAT/GST threshold and/or the *de minimis* customs duties threshold, indicate that a solution which simply involves the removal of the low value exemption is not the answer. Such a solution without supporting measures is likely to be counter-productive, with customs having to control more consignments with knock-on effects for other functions. Therefore, as outlined in the 2015 BEPS Action 1 Report (OECD, 2015[9]), smarter solutions are needed which seek to collect the VAT/GST more effectively – most notably through the involvement of digital platforms in the collection of the VAT/GST and the use of simplified registration and compliance mechanism.

Several jurisdictions, notably Australia and the EU,[6] have already legislated to make platforms liable for the collection of VAT/GST in respect of goods, although these provisions have been limited in both cases to imports of goods below the respective *de minimis* thresholds for customs duties. Additionally, the EU has made provisions for the sharing of information with tax authorities and several countries are applying provisions for joint and several liability to assist with compliance. Indeed, a key driver for several jurisdictions in applying simplified registration and compliance models and digital platform liability is to free up customs resources and allow these authorities to focus on those other critical functions.

It is relevant also that the jurisdictions that have introduced the measures outlined above, have indicated that a key driver in taking these actions is the need to protect domestic business, in particular bricks and mortar retailers from unfair competition in addition to protecting tax revenue.

1.3. Delivering consistent solutions for the involvement of digital platforms in the collection of VAT/GST on online sales

1.3.1. Objective of the report

As indicated above, jurisdictions have acted or are considering acting in respect of the role of digital platforms in the collection of VAT/GST on online sales. The OECD's Working Party No.9 on Consumption Taxes (WP9), which consists of VAT/GST policy officials from OECD members and Partner countries, signalled in 2017 an urgent need for work on consistent solutions in this context. This does not mean that the possibility of other measures to enhance the VAT/GST collection on online sales is discarded, but rather reflects the significant role that digital platforms play in respect of online sales, which is why countries have requested guidance on how this can be done efficiently and consistently across jurisdictions.

The overall objective of this work is to achieve efficient and effective solutions for involving digital platforms in collecting VAT/GST on online sales without creating undue administrative costs and compliance burdens. The objective is to bring benefits to tax authorities in terms of workable and proven solutions, while limiting compliance burdens on platforms through a coordinated multilateral policy dialogue. This work has proceeded

as a priority for WP9, and has benefitted greatly from the engagement of the business and academic community through the Technical Advisory Group to WP9 (TAG).

In carrying out this work on the possible roles of digital platforms in VAT/GST collection, it is important to ensure as much consistency as possible across jurisdictions. Greater consistency among country approaches will further facilitate compliance, particularly by businesses that are faced with multi-jurisdictional obligations, reduce compliance costs and improve the effectiveness and quality of compliance processes. For tax and customs authorities, consistency is also likely to support the effective international co-operation in tax administration and enforcement.

This work is also developed against the background of the G20 tax certainty agenda.[7] This relates to the importance of providing greater tax certainty to taxpayers to support trade, investment and economic growth which has become a shared priority of governments and businesses. In bringing forward this work, it is recognised that there is a spectrum of different roles for digital platforms in the collection of VAT/GST. The involvement of digital platforms should be considered in light of effectiveness, efficiency and proportionality and the neutrality principles as promulgated by the Guidelines (see further Chapter 2 – Neutrality of value added taxes in the context of cross-border trade) (OECD, 2017[7]).

The report is also cognisant of the desirability for jurisdictions to consider the *Ottawa Taxation Framework Conditions*[8] in framing and implementing the policy and administrative measures identified in the report. These generally accepted principles of tax policy are as follows:

- *Neutrality*: Taxation should seek to be neutral and equitable between forms of electronic commerce and between conventional and electronic forms of commerce. Business decisions should be motivated by economic rather than tax considerations. Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation.
- *Efficiency*: Compliance costs for businesses and administrative costs for the tax authorities should be minimised as far as possible.
- *Certainty and simplicity*: The tax rules should be clear and simple to understand so that taxpayers can anticipate the tax consequences in advance of a transaction, including knowing when, where, and how the tax is to be accounted.
- *Effectiveness and fairness*: Taxation should produce the right amount of tax at the right time. The potential for tax evasion and avoidance should be minimised while keeping counteracting measures proportionate to risks involved.
- *Flexibility*: The systems for taxation should be flexible and dynamic to ensure that they keep pace with technological and commercial developments.

It is also recognised that there is a need to take a broader perspective which not only looks at the role platforms can play in the collection of VAT/GST but also takes a more holistic look at enforcement recognising the role of the various other actors in the supply chain such as shippers, importers, payment service providers and fulfilment houses. In addition, the report recognises the desirability of achieving channel neutrality i.e. the same VAT/GST treatment should generally apply whether a supply is made via a platform, sold directly on-line, or indeed through the traditional bricks and mortar store. Further, efforts should be made to limit the impact on value chains as much as possible and to avoid high barriers to entry for small and medium-sized enterprises (SMEs) and start-ups.

1.3.2. Scope of the report

The report considers the possible roles of digital platforms in the collection of VAT/GST on e-commerce sales. In considering this, it is recognised that transactions involving goods are different than those only involving services and intangibles, including as regards the role of digital platform. This report therefore gives particular attention to the role of digital platforms in the collection of VAT/GST on online sales that involve an importation of goods. A particular complexity is that cross-border supplies of goods are ordinarily subject to customs procedures. While there is some uniformity of procedures which are developed by the WCO,[9] there are important differences such as different VAT/GST and customs *de minimis* thresholds and associated procedures which can create additional burdens for business operating cross-border.

This work starts from the presumption that a tax authority wishes to exercise its right to tax a supply from an online sale, and will thus focus exclusively on how this tax authority can effectively collect the VAT/GST on this supply. This work will not discuss other issues than those that are purely related to the collection of the VAT/GST (e.g. whether or not a certain transaction constitutes a supply or not, whether a certain stakeholder is a taxable person or not, etc.).

1.3.3. Sharing economy as a separate work stream

It is noted that digital platforms are also at the forefront of delivering new solutions for the delivery of services that involve a certain level of physical presence and/or performance in the jurisdiction of taxation, such as hotel/bed & breakfast accommodation, transportation, and of other services such as food delivery, house cleaning and work on property. While these services are often traditional in nature, the service provider and the buyer are brought together through platforms which harness new technologies. These services are often performed by a wider range of actors than "traditional" business, and are often associated with the so-called "sharing'' and "gig" economies.

While there is a desire by tax authorities to explore the possible role of platforms for tax purposes and indeed some jurisdictions are already asking platforms to provide information on transactions, there is recognition at WP9 that these supplies have specific characteristics, most notably the fact that the underlying suppliers will generally have a presence in the taxing jurisdiction although the cross-border element to such supplies may become more significant over time. A particular issue of relevance is also the involvement of a large number of micro or small entrepreneurs, many of whom are not considered as taxpayers under current VAT/GST rules.

Given the need to further evaluate and scope this issue, and indeed to consult with relevant stakeholders on the role of these particular digital platforms in the collection of VAT/GST in respect of these supplies, WP9 has decided to develop work in this area as a separate work stream.

1.3.4. Overview of measures identified in the report

As already highlighted above, this report acknowledges that there is a spectrum of roles that digital platforms can play to ensure the effective collection of VAT/GST from online sales. These roles include making digital platforms liable to assess, collect and remit the tax (Chapter 2), the possibility to voluntarily act as the collector for the VAT/GST, legislative provisions for information sharing with tax authorities, and being a conduit for tax authorities to reach out to the underlying suppliers on the platforms (Chapter 3).

Further, the report has identified actions amongst others (Chapter 4) that tax authorities can take to improve compliance such as through effective communication and engagement with digital platforms, the use of enforcement tools such as joint and several liability, and also importantly through an increased emphasis on administrative co-operation and exchange of information within jurisdictions and at international level.

The additional roles for platforms and enforcement measures included in Chapters 3 and 4 may be seen as attractive for jurisdictions for protecting revenues in the short term as they may be viewed as easier to implement than the full VAT/GST liability regime outlined in Chapter 2. The experience from several jurisdictions is that the full VAT/GST liability regime requires changes to the tax administration and customs procedures as well as to the business systems which can require time for implementation. It is further relevant that jurisdictions may see the roles and measures in Chapters 3 and 4 as policy stepping stones or as complementary to the full VAT/GST liability regime.

Therefore, the report presents a suite of options which jurisdictions can consider for implementation taking into account their own circumstances.

Notes

[1] The growth of the digital economy and its implications for policymakers, including around taxation issues, are the subjects of a major, ongoing interdisciplinary project at the OECD. For more information on the project "Going Digital", please see http://www.oecd.org/going-digital/.

[2] These figures are based on a range of estimates used by various sources, which have reported similar or sometimes higher projections. According to eMarketer, global retail e-commerce sales reached USD 2.8 trillion in 2018, which is estimated to grow to USD 4.8 trillion by 2021. Asia-Pacific Economic Cooperation indicated that global B2C e-commerce sales reached USD 2.1 trillion in 2017 while the figure totalled USD 3.8 trillion in 2016 according to the World Trade Organization. United Nations Conference on Trade and Development reported that global B2C e-commerce reached USD 3.9 trillion in 2017. Accenture and AliResearch forecasted that cross-border e-commerce will reach USD 1 trillion in 2020.

[3] The International VAT/GST Guidelines recommend the application of the reverse-charge mechanisms (sometimes referred to as "tax shift" or "self-assessment") where that is consistent with the overall design of the national VAT/GST system. Under this procedure, the customer is typically required to declare the VAT/GST due on the supply received from the foreign supplier as output tax on the relevant VAT/GST return. The rate to be applied is the rate applicable in the customer's jurisdiction. The customer is then entitled to input tax deduction to the extent allowed under the rules of its jurisdiction. If the customer is entitled to full input tax deduction on the relevant supply, it may be that local VAT/GST legislation does not require declaration of the output tax under the reverse-charge mechanism. In many VAT/GST systems that operate an invoice-credit method, the VAT/GST on cross-border B2B supplies of services and intangibles is collected by the reverse-charge mechanism. Nevertheless, the reverse-charge mechanism is not applied in all jurisdictions and, where it is implemented, the rules may differ from country to country (please see further Guidelines 3.63-3.64).

[4] This refers to imports with a value below the *de minimis* threshold for customs duties.

[5] Most countries operate a *de minimis* threshold for customs duties, which regulated by the WCO's Revised Kyoto Convention (RKC). While this rule is obligatory for Contracting Parties to the RKC, no minimum standard is prescribed. The customs duties relief is generally higher than the VAT/GST exemption threshold.

[6] The Australian reforms have commenced since 1 July 2018. EU legislation foresees a 2021 implementation date.

[7] The OECD and the IMF are progressing this work as a G20 priority. The first report was published in 2017 (www.oecd.org/tax/tax-policy/tax-certainty-report-oecd-imf-report-g20-finance-ministers-march-2017.pdf). An updated report was published in July 2018 (www.oecd.org/ctp/tax-policy/tax-certainty-update-oecd-imf-report-g20-finance-ministers-july-2018.pdf).

[8] The Ottawa Taxation Framework Conditions were welcomed by Ministers and the Ministerial Conference on Electronic Commerce held in Ottawa on 7-9 October 1998.

[9] For more information on the instruments and tools developed by the WCO in this area, please see www.wcoomd.org/en/topics/facilitation/instrument-and-tools.aspx

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World Trade Organization (2018), *WORLD TRADE STATISTICAL REVIEW 2018*, http://www.wto.org/statistics (accessed on 3 August 2018). [4]

Chapter 2. The digital platform as the person liable for the VAT/GST on online sales (platform VAT/GST liability regimes)

This chapter considers regimes that impose a liability on digital platforms for the VAT/GST due on the online sales in which these digital platforms play a role. Section 2.2 of the chapter considers the full VAT/GST liability regime, which makes the digital platform fully and solely liable for assessing, collecting and remitting the VAT/GST due on online sales it facilitates. It includes an analysis of the key aspects and design considerations associated with the scope and operation of the full VAT/GST liability regime both from the perspective of tax administrations and digital platforms and focuses further on a range of considerations associated in particular with the operation of such a regime for online sales connected with the importation of low-value goods (i.e. goods below the customs exemption threshold). This regime has been implemented or is under consideration by a growing number of jurisdictions. Its overarching key policy objective is to reduce the costs and risks for tax authorities of administering, policing and collecting VAT/GST on the ever increasing volumes of online sales, by drawing on the relatively limited number of platforms that facilitate large shares of online sales and that are capable of complying with the VAT/GST obligations in respect of these sales. Section 2.3 of this chapter recognises that tax authorities may wish to consider introducing variations of a liability regime that do not impose a full VAT/GST liability on the digital platforms for the tax due on online sales they facilitate. It briefly considers some alternative approaches in this context.

2.1. Introduction

Facing the increasingly important challenge of securing the effective collection of VAT/GST on online trade, an increasing number of jurisdictions have implemented or are considering implementing a regime that imposes a liability on digital platforms for the collection and payment of VAT/GST on the online sales in which these platforms play a role. In this context, there is a broad spectrum of liability obligations that may be assumed by digital platforms either on a mandatory or on a voluntary basis.

These liability obligations may include, without being limited to, treating the digital platform as fully and solely liable for the VAT/GST due on the online sales it facilitates; or as liable for facilitating the VAT/GST collection and payment in the name and on behalf of the underlying supplier that uses this platform to carry out its online sales; or as jointly and severally liable for the VAT/GST due on online sales together with the underlying supplier.

It is reasonable to expect that the design and implementation of a VAT/GST liability regime for digital platforms will reflect the differences in policy and legislative environments, in administrative practice and culture and tax authorities' distinct challenges and priorities. In addition, differences in platforms' functions and configurations are likely to affect platforms' capacity to assume and comply with a specific liability obligation. Moreover, policies may be subject to changes to reflect ongoing developments in markets involving digital platforms.

This chapter therefore is not intended to present or recommend a one-size-fits-all approach for designing and implementing a liability regime for digital platforms. Its core objective is to assist jurisdictions that consider introducing a liability regime for digital platforms to design and operate such a regime. There is much to be gained from analysing the key features of such a regime and identifying possible options and best practices in designing and operating it. A coherent implementation of liability regimes for digital platforms across jurisdictions is likely to enhance the levels of compliance while lowering compliances costs and administrative burden and addressing issues of double or non-taxation. Consistency is also likely to support tax authorities' enforcement capacity by facilitating international administrative co-operation.

This chapter takes into account the experiences of jurisdictions that have implemented a liability regime or are in the process of doing so, and the feedback from the business community, including from digital platforms.

Section 2.2 of this chapter considers the full VAT/GST liability regime, which makes the digital platform fully and solely liable for assessing, collecting and remitting the VAT/GST due on the online sales it facilitates. This section covers the following aspects:

- The basic operation of this regime;
- The indicators for identifying whether a digital platform could be enlisted under the full VAT/GST liability regime and other aspects of designing the scope of such regime;
- Information needs that are considered relevant when operating under the full VAT/GST liability regime;
- The VAT/GST collection and payment process under this regime;
- Overarching policy design considerations with respect to the regime;

- A range of additional policy design considerations focused on the operation of the regime for online sales connected with an importation of low-value goods.

Section 2.3 of this chapter recognises that tax authorities may wish to consider introducing variations of a liability regime that do not impose a full liability on the digital platforms for the VAT/GST due on online sales they facilitate. It briefly considers some alternative approaches in this context.

2.2. Full VAT/GST liability regime

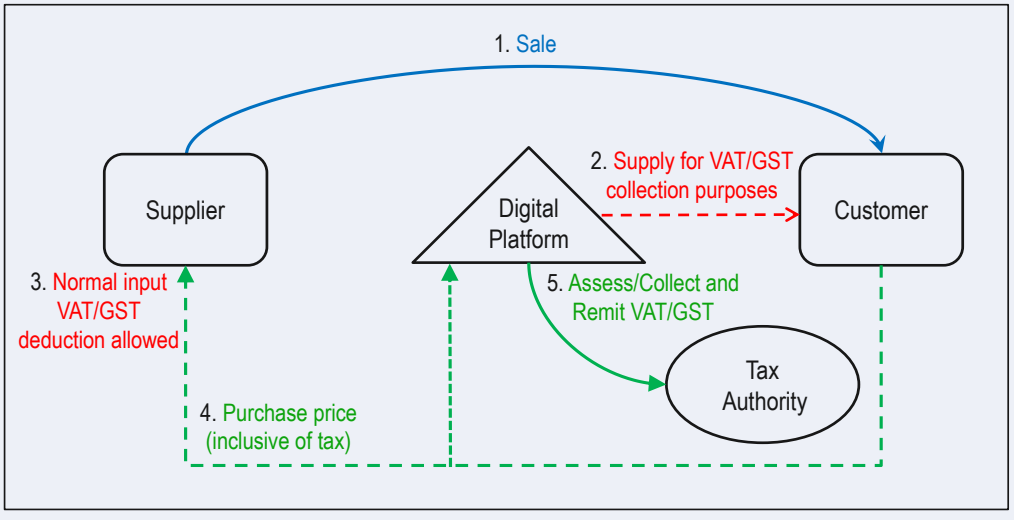
2.2.1. Overview

Under the full VAT/GST liability regime, the digital platform is designated by law as the supplier for VAT/GST liability purposes. Under this regime, the digital platform is solely and fully liable for assessing, collecting and remitting the VAT/GST on the online sales that go through the platform, to the tax authorities in the jurisdiction of taxation, in line with the VAT/GST legislation of that jurisdiction. This liability regime is limited to VAT/GST obligations only. It does not deal with any other liability aspects for digital platforms beyond VAT/GST, such as for instance product liability.

Box 2.1. A full VAT/GST liability regime

Figure 2.1 and the following paragraphs (1 through 5) provide a description of the basic operation of a full VAT/GST liability regime.

Figure 2.1. Basic operation of a full VAT/GST liability regime



Note: the sequence of numbers assigned in the diagram is for identification only. It is not intended to indicate the timing of a specific step in chronological order.
Source: OECD analysis.

The above graph has been numbered to indicate the following:

1. Assume that a supplier (hereafter the underlying supplier) makes an online sale through a digital platform to a customer in the jurisdiction of taxation.

2. Under the full VAT/GST liability regime for digital platforms, the digital platform through which the sale was carried out is fully and solely liable for the VAT/GST with respect to the sale (hereafter the underlying sale), in accordance with the full liability regime in the jurisdiction of taxation. This regime defines the conditions for the application of this regime, including the type of involvement of the digital platform in the underlying sale that triggers the application of this regime. The basic mechanics for the collection and payment of the VAT/GST under this regime are as follows:

- the digital platform assumes full VAT/GST liability as if it has effected the underlying sale to the customer itself. Tax authorities may wish, however, to consider limiting the VAT/GST liability risk under this regime for digital platforms that they consider to have acted in good faith and to have made reasonable efforts to ensure compliance;
- the underlying supplier is in principle relieved from any VAT/GST liability on the supply to the customer, to avoid double taxation. Tax authorities may wish, however, to safeguard the possibility to claim the VAT/GST on the underlying sale from the underlying supplier, particularly in cases of fraudulent behaviour of the underlying supplier and as a means to limit compliance risks for platforms that have acted in good faith and have made reasonable efforts to ensure compliance;
- in order to avoid a break in the staged collection chain, the full VAT/GST liability regime may treat the digital platform as having received the supply from the underlying supplier and having supplied it onwards to the customer in the jurisdiction of taxation. Each of these supplies is then subject to the appropriate VAT/GST rules, including invoicing and reporting requirements. Such an approach allows the underlying supplier and the digital platform to process the sale for VAT/GST purposes, incl. the deduction of the associated input VAT/GST by the underlying supplier and the entry of an input transaction that corresponds to the output transaction into the digital platform's VAT/GST accounts;
- it is recognised that an approach whereby the digital platform is deemed to have received the supply from the underlying supplier, and to have supplied it onwards to the customer, may in certain cases – this could include cases whereby the deemed supply by the underlying supplier is treated as wholly domestic for VAT/GST purposes, with an obligation for the underlying supplier to collect and remit the VAT/GST in the jurisdiction of taxation and a right for the digital platform to deduct/recover this same amount of VAT/GST in that same jurisdiction - entail cash flow costs for digital platforms (from having to pay VAT/GST to the underlying supplier) and revenue risks for tax authorities (i.e. the risk of generating recoverable VAT/GST for digital platforms that needs to be collected from underlying suppliers). Tax authorities may therefore wish to consider treating the supply by the underlying supplier as zero-rated; or to implement a reverse-charge regime where this is compatible with the domestic VAT/GST rules. Alternatively, tax authorities could also consider disregarding the supply by the underlying supplier for VAT/GST purposes and only focus on the deemed supply by the digital platform to the customer. It is recognised, however, that deviations from normal VAT/GST rules may themselves also create complexity for compliance and administration. Disregarding the supply by the underlying supplier for VAT/GST purposes could for instance create complexity in respect of the supplier's right to deduct the associated VAT/GST. The operation of rules that deviate from normal

VAT/GST operation could also create complexity in a cross-border context, e.g. where one jurisdiction disregards the supply by the underlying supplier for VAT/GST purposes while the other requires the application of the normal rules in accordance with the staged collection process;

- each of these supplies is supported by the appropriate documentation covering full value chain for VAT/GST auditing purposes in accordance with the full liability regime in the jurisdiction of taxation. Jurisdictions are encouraged to put in place, as appropriate, simplified documentation and reporting requirements. The principles and guidance as set out in the report on the *Mechanisms for the Effective Collection of VAT/GST* (the "Collection Mechanisms Report") (OECD, 2017[1]) also apply in principle to the fulfilment of a digital platform's VAT/GST liability under the full liability regime (see further under Section 2.2.5).

3. The full VAT/GST liability regime should not have any impact on the right of the underlying supplier to deduct the associated input VAT/GST, i.e. the underlying supplier should retain the right to input VAT/GST deduction according to normal rules. It is up to the jurisdiction concerned to design the appropriate mechanism to that end (see also point 2 above; see further Chapter 2 of the Guidelines – Neutrality of value added taxes in the context of cross-border trade (OECD, 2017[2])).

4. The customer can make the payment for its purchase either to the digital platform or to the underlying supplier. If the payment is made to the digital platform then the digital platform will remit the VAT/GST component to the tax authority in the jurisdiction of taxation. If the payment is made to the underlying supplier, the digital platform will need to recover the VAT/GST component from the underlying supplier in order to remit it to the tax authorities in the jurisdiction of taxation.

5. The digital platform is fully and solely liable for assessing, collecting and remitting the VAT/GST due on the underlying sale and for any other related VAT/GST compliance obligations as required in the jurisdiction of taxation.

Section 2.2.8 provides an overall assessment of the regime both from the perspective of tax authorities and from the digital platforms. It is recognised that the primary policy motivation for tax authorities to consider introducing a full VAT/GST liability regime for digital platforms is to reduce the costs and risks of administering, policing and collecting VAT/GST on the ever increasing volumes of online sales, by drawing on the relatively limited number of platforms at this time that facilitate large shares of online sales and that are capable of complying with the VAT/GST obligations in respect of these sales. These administrative costs and risks are likely to be significantly lower than in a scenario where taxes would need to be collected on individual sales from the large number (potentially millions) of underlying suppliers. At the same time, such a regime could potentially reduce the compliance costs for the underlying suppliers who are likely to face multi-jurisdictional obligations. This chapter discusses a number of approaches that could facilitate and encourage compliance by digital platforms and further mitigate their associated compliance burden and risks.

Several jurisdictions have already implemented or are considering implementing a full VAT/GST liability regime for the taxation of cross-border services and intangibles. A growing number of jurisdictions are considering the implementation of such a regime for the collection of VAT/GST on imports of low-value goods.

It is acknowledged that tax authorities need to take into account a range of additional aspects when designing a full liability regime for the collection of VAT/GST on supplies of goods compared to a regime that is focused on supplies of services/intangibles. Key differences are likely to include the relationship between the underlying suppliers and the digital platform(s) in the supply chain and in order fulfilment; the determination of the place of taxation; the possible application of multiple VAT/GST rates, particularly in respect of supplies of goods; the process for remitting the tax and the interaction with customs authorities and border procedures when goods are imported. The analysis below considers those key differences in further detail (see Section 2.2.7).

2.2.2. What are "digital platforms" for the application of a full VAT/GST liability regime? – Which indicators could be relevant for the application of the full VAT/GST liability regime?

Indicators based on functions performed by the digital platforms

As pointed out earlier, this report does not try to define the term "digital platform", as it is a concept that is likely to evolve over time. This report effectively uses the term "digital platform" as a generic term to refer to the actors in online sales that carry out the functions that can be considered essential for their enlistment by tax authorities in the collection of VAT/GST on online sales. These can generally be described as the platforms that enable groups of customers (typically buyers and sellers) to interact directly and to enter into transactions, through the use of information technology. These actors have been at the heart of the explosive growth of online trade over recent years. Jurisdictions that have enlisted such actors in the collection of VAT/GST on online sales, or that are considering doing so have used several terms to denominate these actors, including: "platforms", "(online) marketplaces", or "intermediaries".

In keeping with this approach, this section focuses on the possible criteria that a tax authority could use when determining the digital platforms it wishes to enlist in the collection of VAT/GST under a full VAT/GST liability regime. The starting point for this is to consider what is required for a digital platform to be able to comply with the obligations of a full VAT/GST liability regime. Whether a digital platform is indeed in a position to comply with such a regime may often depend on its business and delivery model, and a specific analysis and consultation with individual platforms may be required in certain cases. This section, however, explores the functions performed by digital platforms and other indicia that can generally be assumed to allow a digital platform to operate under a full VAT/GST liability regime.

As regards a digital platform's capability to comply with the VAT/GST obligations under a full VAT/GST liability regime, it is reasonable to assume that a platform will be in a position to comply with these obligations if:

- the platform holds or has access to sufficient and accurate information as required to make the appropriate VAT/GST determination; and
- the platform has the means (is able) to collect the VAT/GST on the supply.

Bearing in mind these two key requirements for digital platforms to be reasonably able to comply with a full VAT/GST liability regime, tax authorities may develop more specific guidance on the digital platforms that they consider to be in scope of such a regime. This could be achieved by reference to the functions performed by digital platforms that are

indicative of these platforms' capability to comply with VAT/GST obligations under a full VAT/GST liability regime.

The Annex A provides a non-exhaustive list of examples of functions that have been considered by tax authorities as relevant for determining whether or not a digital platform is capable of complying with the full VAT/GST liability regime.

It is for tax authorities to decide on the level of detail they want to go into when providing indicators of digital platforms' inclusion in the scope of such a regime. Possible approaches include the use of list(s) of functions that are considered indicative of a digital platform's capability to take on the full VAT/GST liability obligation (i.e. a positive list); and/or of digital platform's inability to take on the full VAT/GST liability obligation (i.e. a negative list). The use of detailed indicators for platforms' inclusion in, or exclusion from, a full VAT/GST liability regime has the advantage of enhancing certainty for digital platforms and tax authorities. It may be challenging, however, for tax authorities to keep such detailed indicators up-to-date in light of the rapid evolution of e-commerce business models and of information technology and the capability it provides to digital platforms to comply with VAT/GST obligations under a full VAT/GST liability regime. This could result in an uneven playing field, where some digital platforms remain out of scope of a full VAT/GST liability regime on the basis of the indicators defined by a tax authority, although they are in fact in a similar position to platforms that are covered by the regime and have the capacity to comply with it, e.g. through the implementation of new technologies that are not yet reflected in these indicators.[1]

Against this background, tax authorities may wish to build in some flexibility when designing and implementing the indicators for the inclusion of digital platforms under a full VAT/GST liability regime. Apart from neutrality considerations, which require that digital platforms that are in a similar situation are treated equally, a flexible approach also allows tax authorities to give due consideration to the proportionality aspect. For example, a platform may meet the criteria for the imposition of a full VAT/GST liability regime on the basis of the functions it performs, whereas the application of this regime would in fact result in disproportionate compliance burden given the platform's technological or financial capabilities. This may be the case for small and medium digital platforms and for start-ups. Tax authorities may therefore consider a flexible approach that provides the possibility for a digital platform to prove on the basis of compelling evidence that a full VAT/GST liability obligation would be disproportionate. This would still leave the possibility for tax authorities to enlist such platforms for another role in the VAT/GST collection process, e.g. an information sharing obligation. To avoid potential risks of uneven treatment of platforms that are in similar situation, it is recommended that such a flexible approach be based on clear and robust criteria and any exclusion from the full VAT/GST liability regime be reviewed regularly so as to reflect any changes in the technological or financial capacities of the digital platform concerned.

To further increase certainty, tax authorities may wish to make a digital platform's exclusion from a full VAT/GST liability obligation subject to additional conditions. These conditions could include that the digital platform that is granted the exclusion from the regime enters into an agreement with its underlying suppliers that explicitly confirms the underlying suppliers' obligation to collect and remit the VAT/GST on their supplies made via the digital platform and to fulfil all other associated VAT/GST obligations.

Overarching principles for designing indicators for the full VAT/GST liability regime

When setting the indicators for digital platforms' eligibility for a full VAT/GST liability regime, tax authorities may also wish to consider the following broader policy aspects:

- It is advisable that any indicators for the eligibility of digital platforms for a full VAT/GST liability regime are based on functions rather than on types of platforms or business models. There are innumerable types of digital platforms and their business models may often be unique and in constant evolution. Despite this variation and flexibility, however, digital platforms generally build their activities on a number of key functions. Building indicators based on functions performed by digital platforms, rather than on their business models, is likely to be more future-proof and to encourage greater consistency in the tax treatment of platforms performing similar functions irrespective of the business and delivery models used. These indicators will need to take into account the differences between the supply of goods and the supply of services/intangibles;
- To address cases where more than one digital platform in a supply chain is eligible for a full VAT/GST liability regime, tax authorities could consider applying hierarchy rules;
- Any approach for defining the digital platforms' eligibility for a full VAT/GST liability regime will need to be reviewed regularly in light of technological and commercial developments to ensure their efficiency and effectiveness;
- Consulting with the business community is essential for the design and the effective and more efficient operation of a full VAT/GST liability regime. Such consultations are necessary for tax authorities to acquire a thorough understanding of digital platforms' capability to take on the full VAT/GST liability obligation, in light of the functions performed by these platforms without creating compliance and administrative burdens that are disproportionate to the revenues involved and to the overall policy objective of introducing such a full VAT/GST liability regime;
- It is important to provide clear and easily accessible information, preferably on-line, on the indicators for digital platforms to fall under the full VAT/GST liability regime.

2.2.3. Other aspects of designing the scope of a full VAT/GST liability regime

This section examines a range of key considerations for tax authorities when scoping the full VAT/GST liability regime for digital platforms in the VAT/GST collection process.

Foreign digital platforms (i.e. operated by non-residents) vs. domestic platforms

In principle, it should not matter whether the digital platform is operated by a resident or by a non-resident of the taxing jurisdiction. Consideration might be given however to the fact that enforcement might be more challenging against foreign digital platforms, and tax authorities might consider introducing additional (reasonable and proportionate) safeguards to reduce risks of non-compliance where appropriate.[2] Additional consideration might also be given to how domestic rules currently applicable to domestic digital platforms may interact with conditions imposed under the full VAT/GST liability regime.

Foreign suppliers and/or domestic suppliers?

In principle, the introduction of a full VAT/GST liability regime for digital platforms could be considered primarily for the collection of VAT/GST on supplies by an underlying supplier that is not located in the taxing jurisdiction, recognising that it may be more challenging for a tax authority to enforce compliance on (potentially millions) of foreign underlying suppliers.

However, limiting the scope of the full VAT/GST liability regime to transactions carried out by underlying suppliers that are not located in the taxing jurisdiction is likely to create compliance complexities for digital platforms (incl. the need to operate compliance processes that distinguish between domestic and foreign suppliers) and audit challenges for tax administrations (incl. checking the location of underlying suppliers and, for domestic suppliers, whether these have remitted the local VAT/GST on the sales that they carried out through the digital platform). These considerations might support the application of the full VAT/GST liability regime to all the relevant transactions irrespective of the location of the underlying supplier.[3] Alternatively, tax authorities that limit the scope of a full VAT/GST liability regime to supplies by foreign underlying suppliers, may consider allowing digital platforms to agree with their domestic underlying suppliers that the platform will be fully liable for the VAT/GST obligations in respect of the supplies made by these underlying suppliers.

Services/intangibles and/or goods?

Services and intangibles: specific services (e.g. digital/electronic services) vs. all services

A number of jurisdictions have chosen to limit the scope of the full VAT/GST liability regime to digital platforms that intervene in what can broadly be described as remote digital/electronic supplies by foreign suppliers.[4]

This approach to focus on specific types of services may have been motivated by the objective of ensuring the effective collection of VAT/GST on supplies in sectors where tax revenue was considered to be most at risk while aiming to avoid changes for suppliers and tax administrations in areas where there is no compelling need to deviate from existing collection regimes.

The reliance on digital platforms for VAT/GST collection may also be motivated by the fact that digital supply chains are often long and complex, and that suppliers in this chain may not be aware of the roles of the various parties in the chain. An approach that relies on the digital platform to collect and remit the tax that is due on the ultimate supply to the end customer may be expected to provide an efficient solution for tax administrations – and the experiences of jurisdictions who have already adopted this model appear to support and confirm that expectation.

Broadening the scope of this regime to cover other types of services (such as transportation or accommodation services as well as other "on-the-spot" supplies i.e. non- remotely delivered supplies) appears theoretically possible. It requires, however, a careful balancing of a number of considerations including the potential disadvantage of applying this regime for supplies where there may be no need to deviate from the full VAT/GST liability at the level of the underlying supplier. Moreover, the treatment of those supplies may be particularly relevant in the context of the so-called "sharing" and "gig" economy area (as also mentioned in Chapter 1, Section 1.3.3.) where both tax authorities and the business

community have identified a clear need for further internationally agreed standards and guidance and WP9 is considering developing further work in response to this request as a matter of priority. This will be the subject of a separate report.

Imported goods: low-value goods vs. all goods

The following paragraphs consider the possible introduction of a full VAT/GST liability regime for the collection of VAT/GST on the supplies of goods from online sales that are directly connected with an importation of these goods. It focuses primarily on the online sales of imported low-value goods (as defined by the taxing jurisdiction), which has increasingly become a pressure area for tax and customs authorities worldwide. The 2015 BEPS Action 1 Report analysed this issue and the possible policy responses in some detail (OECD, 2015[1]).This report found that one of the main VAT/GST challenges of the digital economy related to the importation of low-value parcels from online sales which are treated as VAT/GST exempt in many jurisdictions. Many jurisdictions apply an exemption from VAT/GST for imports of low- value goods as the administrative costs associated with collecting the VAT/GST on the goods are likely to outweigh the VAT/GST that would be collected. The values at which these exemption thresholds are set vary considerably but regardless of the threshold value, jurisdictions around the world have seen a significant growth in the volume of imports of low-value goods on which no VAT/GST is collected. The 2015 BEPS Action 1 Report acknowledged that this had "resulted in decreased VAT/GST revenues and the growing risk of unfair competitive pressures on domestic retailers who are required to charge VAT/GST on their sales to domestic consumers. It also creates an incentive for domestic suppliers to relocate to an offshore jurisdiction in order to sell their low-value goods free of VAT/GST" (OECD, 2015[1]). These exemption thresholds were generally established before the advent and growth of the digital economy, and the 2015 BEPS Action 1 Report recognised that a review may therefore be required to ensure that they are still appropriate (OECD, 2015[1]). The 2015 BEPS Action 1 Report also considered that improving the efficiency of processing imports of low-value goods and of collecting the VAT/GST on such imports, could allow governments to lower or remove these VAT/GST exemption thresholds and address the issues associated with their operation (OECD, 2015[1]).

Against this background, the 2015 BEPS Action 1 Report presented and analysed a range of possible alternative approaches for a more efficient collection of VAT/GST on the importation of low-value goods (OECD, 2015[1]). An approach whereby the VAT/GST on imports of low-value goods from online sales would be collected and remitted by digital platforms was identified as presenting great potential. The assessment of this collection model in the 2015 BEPS Action 1 Report is reproduced in Box 2.2.

Box 2.2. 2015 BEPS Action 1 Report on the possible role of digital platforms in the collection of VAT/GST on low-value imports

Transparent e-commerce platforms: transparent e-commerce platforms are platforms that provide a trading framework for vendors but that are not parties to the commercial transaction between the vendor and the purchaser. These platforms generally have access to the key information that is needed for assessing the VAT/GST due in the country of importation of low-value goods. Some of the leading marketplaces already provide tax compliance services to their vendors. A model where VAT/GST on imports of low-value goods would be collected and remitted by such transparent e-commerce platforms on behalf of non-resident vendors could provide an efficient and effective solution, provided it is combined with sufficiently simple compliance regimes and with fast-track processing. It is recognised, however, that these e-commerce platforms may often still need to implement systems changes to ensure a sufficiently efficient and effective VAT/GST collection and remittance process. When e-commerce platforms do not have a presence in the country of importation, enhanced international and inter-agency (tax and customs administrations) co-operation would be required to help ensure compliance by these platforms.

Source: Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report, p. 125 (OECD, 2015[1]).

Data suggest that such imports of low-value goods represent the vast majority of packages that reach the borders from online trade, and create increasingly significant logistical challenges for customs authorities to process. Parcel volume increased from 44 billion in 2014 to 65 billion in 2016 across 13 major markets[5] and continues to increase at a growing rate that is calculated to be 17-28% each year between 2017 and 2021 (Pitney Bowes, 2017[2]). This increase has been facilitated by technological innovation, which have dramatically increased digital platforms' and underlying suppliers' capacity to deliver goods to customers worldwide against increasingly lower costs and within increasingly shorter delivery times (Pitney Bowes, 2017[2]).

Against this background, a full VAT/GST liability regime for digital platforms is being considered by a growing number of jurisdictions as a potential approach to increase the efficiency and the effectiveness of VAT/GST collection on imported low-value goods. These measures typically focus on the collection of VAT/GST on imports of low-value goods, i.e. imports with a value below the *de minimis* threshold for customs duties.[6] Against this backdrop, the focus of full VAT/GST liability regimes on imports below the *de minimis* customs threshold is essentially motivated by the consideration that a requirement for digital platforms to collect and remit the VAT/GST on imports of low-value goods will limit or remove the need for customs authorities to intervene in revenue collection processes for imports that are not subject to customs duties. This is expected to lower the cost of collection of VAT/GST on imports of low-value goods significantly. It also allows customs authorities to fully allocate their resources and capacity on the other key roles they perform, notably to ensure the safety and security of the value chain (e.g. detection and prevention of the unlawful movement of illicit and counterfeited goods). VAT/GST on imports of goods above the customs threshold can then (continue to) be collected together with customs duties and taxes under normal customs procedures with imports of goods that are directly connected to online sales.

Sales of goods that were previously imported into the taxing jurisdiction and that are already in that jurisdiction at the time of the supply (for example, goods that were imported and stored in warehousing facilities or fulfilment houses before the time of supply) are not covered here. Such supplies will generally constitute a domestic supply. The role of digital platforms in collecting the VAT/GST on such domestic supplies will depend on a broader set of considerations concerning the scope of the full VAT/GST liability regime and its possible interaction with other measures (e.g. measures targeting the fulfilment houses - see Chapter 4).

B2B and B2C supplies

In cases where the domestic VAT/GST rules do not distinguish between B2B and B2C supplies, the full VAT/GST liability regime could apply for the collection of VAT/GST on both categories of supplies performed via a digital platform.

Where a jurisdiction distinguishes between B2B and B2C supplies for the collection of VAT/GST on inbound supplies, the implementation of a full VAT/GST liability regime would generally not be intended to affect/replace the operation of existing collection mechanisms for inbound B2B supplies. The latter are typically based on self- assessment (i.e. reverse-charge mechanisms or absence of the obligation to remit the tax in cases where the business customer has a full right to deduct the input tax) or involve the right to defer the payment of tax to a later stage (e.g. in the context of the importation of goods).

Where different VAT/GST rules are applied for B2B and B2C supplies, such as different rules for determining the place of taxation and for collecting the tax, knowing the status of the customer (business or non-business) is indispensable for determining the correct VAT/GST treatment of a supply. This needs to be recognised when designing and implementing a full VAT/GST liability regime for digital platforms in the collection of VAT/GST on online sales: digital platforms that have a full VAT/GST liability obligation for supplies carried out through the platform will need clear guidance from tax authorities on how to make the distinction between the B2B and B2C supplies where required, thereby recognising that these platforms should be allowed to rely on the basis of information to which they have access or to which they can be reasonably expected to have access when making such a distinction.

Against this background, jurisdictions are encouraged to rely on the guidance concerning the indicia for determining customer status included in the Collection Mechanisms Report (OECD, 2017[3]).

Where a digital platform, acting in good faith and having made reasonable efforts to obtain the appropriate evidence, is unable to establish the status of its customer, a presumption could be applied that the customer is a non-business customer, in which case the rules for B2C supplies would apply. Such an approach would be in accordance with the Guidelines (OECD, 2017[4]). What may be considered as reasonable efforts will generally depend on the circumstances. For example, if the customer provided a VAT/GST registration or identification number that has proven to be invalid e.g. when checked on-line via the relevant website of the tax authorities, the digital platform may presume that the customer is a non-business and apply the rules for B2C supplies.

2.2.4. Information needs that are considered relevant when operating under the full VAT/GST liability regime

To make the correct tax determination under the full VAT/GST liability regime, digital platforms should in principle be able to rely on information that is known or can reasonably be obtained at the time when the tax treatment of the supply must be determined (see under Section 2.2.5, the analysis on the taxing point).

It may be considered reasonable that digital platforms operate under the assumption that the underlying suppliers that are selling through their platform are businesses unless they have information to the contrary. Other key information elements that can be considered as relevant for digital platforms to make the correct VAT/GST determinations under the full liability regime may include:

- Customer status (if taxing jurisdiction already differentiates between B2B and B2C);
- The nature of the supply;
- Elements to determine the place of taxation and/or the applicable VAT/GST collection regime;
- VAT/GST exemption threshold for VAT/GST registration and/or collection purposes (if in place);
- The value of the supply and the applicable VAT/GST rate;
- The taxing point (i.e. the point at which VAT/GST liability arises).

These information elements may be either known to digital platforms or could be obtained.

Platforms could be allowed to rely on a "business systems approach", i.e. on business systems and processes that provide a reasonable basis for the platform to calculate its VAT/GST liability. Moving to a business systems-based approach will normally require tax authorities to acquire a good understanding of the relevant digital platforms' business model and their business and tax compliance systems, so that tax authorities can properly validate the reliability of platforms' systems and assess the platforms' compliance through systems-based audits.

It is crucial that the tax authorities ensure that platforms have access to updated information concerning their obligations and compliance processes, to give them the capacity to comply in a timely fashion with their obligations in the taxing jurisdiction. Jurisdictions are therefore encouraged to make available on-line all information necessary to register and comply as well as the relevant and up-to-date information that foreign digital platforms are likely to need in order to make their tax determinations (e.g. systems where the digital platforms may validate in a timely manner the validity of a VAT/GST registration number that was provided by the customer and identify applicable VAT/GST rates). Jurisdictions that are in a position to make this information available in machine readable format, are encouraged to do so. This is likely to substantially facilitate compliance by reducing the need for human intervention and manual input. This is expected to be especially helpful in facilitating compliance for digital platforms that face obligations in multiple jurisdictions.

It is reasonable to expect that digital platforms have implemented appropriate measures to ensure the accuracy and reliability of the information on which their tax determination is based, including where that information is collected from underlying suppliers or third parties. Jurisdictions may consider implementing a rule that reduces or eliminates digital

platforms' liability for mistakes resulting from reliance on inaccurate information, if they can supply evidence of their good faith and of their reasonable efforts to secure the accuracy and reliability of the information on the basis of which they have acted. What is considered as "reasonable efforts" is for tax authorities to decide and is likely to depend on circumstances.

2.2.5. VAT/GST collection and payment process under the full VAT/GST liability regime

Under the full VAT/GST liability regime, the digital platform is in principle required to assess, collect and remit the VAT/GST to the tax authorities and comply with the VAT/GST reporting and other obligations as required under the VAT/GST rules in the taxing jurisdiction.

A crucial element in the design of a full VAT/GST liability regime for digital platforms is the definition of the taxing point, i.e. the time at which the digital platform is required to account for the VAT/GST on the supplies carried out through its platforms for which it has VAT/GST liability. Such a specific definition of the taxing point is required, recognising that the application of the standard rules for determining the taxing point are likely to create significant complexity for digital platforms under the full VAT/GST liability regime. Indeed, this regime requires the digital platform to account for the VAT/GST on supplies going through its platform without being the actual underlying supplier – it may therefore not always have all the information that is required to determine the taxing point according to standard rules (e.g. time of actual supply, performance or delivery, time of receipt of payment(s) by the supplier…) and, where it has this information, it is likely to create undue compliance burden for digital platforms to make that individual determination for each of the potentially millions of supplies for which it has VAT/GST liability. A practical solution for this problem is to define the taxing point at the time at which the confirmation of the payment is received by or on behalf of the underlying supplier. This is the time at which the payment has been accepted or authorised by or on behalf of the underlying supplier. This does not necessarily mean that the actual money transfer has been made. The diagram in Annex B provides a simplified illustration of a basic payment processing cycle.

In the area of imports of low-value goods the definition of the taxing point by reference to the time of confirmation of the payment, which is generally at a time prior to shipping or arrival of goods at the border, creates the opportunity to move the collection of the VAT/GST on the supplies of imported goods from online sales away from the border (which is currently the general practice), and thus to limit or remove the need for customs authorities to intervene in the VAT/GST collection on these imports of low-value goods (see further analysis in Section 2.2.7 below).

Moving the taxing point to the time of confirmation of payment both for the supply of services and for the supply of goods may simplify compliance under the full VAT/GST liability regime, particularly for digital platforms that intervene in the online supply of both goods and services.

A range of possible scenarios is conceivable for the practical process of collecting and remitting the VAT/GST by a digital platform under a full VAT/GST liability regime. The main distinction is between the scenario where the customer pays the VAT/GST- inclusive price to the platform and the scenario where the customer pays directly to the underlying supplier.

- Where the customer pays the purchase price inclusive of VAT/GST through the digital platform, the digital platform will in principle remit the VAT/GST component to the tax authorities in the taxing jurisdiction and the balance (sales price minus any fees and commissions) to the underlying supplier
- If the customer pays the purchase price inclusive of VAT/GST directly to the underlying supplier, the digital platform will need to recuperate the VAT/GST component from the supplier (plus any fees and commissions). Tax authorities are encouraged to consider implementing an appropriate bad debt relief arrangement to limit the potential risk of default by underlying suppliers in remitting the VAT/GST to the digital platform provided that the digital platform has made reasonable efforts to ensure compliance.

Care will need to be taken to avoid a cascading effect in the latter case, i.e. to avoid VAT/GST being applied on the recovery of the VAT/GST amount by the digital platform from the underlying suppliers, while applying the normal VAT/GST rules to the commission and/or fees collected by the digital platform for its services from the underlying supplier.

- The highest levels of compliance by digital platforms are likely to be achieved if compliance obligations in the jurisdiction of taxation are limited to what is strictly necessary and supported by appropriate simplification. The Collection Mechanisms Report describes the main available mechanisms for collecting the VAT/GST from foreign suppliers, focusing on the simplified registration and compliance mechanism, and provides guidance for the effective operation of this mechanism in practice (OECD, 2017[3]). The principles and guidance set out in this report also apply, in principle, to the fulfilment of a digital platform's VAT/GST liabilities under the full VAT/GST liability regime. When a digital platform facilitates both goods and services into a particular jurisdiction, the simplified registration and compliance system could be used for both kinds of supplies. This would reduce the administrative and compliance costs of the registration mechanism. This would reduce the administrative and compliance costs of the registration mechanism.

Annex C to this report recalls the basic features of such a system.

Taking into account that digital platforms may also sell directly to customers as well as facilitating online sales by underlying suppliers, jurisdictions may wish to consider separate VAT/GST registrations for these different types of supplies. Such separate VAT/GST registrations may assist with audit and reporting obligations.

The proper interaction of such a simplified registration and compliance regime with customs processes and systems will need to be ensured.

The registration of a digital platform in a taxing jurisdiction that forms part of a group of countries bound by a common tax and/or customs framework (e.g. the European Union), may be further facilitated through a "one-stop shop" arrangement. Under such an arrangement, the digital platform could register in one member country to fulfil its compliance obligations under the full VAT/GST liability regime in all member countries, including remitting the tax in the country of registration followed by a transfer of the tax to the country of registration to the country of taxation (e.g. the country of final destination of the imported item).

2.2.6. Overarching policy design considerations with respect to the full VAT/GST liability regime

The design and implementation of a full VAT/GST liability regime for digital platforms is likely to differ across jurisdictions, taking into account differences in policy and legislative environments, administrative practice and culture, and tax authorities' distinct challenges and priorities. Differences in platforms' functions and size are also likely to affect platforms' capacity to assume and comply with the regime.

While recognising that the design of full VAT/GST liability regimes is likely to differ across jurisdictions, tax authorities are encouraged to ensure as much consistency as possible in an international context. Consistency among country approaches is key in achieving high compliance levels, notably by reducing compliance costs and improving the quality and performance of compliance processes. This is particularly important for full VAT/GST liability regimes for digital platforms, which are likely to be faced with multi- jurisdictional obligations in respect of supplies that are carried out by third-party suppliers.

Against this background, this section discusses a range of overarching policy design considerations that jurisdictions are encouraged to consider when designing and implementing a liability regime for digital platforms:[7]

- **Promote compliance by limiting VAT/GST compliance obligations to what is strictly necessary to facilitate the compliance process**. The highest levels of compliance under a full VAT/GST liability regime are likely to be achieved if compliance obligations for digital platforms are limited to what is strictly necessary to ensure the correct and effective collection of the VAT/GST on online sales. This is especially important for non-resident platforms. Where compliance procedures are too complex, their application for non-resident digital platforms may lead to non-compliance or to certain digital platforms declining to serve customers in certain jurisdictions. The compliance processes should be therefore as simple and efficient as possible. Where possible, simplified registration and compliance regimes such as those as presented in the Guidelines (OECD, 2017[4]) and the Collection Mechanisms Report (OECD, 2017[3]) are expected to enable digital platforms to more easily comply with their liability obligations;
- **Consult with the business community including by reaching out to relevant digital platforms as well as other actors in the supply chain that are likely to be affected by the regime**. Such consultations allow national authorities to acquire a thorough understanding of the functions of digital platforms that are likely to be relevant in the collection and remittance of the VAT/GST and of digital platforms' capabilities to take on a liability obligation. Consultations are also likely to enhance digital platforms' understanding of their obligations under a liability regime and to benefit their overall compliance. In the area of low-value goods, and given the interaction with customs procedures, jurisdictions are encouraged to also consult with all the stakeholders involved in the import process (e.g. postal operators; couriers; customs brokers, etc.) so as to identify how the full VAT/GST liability regime could work best with existing reporting systems and current cross-border business practice and address any associated challenges in a collaborative and proactive manner;
- **Publicise the introduction of the regime(s) widely and provide adequate lead time** when introducing the regime(s), to leave sufficient time for the national agencies involved as well as digital platforms to adjust their processes and systems.

Some of the leading platforms already provide tax compliance services to their underlying suppliers. However, there are many platforms that would need to develop and implement considerable system changes to ensure appropriate levels of efficiency, certainty and effectiveness. In the area of low- value goods in particular the implementation of the regime may involve changes to work practices of border agency offices as well as the redesign of customs clearance systems. Depending on the situation, any changes might be best achieved through a phased implementation and/or grand-fathering provisions for supplies for which the VAT/GST liability was triggered before the law came into effect for both the digital platforms and the national authorities involved. Annex D includes an indicative illustration of such a phased implementation;

- **Clearly define the VAT/GST obligations of the underlying supplier**, notably in its relationship with the platform. This includes clear rules on the VAT/GST status of the relationship between the underlying supplier and the digital platform and the associated compliance obligations (invoicing, reporting etc.);
- **Ensure that the liability regime** does not have any impact on normal VAT/GST deduction rules at the level of the underlying supplier;
- **Provide guidance on the operation of registration thresholds and/or sales thresholds, where such thresholds have been implemented**. Where a threshold exists in the jurisdiction of taxation, it is important to be clear whether it is set at the level of the platform or at the level of each underlying supplier. There may be difficulties for the digital platform in monitoring thresholds at the level of each underlying supplier, particularly as the underlying supplier may have a multi-channel sales strategy using multiple platforms plus perhaps a direct channel of sales. The application of a threshold at the level of the digital platform eliminates that complexity, which is particularly important for small and start-up platforms. The application of a threshold at the level of the platform is also likely to reduce the compliance burden for underlying suppliers, particularly for SMEs and micro-enterprises. On the other hand, the application of a threshold at the level of the digital platform may create a disadvantage for underlying suppliers that are below a registration or sales threshold, but whose sales become subject to VAT/GST when made through a digital platform (because the digital platform will often have exceeded the threshold).[8] It is recognised that striking the appropriate balance between the efficiency of the VAT/GST collection on online sales and avoiding or limiting any competitive (dis)advantage for certain categories of underlying suppliers or platforms is a challenging task that requires careful consideration. The key policy considerations concerning the possible implementation of thresholds are covered in more detail in Chapter 2 of the Collection Mechanisms Report (OECD, 2017[3]). These may also serve as a reference point when considering the possible operation of thresholds under a full VAT/GST liability regime;
- **Consider the need for rules to limit compliance risks for platforms acting in good faith and having made reasonable efforts to ensure compliance, particularly in respect of the information on which platforms have based their tax determination**. Digital platforms have to rely on information provided by underlying suppliers and third parties to comply with their VAT/GST obligations under a full VAT/GST liability regime. There is therefore an expectation for platforms to operate meaningful due diligence processes in respect of the accuracy and the reliability of this information. The application of a rule that reduces or

eliminates digital platforms' liability for mistakes resulting from reliance on inaccurate information, if they can supply evidence of their good faith and of their reasonable efforts to secure the accuracy and reliability of the information, offers a balanced approach towards facilitating compliance;

- **Consider trade-related issues**. The neutrality of VAT/GST to international trade through the implementation of the destination principle is an important valuable property of this tax, particularly in the context of international trade. Under the destination principle, no VAT/GST is levied on exports, and imports are taxed at the same rate and according to the same rules in the jurisdiction of destination as if they had been domestic production. There is thus no advantage in buying from a low/no tax jurisdiction; nor do high and/or multiple VAT rates distort the level or composition of a country's exports (see further Chapter 2 of the Guidelines – Neutrality of value added taxes in the context of cross-border trade) (OECD, 2017[4]). A full VAT/GST liability regime for digital platforms is in principle expected to facilitate cross-border sales by simplifying compliance with foreign VAT/GST rules for underlying suppliers. Tax authorities should nonetheless ensure that, in accordance with the Guidelines, the domestic design and operation of such a regime is consistent with the application of the destination principle and does not unduly affect the international neutrality of VAT/GST (OECD, 2017[4]). Guideline 2.6 recognises that specific measures may be required for transactions involving foreign businesses – this also applies to digital platforms (OECD, 2017[4]). This Guideline clearly indicates, however, that such measures should not create a disproportionate or inappropriate compliance burden. Tax authorities are therefore encouraged to take due account of the approaches for a consistent design of full VAT/GST liability regimes and for limiting compliance complexity as outlined in this report;
- **Ensure close co-operation/coordination between the VAT/GST and customs authorities**. The application of the full VAT/GST liability regime for the collection of VAT/GST on supplies that are connected with an importation of low-value goods is likely to require changes to both the tax administration and customs processes (see Section 2.2.7). The close co-operation between the VAT/GST and customs national authorities is of great importance for a successful design and implementation of the regime, and should commence from the very early stages of the design of the regime. The need for this co-operation is also recognised by the WCO Framework of Standards;
- **Complement the design of the full VAT/GST liability regime with robust international administrative co-operation and the implementation of a risk based compliance strategy as appropriate**. It is recognised that any reform to improve the efficiency of the collection of VAT/GST under the full VAT/GST liability regime will need to be complemented with enhanced administrative co-operation between tax authorities to enforce compliance. This co-operation should include the exchange of information which would be helpful for identifying parties in a supply/import process, monitoring the value of sales/imports, and assessing whether the proper amounts of VAT/GST have been collected from purchasers and remitted to the tax authorities in the taxing jurisdiction (see further Chapter 4, Section 4.5). Effective risk management approaches include the preparation of risk indices or risk profiling standards as well as the use of technological means to identify non-compliant digital platforms, which may enable national administration

to adopt a proactive rather than a reactive response to supply chain risks while facilitating legitimate trade (see further Chapter 4, Section 4.7).

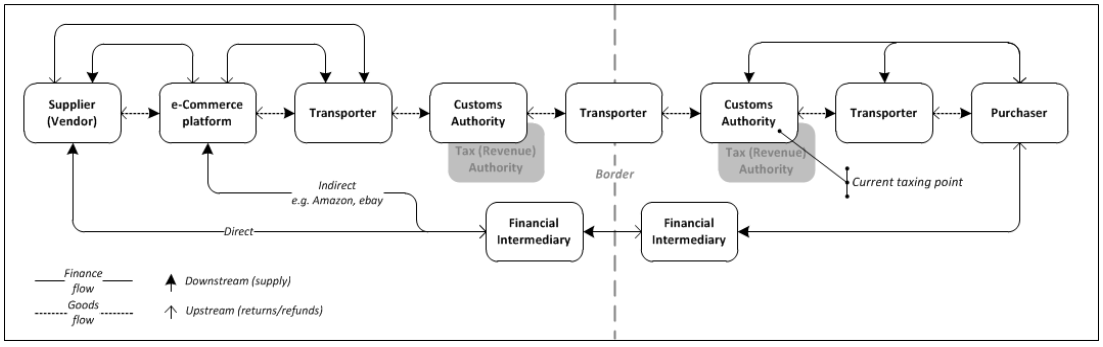
2.2.7. Additional policy design considerations for full VAT/GST liability regimes for online sales connected with an importation of low-value goods

Basic operation of a full VAT/GST liability regime for online sales connected with imports of goods

Recognising that the operation of the full VAT/GST liability regime on imports of low-value goods involves an additional range of considerations and policy decisions, not least to ensure a proper coordination with customs processes, this section provides some further insights to support the policy analysis and design for tax authorities when considering reform in this context. This section complements Section 2.2.6.

While customs procedures are subject to a number of common standards, each country has its own customs clearance procedures in place. These procedures generally follow similar patterns: when a low-value good is imported, the person liable to pay the duties and taxes is the recipient of the goods mentioned on the customs declaration (the "importer of record" or the "declarant"). Under the traditional model for the collection of import VAT/GST, the tax is assessed at the time of importation, i.e. at the border, by the customs authorities in line with customs procedures. For imports of goods from online sales, the customs clearance procedure is typically carried out by the express couriers or postal operators that are involved in transporting the goods, as declarants. Figure 2.2 illustrates the operation of the Traditional Collection Model and Annex E provides further information.

Figure 2.2. Traditional collection model



Source: Addressing the Tax Challenges of the Digital Economy, Action 1- 2015 Final Report (OECD, 2015[1]).

Against the above background, a key design consideration for tax and customs authorities is to ensure the proper operational compatibility of customs processes (as described above) with full VAT/GST liability regimes for digital platforms in the collection of VAT/GST on imports of low-value goods from online sales.

It is useful to recall at the outset that this report recommends that the taxing point under the full VAT/GST liability regime be situated at the time at which the confirmation of the payment is received by or on behalf of the underlying supplier. For a supply that involves an importation of low-value goods, this taxing point is likely to be at a time prior to shipping or arrival of goods. This approach is consistent with the WCO Cross-Border E-Commerce Framework of Standards.[9] This creates the opportunity to move the collection of the

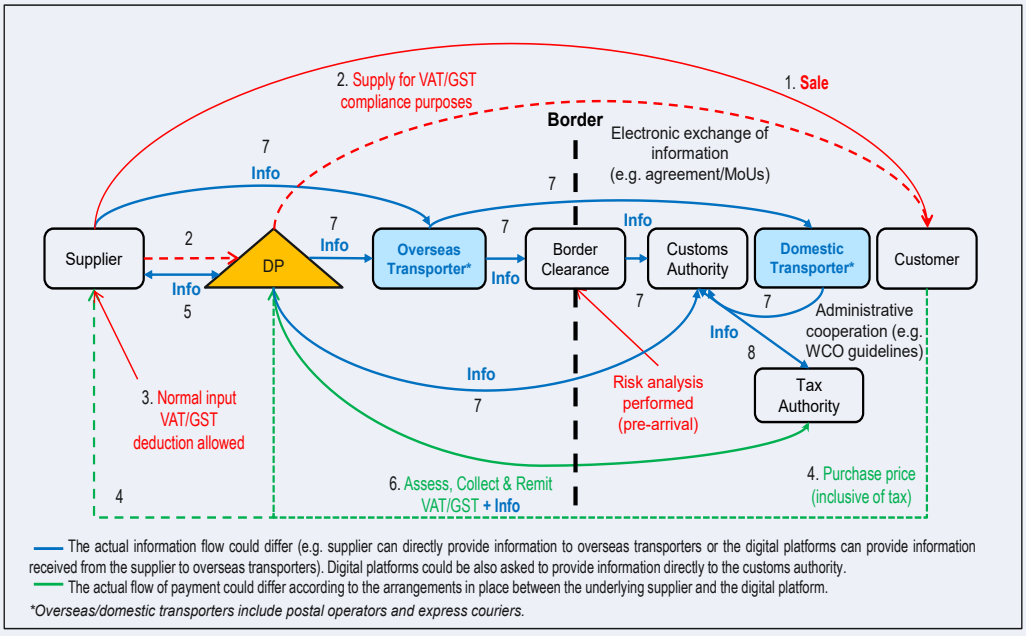
VAT/GST on the supplies of imported goods from online sales away from the border, and thus to limit or remove the need for customs authorities to intervene in the VAT/GST collection on these imports while allowing them to focus on key tasks concerning the safeguarding of health and security. This is particularly attractive for imports of goods that are subject to import VAT/GST but that have a value below the *de minimis* customs threshold, i.e. low-value goods[10] (see further 2015 BEPS Action 1 Report, Annex C) (OECD, 2015[1]).

To achieve this outcome, the full VAT/GST liability regime that imposes and obligation on digital platforms to assess, collect and remit the VAT/GST on supplies of imported low-value goods from online sales needs to include a measure that removes the obligation to pay import VAT/GST at the border on the relevant goods.

Box 2.3. Full VAT/GST liability regime – operation of imports below customs threshold

Figure 2.3 and the accompanying commentary (1 through 8) illustrate the functioning of a VAT/GST collection and remittance process for imports of goods under a full VAT/GST liability regime in more detail.

Figure 2.3. Operation for imports below customs threshold



Note: the sequence of numbers assigned in the figure is for identification only; it is not intended to indicate the timing of a specific step in chronological order.
Source: OECD analysis.

The above graph has been numbered to indicate the following:

1. Assume an online sale of goods (underlying sale) below the *de minimis* customs threshold (low-value goods) by a supplier (underlying supplier) through a digital platform to a customer in the jurisdiction of taxation. The good will be imported in the jurisdiction of taxation pursuant to the sale.

2. Under the full VAT/GST liability regime for digital platforms, the digital platform that has facilitated the sale is fully and solely liable for VAT/GST compliance with respect to this sale, i.e. the digital platform assumes full VAT/GST liability as if it has effected the underlying sale itself (instead of the underlying supplier).Tax authorities may wish to consider limiting the VAT/GST liability risk under this regime for digital platforms that they consider to have acted in good faith and to have made reasonable efforts to ensure compliance (see further Section 2.2.1, number 2 in Box 2.1).

3. The full VAT/GST liability regime does not intend to have any impact on normal VAT/GST deduction rules at the level of the underlying supplier as determined by the applicable national legislation, i.e. any deductibility rights at the level of the underlying supplier – according to normal rules - are retained. It is up to the jurisdiction concerned to design the appropriate mechanism to that end (see further Chapter 2 of the Guidelines – Neutrality of value added taxes in the context of cross-border trade (OECD, 2017[2])).

4. The customer can make the payment for its purchase either to the digital platform or to the underlying supplier. If the payment is made to the underlying supplier, the digital platform will need to recover the VAT/GST component from the supplier in order to remit the VAT/GST to the tax authorities in the jurisdiction of taxation. Tax authorities are encouraged to consider implementing an appropriate bad debt relief arrangement to limit the potential risk of default by underlying suppliers in remitting the VAT/GST to the digital platform provided that the digital platform has made reasonable efforts to ensure compliance.

5. In order for the digital platform to calculate the appropriate amount of VAT/GST due on the underlying supply, the digital platform may have to require the underlying supplier to provide certain additional information other than what the digital platform routinely collects in its normal course of business.

6. Under the full VAT/GST liability regime in the jurisdiction of taxation the digital platform assesses the VAT/GST due on the sale of the low-value goods and collects and remits it to the competent authorities (it is acknowledged that tax and customs authorities may be housed under one entity and therefore VAT/GST will have to be remitted to that entity). The imported goods will need to be declared at the border under the traditional customs procedures by the "importer of record" or the "declarant" (usually transporters such as express couriers or postal operators). The associated importation process could be designed and operated as follows:

- The imported goods are not subject to any customs or other duties, since their value is below the *de minimis* customs threshold. Their sale is subject to VAT/GST, and under the country's full VAT/GST liability regime for digital platforms, it is the relevant platform's liability to collect and remit this VAT/GST to the relevant authorities in the jurisdiction of taxation. Since it is obligated to remit the VAT/GST on the sale of the imported low-value goods, it is not required to remit the VAT/GST on the importation of these goods at the border. The importation of these goods will thus be disregarded/exempted for VAT/GST purposes. Suitable customs arrangements and processes will need to be in place to efficiently identify the imports that are covered by the full VAT/GST liability regime at the time of their arrival at the border. Checks with respect to undervaluation/misclassification of imported goods will still need to be made by customs authorities as is currently the case.

- In order to collect and remit the VAT/GST in the jurisdiction of taxation, the digital platform is required to register in the jurisdiction of taxation/importation and declare and remit the VAT/GST there in accordance with the applicable rules in the jurisdiction. It is suggested that digital platforms are allowed to register via a simplified registration and compliance mechanism (or 'pay-only' regime) as recommended by the Guidelines (OECD, 2017[2]) and the Collection Mechanisms Report (OECD, 2017[1]).
- Tax authorities together with customs authorities need to ensure that the full VAT/GST liability regime clearly sets out the requirements for the exemption of the VAT/GST on the importation of the goods that are covered by the full VAT/GST liability regime. This will require the necessary documentation accompanying the imported goods, including a valid VAT/GST registration number of the digital platform that is liable for the VAT/GST on the supply of the imported goods from the online sale that it has facilitated, as well as other elements confirming the "VAT/GST-paid" status of the imported goods (the requirement of more than one element for confirming the VAT/GST-paid status of the imported good may mitigate e.g. VAT/GST registration number accompanied by a unique identifier per consignment could mitigate the risk of any fraudulent use of those elements).
- If these conditions for exemption at the border are not fulfilled, then the goods are held at the border and the normal customs procedure will apply, i.e. VAT/GST will be due upon importation according to current procedures by the "importer of the good" or the "declarant".

7. To ensure that the information required to support the "VAT/GST-paid" treatment at the border is made available to customs authorities in a timely manner, the liable digital platform needs to ensure that this information is passed on through the logistics chain (e.g. to the postal services or express couriers if goods are delivered through this channel). Alternatively, or in addition, the digital platform might have to make this information available to the underlying supplier (e.g. electronically), to include it the documentation provided up the delivery chain (postal services, transporters, etc.).

8. Customs authorities and tax authorities will need to have a mechanism in place to facilitate administrative co-operation, including the timely exchange of information (see further under Section 2.2.6).

Given that the full VAT/GST liability regime moves away from the traditional customs process of collecting the VAT/GST at the border, specific care should be given to ensuring compliance by digital platforms under the full VAT/GST liability regime. This is not only required to protect VAT/GST revenues[11] but also to avoid competitive distortion for compliant platforms if compliance would not be properly enforced against non-compliant platforms.[12] Tax authorities are encouraged to adopt a two-pronged approach whereby, on the one hand compliance is facilitated and encouraged by simplifying procedures and by providing additional incentives for digital platforms to comply, and on the other hand, creating a deterrent for non-compliance.

Chapter 4 to this report considers a range of measures that tax authorities can take to further maximise VAT/GST compliance in respect of online sales, including sales that that are connected with the importation of low-value goods.

The following paragraphs look in some further detail at specific aspects and options for facilitating and encouraging compliance by platforms.

Fast-track customs clearance

Goods treated under a full VAT/GST liability regime will still need to be inspected by customs authorities for safety and security reasons as well as other risks related to drugs, intellectual property rights (IPR) and illicit trade including mis-declaration and undervaluation of the imported goods. One way to further incentivise compliance with the full VAT/GST liability regime for digital platforms is to provide fast-track processing of the goods that are covered by this regime to compliant digital platforms, as trusted parties. Speed of delivery is a crucial factor for online sales. A fast-track procedure therefore provides a strong incentive for digital platforms to comply with a full VAT/GST liability regime for online sales that are connected with the importation of these goods. Imports of goods sold on-line through non-compliant digital platforms in the taxing jurisdiction or that do not comply with the full VAT/GST liability regime do not benefit from fast-track processing and remain subject to the normal customs procedure.

Such a fast-track process requires the implementation of secure methods for identification of the goods that are covered by the full VAT/GST liability regime, i.e. goods for which VAT/GST has already been accounted for by the digital platform (or that have been declared by the digital platform in a periodic return). Timely data exchange between customs and tax authorities as well as other actors within the supply chain e.g. express couriers and postal operators, facilitated by modern information technology, and appropriate risk assessment processes will facilitate such fast-track processing of goods covered by a full VAT/GST liability regime for digital platforms at the border. The speed of data delivery and its quality assurance are likely to be crucial conditions for a successful operation of fast-track processing under a full VAT/GST liability regime. It is acknowledged that the implementation of information exchange processes and risk assessment systems and the reforms of customs processes may require significant investment in time and resources, both for customs and tax authorities and for the digital platforms and other stakeholders (such as postal services and express couriers). Careful planning of such a reform and the provision of sufficient lead time for its implementation are likely to be crucial for its success.

It should be noted, however, that reform towards the implementation of full VAT/GST liability regimes for the importation of goods from online sales with fast-track processing is aligned with commercial trends in online trade whereby digital platforms and other stakeholders such as express couriers continuously seek solutions to enhance the efficiency of delivery for their underlying suppliers. The efficient organisation of goods at the border is a crucial element in this context. The implementation of such a full VAT/GST liability regime for online sales of imported good, with fast-track processing for compliant (trusted) digital platforms, is also likely to reduce the risks of fraud and non-compliance at the border, including inadvertent or deliberate undervaluation and mis-declaration.

Ongoing work at the WCO and at other fora, such as the Universal Postal Union (UPU),[13] is expected to further facilitate the operation of full VAT/GST liability regimes for digital platforms in respect of imported goods with fast-track customs processing. This work is developed as a response to the recognition that the existing customs processes are no longer adjusted to the online trade environment. Indeed, as the volume of consignments that arrive at the border has exploded as a consequence of booming online trade, it has become increasingly impossible to inspect every individual consignment at the border on the basis

of information provided on paper forms and to establish tax liabilities at the time of arrival at the border in the taxing jurisdiction. This work by the WCO and other fora includes:

- The development and implementation of standards for the exchange of advance electronic data to enhance the efficiency of risk management and customs processes at the border;
- The introduction of co-operation frameworks between national agencies supported by technology, such as the creation of a Single Window,[14] to facilitate a co-ordinated response to safety and security risks stemming from cross-border e-commerce;
- The development of simplified clearance procedures and Authorised Economic Operator Programmes and Mutual Recognition Arrangements/Agreements in the context of cross-border e-commerce, including leveraging the role of intermediaries to enable micro-enterprises, SMEs and individuals to benefit from the opportunities of online trade.

Annex F outlines a number of these international regulatory e-commerce developments.

Minimising risks of double taxation

Full VAT/GST liability regimes are, for the time being, mainly being considered by tax authorities for the collection of VAT/GST on imports of goods that are below the *de minimis* customs threshold. (see *Imported goods: low-value goods vs. all goods* under Section 2.2.3). VAT/GST on imports of goods above the customs threshold then continues to be collected together with customs duties and taxes at the time of importation in accordance with normal customs procedures. The operation of such a dual collection regime could create risks for double taxation of VAT/GST in some limited circumstances. Such a risk of double taxation could arise where the value of an imported good is calculated differently for customs purposes than for VAT/GST compliance purposes.[15] Or where the digital platform collects VAT/GST on a sale of multiple low-value goods to a single customer in the taxing jurisdiction, and then choses to transport these goods in a single consignment that is then valued above the *de minimis* customs threshold, triggering the collection of VAT/GST by customs authorities on importation in the taxing jurisdiction. Also currency fluctuations could cause double taxation, when a good is under the low-value threshold in the currency of the jurisdiction of taxation at the time of purchase but is then above the low-value threshold when imported. Moreover, the absence of adequate proof that "VAT/GST was paid" under a full VAT/GST liability regime for digital platforms when goods are declared at the border may lead to double taxation.

Jurisdictions are therefore carefully considering such risks of double taxation, taking into account the specific design of their full VAT/GST liability regime for digital platforms, and to develop approaches to address these risks. These approaches could include: (i) allow the digital platform not to collect and remit any VAT/GST prior to the importation (i.e. the VAT/GST will then be collected at the border through normal customs procedures), if it has a reasonable belief based on common industry or commercial practices that the multiple goods will be grouped together (e.g. because the digital platform is also responsible for the shipping of the goods or is informed by the person who organises the shipping that goods will be consigned as a single parcel); (ii) allow digital platforms for purposes of determining whether a good is below the customs threshold, to use as a basis the transaction value i.e. the price actually paid on-line by the customer; (iii) allow digital platforms to use reasonable and coherent internal business exchange rates which are based on averages over

time of the official rates (with built-in tolerance for small differences) (see further Chapter 3, Section C.4.3. of the Collection Mechanisms Report) (OECD, 2017[3]); (iv) provide the possibility for the declarant to provide customs authorities with appropriate evidence that VAT/GST has been paid on the low-value goods portion in that consignment and pay only the outstanding amount (if any).

VAT/GST adjustments and corrections including for returned goods

There may be instances where adjustments and corrections are required in respect of the VAT/GST accounted for by a digital platform under a full VAT/GST liability regime for online sales of imported goods. This can occur where goods are refused or simply returned by the customer. This customer will in principle request a refund of the price for these goods, inclusive of VAT/GST. The refund process for this amount of VAT/GST may present challenges, particularly where the VAT/GST has been collected and remitted to the tax authorities by a digital platform under the full VAT/GST liability regime whereas the refund of the price inclusive of VAT/GST is requested from and/or made by the underlying supplier.

Where proof of goods being returned is required to substantiate such adjustments (i.e. proof that the goods have effectively left the taxing jurisdiction), it may be difficult for the digital platform to produce such proof, particularly when the digital platform is not involved in the return process. This is for instance the case in a scenario where goods are returned directly to the underlying supplier, with a requirement of this underlying supplier to refund the VAT/GST-inclusive price to the customer. The VAT/GST included in this price will have been collected and remitted to the tax authorities by the digital platforms, and the underlying supplier will therefore have to claim that amount back from the digital platform. The latter may not always have the proof of goods being returned to substantiate a refund claim for this VAT/GST from the tax authorities in the taxing jurisdiction.

While there is a responsibility for digital platforms and underlying suppliers to organise the matter of refused and returned goods, including the VAT/GST aspects, so that they can deal with these scenarios efficiently, and acknowledging the need for tax authorities to minimise risks of fraudulent VAT/GST refund claims, tax authorities are encouraged to consider possible approaches to facilitate VAT/GST adjustments/refunds to digital platforms under a full VAT/GST liability regime. This would essentially include: the permission for digital platforms, subject to certain conditions, to make the necessary adjustments in their VAT/GST return for VAT/GST remitted under the full VAT/GST liability regime, i.e. to claim back any overpaid VAT/GST resulting from these adjustments or to carry these VAT/GST amounts forward for a reasonable period to offset against future VAT/GST liabilities; allowing digital platforms to base refund claims on (copies of) documentation provided by their underlying suppliers concerning proof or re-export of the returned goods (such as import and/or export declaration and/or proof of order cancellation); establishing electronic refund systems based on reconciliation of data concerning the imported and the returned shipment (if taxes and duties have already been paid) as considered by the WCO.

2.2.8. Overall assessment of the full VAT/GST liability regime

The performance of a full VAT/GST liability regime for digital platforms in the collection of VAT/GST on online sales is likely to depend on its implementation in practice and on the specific economic, legal, administrative circumstances of the jurisdiction that implements this regime (see further Section 2.2.6. above).

It is recognised in general that the application of a full VAT/GST liability regime has the potential to improve the effectiveness of the collection of VAT/GST, as it is likely to reduce costs and risks of tax authorities by drawing on a limited number of platforms that represent large sales of online sales and that are capable of complying. Administrative costs and risks are likely to be significantly lower and compliance levels higher than in a scenario where taxes would need to be collected from potentially millions of underlying suppliers.

In the area of imports of low-value goods, the operation of the regime creates opportunities for governments to remove or reduce import VAT/GST exemption thresholds if they wish to do so. Moreover, moving the collection of VAT/GST on the supplies of imported low-value goods from the border, as recommended by the regime, limit or remove the need for customs authorities to intervene in the VAT/GST collection on these imports while allowing them to focus on key tasks concerning the safeguarding of health and security as well as other risks related to drugs, intellectual property rights (IPR) and illicit trade including mis-declaration and undervaluation of the imported goods. Ongoing developments at other fora, notably at the WCO, are expected to further facilitate the operation of the regime.

The application of a full VAT/GST liability regime requires changes to the tax administration and customs procedures as well as to the business systems to ensure effective VAT/GST compliance. The time required for these changes should be reflected adequately in the implementation timeframe for the regime. Any additional compliance costs on digital platforms could be minimised through some form of simplified registration and compliance regimes. Compliance could be further facilitated and encouraged by providing additional incentives for digital platforms to comply and, on the other hand, by creating a deterrent for non-compliance (e.g. through the implementation of a fall-back rule whereby goods for which no VAT/GST has been accounted for under the full VAT/GST liability regime are stopped at the border and are processed according to normal customs processes). Rules which limit compliance risks for platforms acting in good faith and having made reasonable efforts to ensure compliance could also further facilitate compliance for digital platforms.

The enforcement of compliance under the full VAT/GST liability regime should be further supported through enhanced international administrative co-operation including relevant arrangements in the customs area as appropriate.[16] (see also Chapter 4)

Greater consistency among country approaches will further facilitate compliance processes particularly by digital platforms that are faced with multi-jurisdictional obligations as well as support effective international co-operation in the administration and enforcement.

2.3. Other liability regimes for digital platforms in the collection and payment of VAT/GST on online sales

Tax authorities may wish to consider such regimes as an alternative to a full VAT/GST liability regime, to complement a full VAT/GST liability regime for the VAT/GST collection on supplies that are not covered by such a regime, or as an intermediary step towards a full VAT/GST liability regime. Alternative regimes could involve either a role for digital platforms in facilitating the collection and payment of VAT/GST on online sales, without relieving the underlying supplier from its VAT/GST liability (see further Chapter 3, Section 3.5), or the imposition of joint and several VAT/GST liability on digital platforms together with the underlying supplier (see Chapter 4).

As with the full VAT/GST liability regime, the desired objective under each of these regimes is to ensure that VAT/GST is paid efficiently and effectively to the taxing jurisdiction. The key difference between the regimes discussed in this section and the full VAT/GST liability regime discussed in Section 2.2 is that the underlying suppliers are not relieved from their VAT/GST liability. Tax authorities will still need therefore to monitor the underlying suppliers. Nevertheless, these regimes allow tax authorities to indirectly target non-registered foreign suppliers, and may therefore offer a balanced means by which to ensure compliance. These regimes are further analysed in Chapters 3 and 4.

Notes

[1] Digital platforms that perform similar functions in the eyes of the underlying suppliers and customers, will be in competition with each other and there will be an ease of switching from one to the other by the underlying suppliers and customers.

[2] This emphasises that enforcement of compliance by foreign digital platforms can be further supported through enhanced international administrative co-operation and exchange of information (see also Chapter 4).

[3] Subject to conditions mentioned in Box 2.1.

[4] These typically include the following categories of supplies: digital content purchases (downloads of e-books, videos, apps, games, music); subscription-based supplies of content (news, music, streaming of video, online games); supplies of software services and maintenance (anti-virus software, digital data storage, software); licensing of content; telecommunication and broadcasting services.

[5] Australia, Brazil, Canada, China, France, Germany, India, Italy, Japan, Norway, Sweden, United Kingdom and United States

[6] Please see endnote 5 in Chapter 1.

[7] This Section is followed by Section 2.2.7 that discusses an additional number of considerations that are of particular relevance to the operation of the regime on low-value imports.

[8] It could be argued however that underlying suppliers may only have access to certain markets by selling through prominent digital platforms, particularly to foreign markets, which counterbalances the disadvantage of the application of a registration/sales threshold at the level of the platform.

[9] See Section III of the WCO Cross-Border E-Commerce Framework of Standards on Fair and Efficient Revenue Collection that states that: "In cooperation with Tax authorities alternative collection models should be considered (e.g. vendor model, intermediary or consumer/buyer collection model) to move away as appropriate from the current transaction based duty/tax collection approach where duties and taxes are assessed and collected at the border, towards an automated account-based approach that may involve collection of duties and taxes prior to shipping or arrival of goods."

[10] The goods whose value exceed the customs threshold would continue to be processed under existing border collection procedure and taxes and duties would be collected by the customs authorities.

[11] Once the goods are released into free circulation it may be difficult to trace them.

[12] For example, avoiding the risk that underlying suppliers are leaving the compliant digital platforms and selling to the taxing jurisdiction through a non-compliant digital platform.

[13] The Universal Postal Union (UPU), with its 192 member countries, is the primary forum for co-operation between postal sector players. It sets the rules for international mail exchanges and makes recommendations to stimulate growth in mail, parcel and financial services volumes and improve quality of service for customers.

[14] Under a Single Window, information on shipment/imports is provided at one single point which is accessible by all national agencies concerned.

[15] Depending on national legislation, the value of an imported good may be calculated differently for customs and for VAT/GST collection purposes. This brings an element of risk in terms of determining whether an imported good qualifies as a low-value good, i.e. below the *de minimis* customs threshold, for the application of a full VAT/GST liability regime for the collection of VAT/GST on online sales of imported goods.

[16] The WCO has developed a number of instruments and tools supporting exchange of information (e.g. Nairobi Convention, the Model Bilateral Agreement on Mutual Assistance and the Global Network Customs (GNC)). Based on these instruments, customs administrations have entered into bilateral or multilateral agreements/arrangements for the exchange of information.

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Chapter 3. Other roles for digital platforms to support the collection of VAT/GST on online sales

This chapter focuses on other roles for digital platforms than full VAT/GST liability to assist with collection of VAT/GST on online sales. The obligations, which are examined in this chapter, include information sharing between platforms and tax authorities, education of suppliers, and formal co-operation agreements between tax authorities and platforms. This chapter also examines the merits of platforms taking a voluntary liability obligation. These obligations could be complementary to the full VAT/GST liability regime, such as in cases where such an approach is applied only to specific type of supplies from online sales.

3.1. Introduction

This chapter recognises that as well as the full VAT/GST liability regime for digital platforms identified in Chapter 2, there are possible other roles for platforms which can assist with the efficient and effective collection of VAT/GST on online sales. In particular, this chapter takes into account that the scope of application of the full VAT/GST liability regime may be limited in practice, and that other obligations on platforms may therefore be desirable for jurisdictions in terms of effective tax collection, and indeed can also provide benefits to platforms.

The roles in this chapter include the information sharing obligation, the education of suppliers, formal agreements between tax authorities and platforms, and providing the option for a platform to voluntarily take on the obligation as collector of the VAT/GST.

In considering these roles, it is important for tax authorities to evaluate the rationale of the measures, taking into account the need for the allocation of human, financial and technological resources within the tax authority to implement and administer these measures; as well as the proportionality of any measures for digital platforms and businesses more generally. Tax authorities are encouraged to evaluate the possible integration of the measures included in this chapter into an overall VAT/GST compliance strategy for online trade, possibly in combination with the measures discussed in Chapters 2 and 4.

3.2. Information sharing obligation

3.2.1. Background and preliminary considerations

As a means of assisting with compliance, an information sharing obligation could be envisaged by tax authorities whereby a digital platform would be required by law to provide the tax authority with information relevant for VAT/GST compliance purposes without the platform necessarily being liable or having a role in collecting and remitting the tax.

In practical terms, the digital platform could be asked to provide this information either on a regular basis, upon request or spontaneously, e.g. in cases of suspicious activity.

In designing such a measure, a tax authority will need to consider what type of information it needs to support the efficient and effective VAT/GST collection on online sales; to what extent it is reasonable to seek such information from digital platforms (e.g. whether the platform can be expected to have the requested information at hand); and evaluate whether it actually has the human and technical resources to process the collected data to support VAT/GST collection. It is for tax authorities to consider how they can make best use of the data provided by digital platforms, notably for advanced risk analysis as a means to target non-compliance. This underlines the importance of considering the implementation of an information sharing requirement for digital platforms in light of the possible use of the collected data within the context of a broader VAT/GST compliance strategy for online trade (see Chapter 4).

Tax authorities are also encouraged to minimise risks of unnecessary duplication of information obligations for digital platforms, by considering whether the relevant information is already being collected by other means or provided to other authorities (e.g. customs authorities) within circumstances that allow this information to be used effectively for VAT/GST collection purposes.

Overall, tax authorities are encouraged to ensure that information sharing obligations for digital platforms to support VAT/GST collection on online sales are properly balanced against the overall policy objective to keeping compliance costs and administrative burden as limited as possible. These considerations are discussed in more detail below.

3.2.2. Scope and application of the obligation

In determining the scope and application of this obligation, it may be useful to consider whether the obligation to provide information is a standalone measure or whether it is supplemental to the full VAT/GST liability regime or to other roles to support VAT/GST collection.

If the obligation is applied as a standalone measure then it would be reasonable to target all digital platforms that have access to information relevant for VAT/GST compliance purposes (see in Section 3.2.4, guidance on the type of information which could be reported). In this case, the information sharing obligation could apply to digital platforms that:

- take an integral role in the supply e.g. online marketplaces;
- transfer buyers to sellers (click-through or shopping referral platforms);
- contract or agree to listing or advertising items for sale in any forum or medium;
- receive a fee, commission and/or other consideration for listing of advertising items;
- process payments.

If this obligation is designed to be operated together with other measures targeted at digital platforms, in particular with a liability to collect and remit the VAT/GST and comply with other reporting obligations, then it might be reasonable and proportionate to limit the application of any additional information sharing obligations to the digital platforms that are not covered by those other measures.

Where a digital platform carries out both transactions that are covered by a full VAT/GST liability regime and transactions that are not covered by such a regime (i.e. where a full VAT/GST liability regime applies to a limited category of supplies), it may be preferable to apply a broad information sharing obligation covering all supplies as it could be administratively more straightforward.

It is relevant to consider that as the digital platforms may be located outside the taxing jurisdiction, it is recognised that enforcing such an obligation against foreign digital platforms may be challenging. Therefore such an information sharing obligation is ideally combined with administrative co-operation arrangements between jurisdictions (see Chapter 4).

3.2.3. Type of information to be shared/reported

Digital platforms are capable of collecting a vast amount of data. It is reasonable to require information/data to be shared that is available to digital platforms in the normal course of their business activities, and that is proportionately relevant for VAT/GST compliance purposes (i.e. necessary to satisfy the tax authorities that the tax for a supply has been charged and accounted for correctly by the underlying supplier). Box 3.1 includes a list of such possible information to be shared/reported by digital platforms.

Box 3.1. List of possible information

- The nature of the supply;
- The date of the supply;
- The value of the supply;
- The identification of the supplier, including tax identification number (if appropriate);
- The VAT/GST amount and rate;
- Shipping address;
- Fulfilment warehouse;
- The customer location;
- Information used to determine customer location;
- Payment service provider;
- An invoice or other document issued to the customer.

Note: This is an indicative list of possible information to be considered by jurisdictions in framing such a measure. Certain information will depend on the nature of the supply i.e. goods or services/intangibles.

3.2.4. Implementation options

Two broad options could be considered for the implementation of an information sharing obligation for digital platforms in connection to online sales:

Option 1 – Provision of information on request

Under this option, a jurisdiction requires that a digital platform retains records of the sales that are subject to VAT/GST in that jurisdiction, and that this information be made available on request. It could seek records from the digital platform in respect of a specific category of sales, e.g. sales made within a given period or made by a particular supplier via the platform (e.g. as part of an audit on that supplier). It could also request information in respect of a specific transaction (e.g. to verify whether the declared value was correct).

Option 2 – Systematic provision of information

Under this option, a digital platform is required to systematically and periodically provide information on online sales carried out via the platform to the tax authority of the jurisdiction of taxation. The format and the information required can be specified by the jurisdiction. A tax authority could limit such an obligation to specific sales e.g. goods above a certain value. The submission period can be determined by the taxing jurisdiction taking into account the envisaged use of the data e.g. for auditing purposes or perhaps for real-time risk analysis.

3.2.5. General design and policy observations/considerations

The following design and policy considerations can be considered by a tax authority in respect of implementing an information sharing obligation on platforms:

- **It is important to identify in advance what type of information can be reasonably expected** from a digital platform to be shared/reported to ensure that policy objectives are met, recognising that available information may differ among digital platforms;
- **Strike the appropriate balance** between collecting relevant information without posing a disproportionate burden on digital platforms;
- Consider the interaction with other regulatory frameworks:
  - Data protection/privacy issues/and other guarantees;
  - Competition law may pose limits to the extent digital platform can share commercial information;
  - Potential **difficulties for digital platforms** in sharing data that is not held within the jurisdiction of taxation.
- **Ensure that the information requested from a platform is not already required to be submitted by other means** i.e. to the tax authority or another authority, with the objective of ensuring that the administrative burden on the platform is minimised;
- **Provide clear** guidance on the type of information considered relevant/useful (including type of information to be reported, in what form, frequency of the reporting, etc.);
- **Consider measures to facilitate compliance** (e.g. allowing the use of an electronic reporting system as business processes become increasingly automated) – use as a point of reference some of the guidance included in the Collection Mechanisms Report – Chapter 3 Section C.5 (OECD, 2017[1]);
- **Recognise that a platform may require an appropriate lead-in time** in order to ensure that the requisite systems for data management and transfer are in place in addition to the necessary analytic capabilities. Digital platforms may need to improve their technological capacity (e.g. digital platforms may need to equip their internal system to collect and provide the requisite data);
- **Promote close co-operation between tax authorities and digital platforms** for the request/submission of the data (e.g. consider putting an agreement to stipulate details of data sharing, expectations, collaborative working arrangements, etc.);
- **Ensure that data collected is used efficiently as a means to boost compliance** (see Chapter 4);
- **Share the data collected from digital platforms further with customs authorities and/or other authorities** concerned in order to maximise the use of these data;
- **Recognise that this is an area which can benefit considerably from international co-operation** (see Chapter 4).

3.3. Education of suppliers using digital platforms

3.3.1. Background and possible approach

VAT/GST obligations can present challenges to businesses engaging in cross- border e-commerce whether it is because the businesses do not know the applicable VAT/GST rate for a particular good or service in the taxing jurisdiction, invoicing, record- keeping and reporting obligations. This is particularly true when a business makes sales to various different countries.

The Guidelines (OECD, 2017[2]) and the Collection Mechanisms Report (OECD, 2017[1]) highlight that a proper communication strategy is crucial to achieving appropriate compliance levels by foreign suppliers in the taxing jurisdiction.[1] Experience suggests that the availability of readily accessible and easily understood guidance for taxpayers benefits compliance levels by foreign suppliers, particularly in jurisdictions that are utilising simplified registration and compliance mechanisms for the collection of VAT/GST on inbound supplies. In this context, the value of educating suppliers has been acknowledged in the 2017 IMF/OECD report on Tax Certainty which emphasises that "*proactive taxpayer engagement and education programs help ensure that taxpayers have a clear understanding of their obligations*" (IMF/OECD, 2017[4]).

It can be difficult in practice, however, for tax authorities to reach out directly to suppliers outside their jurisdiction to advise them of their obligations, particularly in respect of supplies of goods where there may be millions of suppliers from around the world active on platforms.

Given many underlying suppliers use digital platforms to access the global market, there is an opportunity to use these platforms as communication channels to provide accurate and timely information to underlying suppliers on their VAT/GST obligations. It is notable that several digital platforms have spontaneously taken initiatives to communicate with their underlying suppliers on their VAT/GST obligations in the various taxing jurisdictions – this includes the operation of online forums for the platforms' communities of suppliers whereby information on general regulatory issues including taxation can be shared.

Experience suggests that the ability to access this information from one place (e.g. through a dedicated web portal instead of a number of different sites) increases the efficacy of the communication and facilitates the updating by the tax authorities. It is recognised, however, that tax authorities may lack the technological capacity to provide/operate such information and to keep them updated and accessible to suppliers worldwide. The capacity of digital platforms to communicate with the often large numbers of suppliers that sell through their platform offers a unique opportunity to tax authorities to use these platforms for the dissemination of information on these suppliers' VAT/GST obligations. This could include the provision and dissemination of guidelines, direct messages concerning notifications of changes in obligations, the organisation of webinars and advice from tax authorities via a platforms community forum.

3.3.2. General design and policy observations/considerations

The following design and policy considerations are relevant for the education role provided by and via platforms:

- The education role identified is **designed to supplement rather than replace** existing communication strategies by tax authorities to inform business of their obligations;
- Platforms should be able to **rely on the information they have been provided by tax authorities**, in their communication with underlying suppliers;
- Information provided should be **focused, clear and up-to-date** in respect of the relevant obligations[2];
- Any changes to this information should be **communicated in a timely manner** by the tax authorities to the platform, which should promptly inform their underlying suppliers;

- There is an opportunity for tax authorities to work with the platforms in respect of addressing questions from underlying suppliers, and therefore **tax authorities are encouraged to proactively engage with the platforms** in this context.

3.4. Formal co-operation agreements

3.4.1. Background and preliminary considerations

A further option which can be considered by tax authorities is to enter into formal agreements with digital platforms based on the co-operative compliance concept. Such agreements are essentially multi-faceted, in that they can combine a variety of measures and approaches to involve digital platforms in maximising VAT/GST compliance levels in online sales. This would typically include information sharing (periodic and spontaneous) and education (including using the platform as a conduit to communicate with underlying suppliers on compliance obligations, etc.), as well as alerting the tax authorities and platforms to instances of fraud, and responding quickly to notifications by a tax authority where underlying suppliers are found to be in breach of their VAT/GST obligations.

These types of agreements are based on the concept of the co-operative compliance model. The Forum on Tax Administration in the 2013 Report, *Co-operative Compliance: A Framework: From Enhanced Relationship to Co-operative Compliance*, explored the possibilities for efficient tax collection through co-operative compliance between tax authorities and business (OECD, 2013[5]). The study recommended that tax authorities develop a relationship based on trust and co-operation. The report is based on a detailed examination of the practical experiences of countries that have established this type of relationship. In addition, two recent reports produced by the *EU VAT Forum*[3] on co-operation between business and tax authorities provide some broad guidance on areas for co-operation and the benefits of such.

While voluntary in nature, such an agreement between platforms and tax authorities could also cover obligations that are statutory, such as information sharing obligations. There may also be merit in making these agreements public as this will increase transparency, and indeed can give confidence to consumers, to underlying suppliers, and to competing domestic business.

3.4.2. Scope of formal co-operation agreements

As indicated above, tax authorities may wish to centre such an agreement on the provision of information, education of the platform and underlying suppliers and general co-operation, with the objective of increasing compliance and reducing uncertainty for the platforms/suppliers in respect of obligations.

A formal co-operation agreement could be particularly useful where the digital platform is not liable for or plays no role in collecting and remitting the VAT/GST, although agreement could still be useful in cases where a platform is fully liable for certain supplies such as imports but not for others such as domestic supplies. Tax authorities may also wish to consider entering into formal co-operation agreements with digital platforms as an intermediary step pending implementation of a full VAT/GST liability regime for digital platforms. This could be useful as the introduction of such a liability regime may require an implementation lead-in period, and therefore a co-operation agreement can help secure the VAT/GST revenues in the shorter term.

The commitment to share information under such an agreement can potentially be richer than a statutory reporting obligation as the platform may be incentivised to proactively identify suspect behaviour by underlying suppliers, to remove non-compliant suppliers from the platforms, and provide timely and targeted information to a tax authority in respect of non-compliance which would allow the tax authority to more effectively target these suppliers even if they migrate to other platforms.

The aspect of the agreement concerning education could be useful in stimulating compliance given that many of the underlying suppliers who utilise platforms are not established within the taxing jurisdiction and therefore they may not be familiar with the obligations therein. Potential education measures to be provided under such agreements can include the provision and dissemination of guides via the platform, direct messages concerning notifications of changes in obligations, the organisation of webinars and advice from tax authorities via a platform's community forum. Such an arrangement can be particularly useful for a tax authority to efficiently reach out to the underlying suppliers.

The co-operation aspect of an agreement concerns the ability for a tax authority to efficiently liaise with a digital platform and vice versa to support compliance by the underlying suppliers. For instance, as part of joint and several liability provisions (see Chapter 4), a tax authority could efficiently communicate to a designated contact the details of a supplier who is not compliant and therefore allow the platform to take the necessary internal steps to ensure compliance, which could as a first step require the underlying supplier to register in the taxing jurisdiction, and if necessary as a second step require the removal of the supplier from the platform. Furthermore, the ability for a platform to reach out to a dedicated contact point in the tax authority can ensure compliance related issues are highlighted in a timely manner to a tax authority. A possible additional element in any such agreement with a platform is to make it public. This can be useful for consumers as it can clearly indicate the platforms which are 'safe' as regards VAT/GST compliance, particularly for consumers buying goods online who may pay VAT/GST to a platform at the point of sale and therefore might expect that they will not face a further VAT/GST liability on importation. It may need to be emphasised in such agreements that other relevant consumer issues such as product safety, adherence to intellectual property rights, etc. are not within the scope of an agreement, depending on whether this is the case.

3.4.3. General design and policy observations/considerations

The following general design and policy aspects can be considered by tax authorities in respect of implementing formal co-operation agreements with platforms.

- The **terms, conditions and the timeframe of the agreement should be clear**, particularly in respect of any legal **aspects** e.g. joint and several liability provisions, response times for information requests, mutual contact details, etc.;
- The terms of the agreement should be **realistic and proportionate** bearing in mind that the model is voluntary and based on co-operative compliance between the tax authority and the platform. Agreements should also be reviewed regularly to ensure they are effective;
- There may be benefits to tax authorities and platforms in making the **agreements public**. This can give confidence to competing domestic business and underlying suppliers. In this respect, a possible approach is for a tax authority to prepare a framework agreement in consultation with the platforms

and then request these platforms to become public signatories to the agreement. This approach also ensures a transparent level-playing between the platforms;

- The design and policy considerations in respect of **information sharing** identified above equally apply here.

3.5. Platforms acting as a voluntary intermediary

3.5.1. Background and preliminary considerations

The Guidelines recognise that "compliance for foreign suppliers could be further facilitated by allowing such suppliers to appoint a third-party service provider to act on their behalf in carrying out certain procedures, such as submitting returns. This could be especially helpful for small and medium enterprises and businesses that are faced with multi-jurisdictional obligations."[4] (OECD, 2017[2]) The functions of such third-party providers in VAT/GST compliance can range from purely administrative tasks such as VAT/GST calculation and remittance to assuming full responsibility of underlying suppliers.[5] (OECD, 2017[1])

Accordingly, tax authorities could consider allowing platforms to act voluntarily as a third-party service provider on behalf of underlying suppliers. This could notably be relevant in cases where a platform is considered liable for certain supplies but not for others (see below). This provision could benefit the efficiency of compliance for both the platform and the underlying supplier.

3.5.2. Scope

The key issue for a jurisdiction when considering the scope of a measure allowing a platform to act as a voluntary intermediary is whether it can lead to a more efficient and effective collection of taxes. In this context, a tax authority could see advantages in an arrangement whereby a trusted platform collects VAT/GST or assumes the liability for the VAT/GST on behalf of potentially thousands of underlying suppliers.

A jurisdiction could allow this provision to operate as complementary to the full VAT/GST liability regime, applying it to transactions not covered by that obligation (see Chapter 2). A jurisdiction could also determine that the voluntary intermediary model could be useful as an intermediate step pending the coming into effect of a full VAT/GST liability regime.

Specifically in relation to imports of goods from online sales, jurisdictions may wish to allow platforms to act as voluntary intermediaries to collect and remit the VAT/GST on imports of goods beyond statutory liability requirements. For example, if the liability regime as described in Chapter 2 is only applied to imports of goods below the customs *de minimis* threshold, the possibility of allowing the digital platform to voluntarily opt to collect and remit the VAT/GST on behalf of the underlying supplier above this *de minimis* threshold could be considered. Such arrangements would need to be made in close consultation with the customs administration.

Finally, another key consideration on scope relates to whether this can apply to domestic supplies and under what conditions. As with foreign underlying suppliers this consideration has to take into account the potential impacts on underlying suppliers who may not be required to be registered for VAT/GST.

3.5.3. General design and policy considerations

As such an arrangement is voluntary and has potential benefits for tax authorities in terms of increasing compliance, it is essential that it is attractive for digital platforms in terms of compliance obligations. This is particularly the case where a digital platform may not be located in the jurisdiction with taxing rights. Consequently, jurisdictions can consider establishing a simplified registration and compliance regime to facilitate compliance. In this respect, countries can draw on the extensive guidance in Chapter 3 of the Collection Mechanisms Report on the design and practical operation of simplified registration and compliance regimes (OECD, 2017[1]).

Other relevant considerations include:

- The **scope for such a voluntary intermediary arrangement** should be clearly defined (e.g. exclusion on the grounds of the nature of the goods or value);
- The voluntary intermediary arrangement should be reflected in a **clear agreement between the underlying supplier and the digital platform**, to ensure that the respective VAT/GST liabilities are clearly defined. A further issue for consideration is that an underlying supplier may sell via several platforms and therefore any arrangement should be cognisant of this possibility;
- It may be the case that a digital platform decides to include this as **part of a service offering** to its underlying suppliers;
- It is reasonable to expect that a platform that chooses to operate as an intermediary to voluntarily collect and remit the VAT/GST on online, should be able to **benefit from any simplified registration and collection regimes** that are ordinarily available to underlying suppliers;
- It is essential that a tax or customs authority has the **means to verify that the VAT/GST has been or will be accounted for,** and that the platform has taken responsibility for this.

Notes

[1] Please see further the Guidelines, Chapter 3, Section C.3.3.7. Availability of information; Collection Mechanisms Report, Chapter 3, Section C.7 Communication strategy – availability of information.

[2] Collection Mechanisms Report, Chapter 3, Box 4 – Information to be made available to support compliance by foreign suppliers under simplified registration and collection regimes.

[3] The EU VAT Forum is a discussion platform for representatives from tax authorities and businesses. Information on the forum is available at https://ec.europa.eu/taxation_customs/business/vat/eu-vat-forum_en.

The 2016 co-operation report is available at https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/tax_cooperation/vat_gap/2016-03_guide-on-adm-cooperation_en.pdf.

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[4] Guidelines, paragraph 3.148.

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Chapter 4. Supporting measures for efficient and effective collection of VAT/GST on online sales

This chapter examines supporting measures for the efficient and effective collection of VAT/GST on online sales beyond measures specifically targeted at digital platforms. This chapter examines the possibilities of joint and several liability as a means to encourage compliance and co-operation; and possible measures to support compliance in respect of supplies made via so-called "fulfilment houses". It also recalls the need for measures to facilitate compliance for online suppliers that do not sell through a digital platform ("direct sellers"); and considers the importance of co-operation and information sharing between tax and customs authorities at domestic level, as well as of the international exchange of information and administrative co-operation at trans-national level, notably to support compliance through risk analysis.

4.1. Introduction

Chapters 2 and 3 focused on the potential roles and obligations for digital platforms in the VAT/GST collection process. This chapter considers a range of other measures that tax authorities can take to maximise VAT/GST compliance in respect of online sales. It acknowledges that VAT/GST enforcement and controls do not just relate to supplies via digital platforms, but also need to address enforcement more generally as part of an overall compliance strategy to secure the proper VAT/GST collection on online sales. Further, less than efficient collection creates an un-level playing field for business and platforms that are willing to comply with their obligations. The lack of a level playing field can harm traditional bricks and mortar businesses, domestic online businesses, compliant platforms and indeed suppliers outside the jurisdiction.

Tax authorities are therefore encouraged to give due consideration to the VAT/GST compliance role and obligations of the broad range of other actors in online trade, beyond digital platforms. Taking such a broader perspective is important for effective collection as there would be revenue risks for countries if underlying suppliers could identify opportunities to avoid VAT/GST obligations by selling directly to consumers (without using a digital platform that is subject to VAT/GST obligations), or through non-compliant platforms or by supplying via fulfilment houses.

This chapter examines the possibilities of joint and several liability as a means to encourage compliance and co-operation; possible measures to support compliance in respect of supplies made via so-called "fulfilment houses". It also recalls the need for measures to facilitate compliance for suppliers that do not sell through a digital platform ("direct sellers"); and considers the importance of co-operation and information sharing between authorities at domestic level, as well as of the international exchange of information and administrative co-operation at trans-national level to support compliance through risk analysis.

4.2. Joint and several liability

4.2.1. Overview

Jurisdictions may wish to consider introducing joint and several liability (JSL) provisions in legislation as a means to help to support compliance for the collection of VAT/GST on online sales. These provisions may apply to digital platforms in cases where a platform has no liability for the VAT/GST on online sales that were carried out through its platform.

JSL is generally not considered to be a primary tool in securing the collection of VAT/GST on online sales, as either a platform or an underlying supplier will have statutory liability for the VAT/GST. However, such a provision can be useful as a tool to support tax authorities in cases of non-compliance and indeed can deter non-compliant behaviour.

This section which outlines how JSL can work in practice draws on the experience of countries who have introduced such provisions. Indeed, recent experience suggests that JSL can offer a strong incentive for digital platforms to ensure that the underlying suppliers using the platform are compliant insofar as their VAT/GST obligations. Furthermore, this section highlights the desirability of avoiding disproportionate burdens on digital platforms in the application of such a regime, including in respect of the due diligence a platform needs to apply and therefore endeavours to ensure fairness.

4.2.2. Practical application of joint and several liability provisions to digital platforms

JSL could be imposed on digital platforms in cases where the platform has no statutory VAT/GST liability for the supplies carried out by its underlying suppliers, i.e. where the underlying supplier is liable for the VAT/GST on the supplies made via this platform. If the underlying supplier is not compliant, the JSL provision provides the possibility to the tax authorities to declare the digital platform jointly and severally liable for this VAT/GST.

Based on experience in countries applying such provisions, there are two broad variations in applying JSL which can be designed to work in tandem:

- Under **variation 1**, the digital platform is held jointly and severally liable for the future undeclared VAT/GST of the underlying suppliers, once the tax authority had spotted cases of non-compliance, has reported these cases to the digital platform and the latter did not take appropriate action within a specified number of days. Such action by the digital platform typically consists of securing compliance from the underlying supplier or removing the supplier from its platform;
- Under **variation 2**, the digital platform may be held jointly and severally liable for the past undeclared VAT/GST of underlying suppliers when the digital platform should have had a reasonable expectation[1] based on the underlying supplier's activities on the platform that the supplier should be registered for VAT/GST but has not.

Neither variation puts primary liability on the digital platforms but both can assist a jurisdiction in its enforcement efforts.

4.2.3. Description of Variation 1 – Forward looking

Under this variation, the tax authority notifies a digital platform that underlying suppliers on this platform have been detected as being non-compliant. According to this pre-notice by the tax authority, the digital platform has a specific number of days to take appropriate action to secure the VAT/GST on the sales made by the non-compliant supplier. Such action typically requires the platform to ensure: (i) that the non-compliant supplier complies with its VAT/GST obligations in line with the notice from the tax authority; or (ii) that the non-compliant supplier is removed from the platform. If the digital platform fails to take the appropriate action within this period, the tax authorities can decide to consider the platform as jointly and severally liable for the VAT/GST on any future sales made by the non-compliant underlying supplier.

One complexity may result from non-compliant suppliers (individuals or legal entities) selling online under multiple seller identities. Where a tax authority is aware of such a scenario, it will need to notify the digital platform of all the identities that belong to the same supplier for the JSL provision to be truly effective. If a non-compliant supplier appears on multiple digital platforms, all platforms will need to be notified.

This variation typically does not require the tax authority to prove fraudulent behaviour by the underlying supplier or the digital's platform 'knowledge' of this behaviour. But the pre-notice phase under this variation would typically allow a well-intentioned supplier to have time to comply and rectify issues.

4.2.4. Description of Variation 2 – Focus on past liability

This variation allows a tax authority to make a digital platform liable in respect of past sales of a non-compliant underlying supplier, if the platform should have had a reasonable expectation based on the underlying supplier's activities on the platform that the supplier should be registered for VAT/GST but has not. In effect, this variation of joint and several liability model puts an onus on digital platforms to carry out due diligence (know-your-customer checks) on underlying suppliers by requesting VAT/GST registration numbers and carrying out checks to ensure these numbers are valid.

The digital platform can avoid being held jointly and severally liable if it takes mitigating steps such as blocking the supplier from its platform and/or notifying the relevant tax authority in cases where due diligence indicates that the underlying supplier is not VAT/GST registered in the taxing jurisdiction or is engaging in suspicious behaviour.

Under this variation, there is an onus on the digital platform to self-police the VAT/GST registration numbers of underlying suppliers to avoid the risk of joint and several liability for VAT/GST on past sales by non-compliant underlying suppliers. This requires, however, that the digital platform has the legal and practical means to check whether a supplier is displaying a valid VAT/GST number associated with its business name (e.g. that taxpayer confidentiality rules do not limit the digital platform's capability of checking the validity of underlying suppliers' VAT/GST registration numbers in the taxing jurisdiction; available electronic data or similar means to check VAT/GST registration numbers).

4.2.5. Implementation considerations for joint and several liability

The following considerations can be taken into account in respect of applying JSL:

- JSL regimes do not impose primary legal responsibility for collecting the VAT/GST on digital platforms but **can assist a jurisdiction in its enforcement efforts and, in particular, provide a fast mechanism to enforce compliance on non-compliant suppliers and/or to block non-compliant suppliers** (see Variation 1). In this context, it is useful to note that a "forward looking" JSL provision (Variation 1) can in principle be implemented without the requirement for the tax authority to prove that the digital platform knew that an underlying supplier was not compliant with their VAT/GST obligations. This is different from Variation 2, where such proof will typically be required to justify the platform's joint and several liability for unpaid VAT/GST in respect of past sales;
- Under Variation 2, a platform can protect itself from potential JSL by **applying due diligence on the** underlying **suppliers**. Such checks may also apply in respect of intellectual property rights and legal provisions in the destination jurisdiction e.g. prescription drugs;
- JSL builds on the assumption that it is **in the interest of platforms** as well, **to ensure a level playing field** for all of their sellers and remove 'bad actors' from their sites, incl. from a reputational viewpoint. It should also be in the platforms' interests to help their suppliers to be fully compliant with their VAT/GST liabilities so that they are able to continue to trade on their platforms;
- If a tax authority chooses to implement this measure, it is important to make sure to **enforce it across the e-commerce market as a whole** so as to avoid non-compliant sellers simply continuing supplies on other platforms;

- It is also important for a tax authority when applying JSL to **avoid disproportionate requirements on platforms and include clear criteria to ensure legal certainty**;
- The application of JSL **may be particularly effective in cases of supplies of goods being warehoused in the taxing jurisdiction** where tax authorities have access to information through local fulfilment houses and the ability to seize goods;
- For the operation of Variation 2, tax authorities will need to ensure that digital platforms have **access to updated lists of VAT/GST identification numbers** associated with taxpayers so as to be able to validate a specific VAT/GST number provided by an underlying supplier;
- It is recognised that JSL regimes **require the tax authority to first detect non-compliance**, contrary to for instance a full VAT/GST liability regime, which may require significant administrative **effort** and/or may be beyond its current capacity;
- There are **risks that non-compliant online suppliers can circumvent the rules by simply re-registering with the platform using a different identity or legal entity**. It can be argued, however, that commercial factors could mitigate this risk given that the underlying suppliers are removed from the **platform**, and therefore lose their feedback history and customer rating, which can be critical for the confidence of an end consumer purchasing from a supplier. This may be disruptive to their business and thus provide a strong incentive to comply;
- Application of JSL needs to be **supported by clear communication** with the platforms to ensure that there is full clarity on the application of such a provision, and the steps that a platform can take to ensure it does not become liable;
- The specific time compliance window provided under both variations **should take into account the period required for a well-intentioned supplier to comply**.

4.3. Monitoring supplies made via fulfilment houses

Fulfilment houses play an increasingly important role in facilitating online trade, prompting the need for further assessment of the scale of the fulfilment house industry, the associated VAT/GST compliance risks and of the need and/or opportunity for targeted measures.

Fulfilment houses are third-party warehouses responsible for handling goods on behalf of foreign suppliers. These are now commonly used by business for the distribution of their products (i.e. receiving, processing and delivery services), especially in the cross- border context. Fulfilment services provide businesses (start-ups and SMEs that may not have the infrastructure and logistic facilities but also big established enterprises) with many benefits, including lower shipping and operating costs, global delivery of goods, speed of delivery, improved customer service, and technology-intensive solutions (e.g. item tracking and information, carrier selection, integration with sales channels, etc.).

It has been reported, however, that fulfilment houses have been involved in facilitating the non-payment of VAT/GST on goods supplied by foreign suppliers. This type of abuse essentially consists of foreign suppliers selling goods that are physically held in a third-party fulfilment house to consumers in the same jurisdiction as where the goods are held, without charging the correct amount of VAT/GST on the sale (no VAT/GST or an incorrectly low

amount of VAT/GST as a consequence of undervaluation or mischaracterisation). This is often preceded by a fraudulent importation of these goods by the foreign supplier into that jurisdiction. Given their role as third-party warehouses, which only deal with the logistical aspect of goods deliveries on behalf of foreign suppliers, these fulfilment houses generally have (or claim to have) no knowledge of the VAT/GST status of the goods nor do they have a liability, in principle, to collect the VAT/GST on the supplies of these goods to final consumers.

Such abuse can potentially be addressed by registering/licensing the operators of fulfilment houses, including a requirement for them to carry out **due diligence** on the businesses using their facilities and **to keep records on goods shipped to and from the fulfilment house**. Additionally, they could be required to supply notices to customers with respect to their VAT/GST obligations (and potentially other tax and duty obligations, such as customs and excises), and be subject to penalties even to the extent of having goods seized or to lose the right to trade as a fulfilment house if they fail to carry out proper due diligence checks or to report customers suspected of not having complied with these obligations. It is recognised that fulfilment houses can be used for cross-border supplies also, and therefore this is another area which can benefit from co-operation between jurisdictions.

Tax authorities could consider applying a joint and several liability regime to fulfilment house operators. However, the feasibility of this is likely to depend on the level of involvement of these fulfilment houses in the supply and the tax authorities would need to evaluate the proportionality of such a measure.

4.4. Do not lose sight of online sales that do not involve digital platforms

This report identifies the potential roles and obligations for digital platforms in the collection of VAT/GST for online sales and proposes potential measures that tax authorities can take to ensure collection on those sales. It is acknowledged, however, that while a large proportion of online sales are currently made via platforms, a significant amount of sales are made without the intervention of a digital platform, i.e. through direct sales. When designing and implementing measures to support VAT/GST compliance on online sales, tax authorities are encouraged to ensure that their VAT/GST compliance strategy for online sales takes due account of the importance of direct sales and of the challenges of ensuring compliance for such sales made by foreign suppliers in particular.

In this context, the Guidelines point out that the highest feasible levels of compliance by foreign suppliers are likely to be achieved if compliance obligations in the taxing jurisdiction are simple and limited to what is strictly necessary for the effective collection of the tax[2] (OECD, 2017[1]). These Guidelines encourage tax authorities to facilitate compliance for foreign suppliers, particularly in cross-border sales to final consumers, by implementing a simplified registration and compliance regime (OECD, 2017[1]). The experience of the jurisdictions that have implemented such a regime indeed confirms the high levels of compliance by foreign suppliers. In introducing simplified registration and compliance regimes, jurisdictions can draw on the extensive guidance in Chapter 3 of the Collection Mechanisms Report (OECD, 2017[2]). As outlined in the Collection Mechanisms Report, appropriate simplification is important to facilitate compliance by business faced with obligations in multiple jurisdictions, which is likely to be particularly relevant for direct sellers (OECD, 2017[2]). Further, the report acknowledges that complex obligations can create barriers which increase the risk of non-compliance or of certain suppliers declining to serve customers in jurisdictions that impose such barriers.

It is useful to also recall the possibility outlined in the Guidelines that "compliance for foreign suppliers could be further facilitated by allowing such suppliers to appoint a third-party service provider to act on their behalf in carrying out certain procedures, such as submitting returns"[3] (OECD, 2017[1]). This could be especially helpful for small and medium enterprises and businesses that are faced with multi-jurisdictional obligations. Allowing a direct seller to use a third-party service provider may mitigate against possible risks of non-compliance.

4.5. Co-operation between tax and customs authorities at domestic level

This section recalls the importance of a close co-operation between tax and customs authorities for ensuring the efficient and effective collection of VAT/GST, customs and other duties in respect of imports from online sales.

Chapter 2 has already outlined the importance of a close co-operation between tax and customs authorities to ensure the workability of the full VAT/GST liability regime for digital platforms. However, it is recognised that a co-operation between tax and customs authorities is also needed to ensure compliance for online sales that are not carried out through a digital platform, or sales via fulfilment houses or indeed for sales that are not covered by a full VAT/GST liability regime for digital platforms or where a platform has an obligation but is not compliant.

Co-operation of tax and customs authorities is likely to be beneficial for the efficiency and the effectiveness of the collection of VAT/GST, customs and other duties on imports from online sales, and to minimise the impact of the collection of these taxes on online value chains. Such co-operation will also help to ensure that online sales of imported goods and wholly domestic sales are treated equally for VAT/GST and duties purposes, incl. where sales are made by traditional brick and mortar stores.

The great significance of co-operation between tax and customs authorities as also emphasised throughout the WCO Cross-Border E-Commerce Framework of Standards and its Guidelines on Customs-Tax Co-operation.[4]

Co-operation between tax and customs authorities may already be desirable at the design stage of measures for the collection of VAT/GST of imports from online sales. This is likely to enhance consistency in processes and facilitate the implementation of reforms (incl. the design and implementation of IT systems), and also to foster ongoing co-operation.

The co-operation between tax and customs authorities could further include the sharing of information, good practices and intelligence, which can be facilitated through enhanced inter-connectivity between the IT systems, and co-operation on targeted compliance and enforcement initiatives. This could include coordinated on audits, including system and account based audits.

The benefits of co-operation between tax and customs authorities at a domestic level can be even more enhanced through international co-operation and exchange of information.

4.6. International mutual co-operation and exchange of information

4.6.1. Overview

International co-operation and exchange of information is particularly relevant in light of the exponential growth of cross-border e-commerce and the potential VAT/GST revenues

at stake. The Guidelines highlight the existing mechanisms available to countries through both multilateral and bilateral co-operation (OECD, 2017[1]). This is the subject of further work by the WP9, recognising the great importance of this work in light of the challenges for VAT/GST collection arising from the growth in e-commerce.

4.6.2. Existing mechanisms for mutual co-operation

The Guidelines point to the possibilities for multilateral co-operation through the *Multilateral Convention on Mutual Assistance in Tax Matters* which was developed jointly by the OECD and the Council of Europe in 1988 and amended by Protocol in 2010 (OECD, 2017[1]). This Convention and Protocol provides for all possible forms of administrative co-operation between the parties in the assessment and collection of taxes, in particular with a view to combatting tax evasion and avoidance. This is particularly relevant whereby businesses and platforms can increasingly access markets in other jurisdictions without having a physical presence. While generally it covers all taxes including general consumption taxes such as VAT/GST, a country may choose to restrict its application to taxes on income/ profits, capital gains and wealth.

The Guidelines (OECD, 2017[1]) also highlight the possibilities of bilateral co-operation through the exchange of information provisions in Article 26 of the OECD Model Tax Convention (MTC) (OECD, 2017[3]). Paragraph 10.1 of the Commentary on Article 26 on the MTC provides the possibility to States to *restrict the scope of the exchange of information to taxes covered by the MTC (which would not include VAT or GST).* As indicated, this appears to offer a promising platform for parties to exchange information both in individual cases and in broader classes of cases arising under VAT/GST. A bilateral agreement thus provides a possible mechanism for enhanced co-operation and development of solutions to common problems. Another possibility that may exist is through the OECD *Model Agreement on Exchange of Information* (OECD, 2002[4]).

Given the critical role of customs authorities in cross-border supplies of goods, it is also relevant that the WCO has developed a number of instruments and tools supporting exchange of information (e.g. the Nairobi Convention, the Model Bilateral Agreement on Mutual Assistance and the Globally Networked Customs (GNC)). Based on these instruments, customs administrations have entered into bilateral or multilateral agreements/arrangements for the exchange of information.

4.7. Supporting compliance through risk analysis

The OECD's Forum on Tax Administration has produced a series of guidance material and reports which tax authorities can draw on in implementing risk analysis solutions which are based on practical experience in countries. These reports include *Advanced Analytics for Better Tax Administration* (OECD, 2016[5]) and *The Changing Tax Compliance Environment and the Role of Audit* (OECD, 2017[6]).

Given the rapid growth in volumes of packages and the consequent difficulty in controlling these transactions individually, there can be benefits in utilising, or indeed adapting existing risk analysis systems, to assist in the control of online sales. The use of risk analysis could be applied to all actors in the supply chain i.e. suppliers, platforms, shippers, payment service providers, importers and fulfilment houses.

Further, it is relevant that the WCO has agreed standards on "Risk management for facilitation and control" and "Use of non-intrusive technologies and data analytics" as part of the WCO Cross-Border E-Commerce Framework of Standards which was delivered in

June 2018 (see further Annex G). This may present a practical opportunity for tax and customs authorities to work effectively together to address revenue collection risks.

4.8. Remain vigilant against abuse

It is acknowledged that there is a need for tax authorities to remain vigilant against abuse and to take appropriate countermeasures to tackle it. Circumstances may materialise whereby certain actors in the supply chain will try to circumvent rules or create artificial structures in order to avoid liability. For example, a locally established supplier may decide to structure its business in order to shift liability to a foreign digital platform which, in turn, does not comply with its VAT/GST obligations in the taxing jurisdictions.

The Guidelines recognise that it is appropriate for tax authorities to take proportionate measures to protect against evasion and avoidance, revenue losses and distortion of competition (see Chapter 4, Section 4.5 above) (OECD, 2017[1]). The enforcement tools identified in this chapter provide tools to authorities to maximise compliance. As identified above, the global nature of online sales underline the need for greater administrative co-operation at an international level particularly in terms of notifying other tax authorities of schemes and structures which may be identified and the application of good practices in addressing abuse.

Notes

[1] This will depend on the legal regime in the taxing jurisdiction which may include specific measures addressing fraud in the supply chain as well as anti-abuse measures.

[2] Guidelines, Chapter 3, C.3.2 and C.3.3.

[3] Guidelines, paragraph 3.148.

[4] See Standard 7 of the WCO Cross-Border E-Commerce Framework of Standards in Annex G of this report; WCO Guidelines on Customs-Tax Cooperation available at www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/guidelines-on-customs-tax-cooperation.aspx.

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Annex A. A list of functions considered relevant for the application of the full VAT/GST liability regime

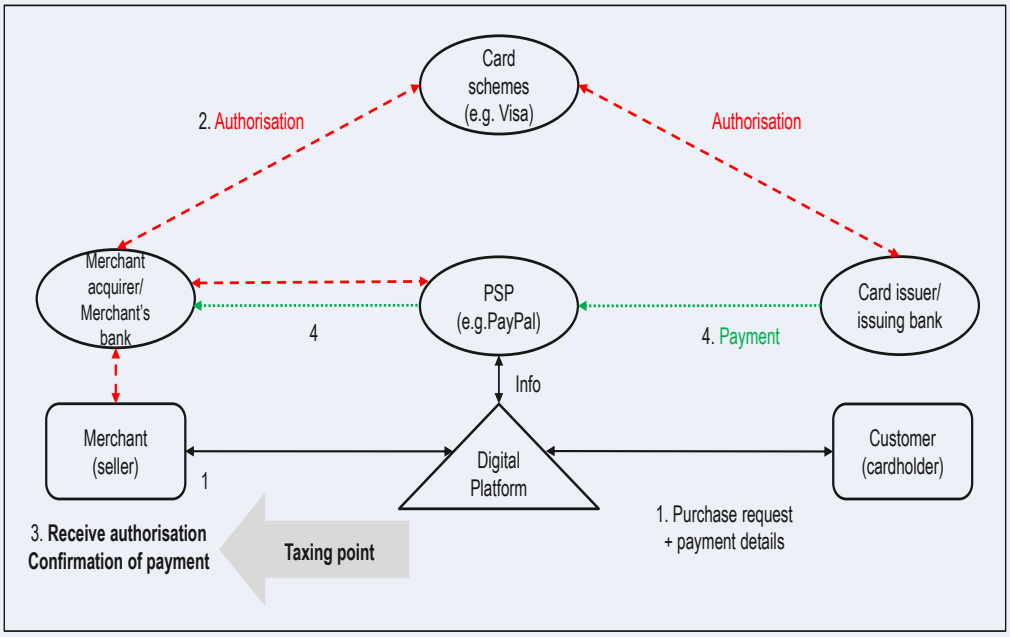
A non-exhaustive list of examples of functions considered relevant for enlisting digital platforms under full VAT/GST liability regime

This table provides a non-exhaustive list of examples of functions that have been considered relevant by existing regimes for the eligibility of digital platforms for the full VAT/GST liability regime

Examples of functions that may trigger the eligibility of digital platform for the full VAT/GST liability regime	***Examples of functions that may exclude digital platform from eligibility for the full VAT/GST liability regime***
Controlling and/or setting the terms and conditions of the underlying transactions (e.g. price; payment terms; delivery conditions, etc.) and imposing these on participants (buyers, sellers transporters…);	Only carries content (e.g. makes only the Internet network available for carrying content via Wi-Fi, cable, satellite, etc.); or
Direct or indirect involvement in the payment processing (either directly or indirectly through arrangements with third parties, collect payments from customers and transmit these payments to sellers less commissions; obtain pre-authorisations or submit payment instructions or information to the platform's own or to a third-party payment platform or to a platform stipulated in the terms and conditions set by platforms);	Only processes payments; or
Direct or indirect involvement in the delivery process and/or in the fulfilment of the supply (incl. influencing/controlling the conditions of delivery; sending approval to suppliers and or instructing a third party to commence the delivery; providing order fulfilment services with or without warehousing services);	Only advertises offers; or
Providing customer support services (returns and/or refunds/assistance with dispute resolution).	Only operates as a click-through/shopping referral platform. Such a platform only transfers via software, an Internet link or otherwise a potential customer to the website of a seller, thus enabling the discovery, promotion or listing of goods for sale by a seller. Customer and seller complete the transaction without any direct or indirect involvement of the digital platform in the setting of the terms of the underlying supply or in the payment or delivery process. Where such a platform's fee is, however, calculated on the basis of the final consideration agreed between the customer and the underlying supplier, this may be an indication of an involvement in the underlying transaction that could bring the digital platform within the scope of the regime.

Source: OECD research.

Annex B. Simplified payment cycle



Note: This diagram shows a high-level overview of a simplified payment cycle in a typical online payment process. Granted, the payment landscape could be more complex and there may be variations of payment process models.

In an online payment process, a number of different parties are involved that may include the following:
Cardholder (i.e. customer): it is a person holding a debit or credit card issued by card issuer (i.e. issuing bank/customer's bank).
Merchant (i.e. seller/underlying supplier): it is a vendor that sells goods and/or services to the customer.
Merchant acquirer (i.e. acquiring bank/merchant's bank): it is a bank or a financial institution that processes the payment transaction on behalf of the merchant (e.g. Barclays).
Card scheme: card schemes manage the operation and clearing of payment transactions. Examples include American Express, Maestro, MasterCard, Visa, etc.
Card issuer (i.e. issuing bank/customer's bank): card issuer is the bank or financial institution that provides debit or credit card to the cardholder.
Payment service provider (e.g. PayPal): it provides a 'payment gateway' services to securely take customer's card details on a payment page and pass these onto the acquirer for processing.
Source: OECD analysis.

1. Cardholder (i.e. customer), either through a digital platform or directly, communicates his or her offer to purchase an item (i.e. goods and/or services) to the merchant (i.e. seller). Typically, the customer also inputs their card details for payment at this point.

2. After receiving the customer's offer to purchase, the seller initiates an authorisation request that will be passed onto the card issuer (i.e. customer's bank). Customer's bank will confirm the authorisation and revert to the seller.

3. Once the seller receives authorisation *[i.e. the time of supply/taxation for the purposes of the VAT/GST collection under the full VAT/GST liability regime]*, the seller accepts customer's offer to purchase and delivers goods and/or services - the customer's bank will place a hold on the amount of the purchase on the customer's account. Concurrently, the seller will notify the digital platform of the confirmation of payment. The digital platform will also further pass on this confirmation to the customer.

4. The seller initiates the collection request. Customer's bank transfers the funds to the merchant's bank account. Subsequently, the customer's bank will debit the transaction amount to the customer's bank account.

Annex C. Main features of a simplified registration and compliance regime for non-resident suppliers

Registration procedure

- The information requested could be limited to necessary details, which could include:
  - Name of business, including the trading name
  - Name of contact person responsible for dealing with tax administrations
  - Postal and/or registered address of the business and its contact person
  - Telephone number of contact person
  - Electronic address of contact person
  - Website URL of non-resident suppliers through which business is conducted in the taxing jurisdiction
  - National tax identification number, if such a number is issued to the supplier in the supplier's jurisdiction to conduct business in that jurisdiction.
- The simplest way to engage with tax administrations from a remote location is by electronic processes. An on-line registration application could be made accessible on the homepage of the tax administration's website, preferably available in the language of the jurisdiction's major trading partners.

Input tax recovery refunds

- Taxing jurisdictions could limit the scope of a simplified registration and compliance regime to the collection of VAT on B2C supplies of services and intangibles by non-resident suppliers without making the recovery of input tax available under the simplified regime;
- Input tax recovery could remain available for non-resident suppliers under the normal VAT refund or registration and compliance procedure.

Return procedure

- As requirements differ widely among jurisdictions, satisfying obligations to file tax returns in multiple jurisdictions is a complex process that often results in considerable compliance burdens for non-resident suppliers;
- Tax administrations could consider authorising non-resident businesses to file simplified returns, which would be less detailed than returns required for local businesses that are entitled to input tax credits. In establishing the requirements for information under such a simplified approach, it is desirable to strike a balance between the businesses' need for simplicity and the tax administrations' need to verify whether tax obligations have been correctly fulfilled. This information could be confined to:
  - Supplier's registration identification number
  - Tax period
  - Currency and, where relevant, exchange rate used
  - Taxable amount at the standard rate
  - Taxable amount at reduced rate(s), if any
  - Total tax amount payable.
- The option to file electronically in a simple and commonly used format is essential to facilitating compliance.

Payments

- Use of electronic payment methods is recommended, allowing non-resident suppliers to remit the tax due electronically;

- Jurisdictions could consider accepting payments in the currencies of their main trading partners.

Record keeping

- Jurisdictions are encouraged to allow the use of electronic record keeping systems;
- Jurisdictions could limit the data to be recorded to what is required to satisfy themselves that the tax for each supply has been charged and accounted for correctly and relying as much as possible on information that is available to suppliers in the course of their normal business activity;
- This could include the type of supply, the date of the supply, the VAT payable and the information used to determine the place where the customer has its usual residence;
- Taxing jurisdictions could require these records to be made available on request within a reasonable delay.

Invoicing

- Jurisdictions could consider eliminating invoicing requirements for business-to-consumer supplies that are covered by the simplified registration and compliance regime, in light of the fact that the customers involved generally will not be entitled to deduct the input VAT paid on these supplies;
- If invoices are required, jurisdictions could consider allowing invoices to be issued in accordance with the rules of the supplier's jurisdiction or accepting commercial documentation that is issued for purposes other than VAT (e.g. electronic receipts);
- It is recommended that information on the invoice remain limited to the data required to administer the VAT regime (such as the identification of the customer, type and date of the supply(ies), the taxable amount and VAT amount per VAT rate and the total taxable amount). Jurisdictions could consider allowing this invoice to be submitted in the language of their main trading partners.

Availability of information

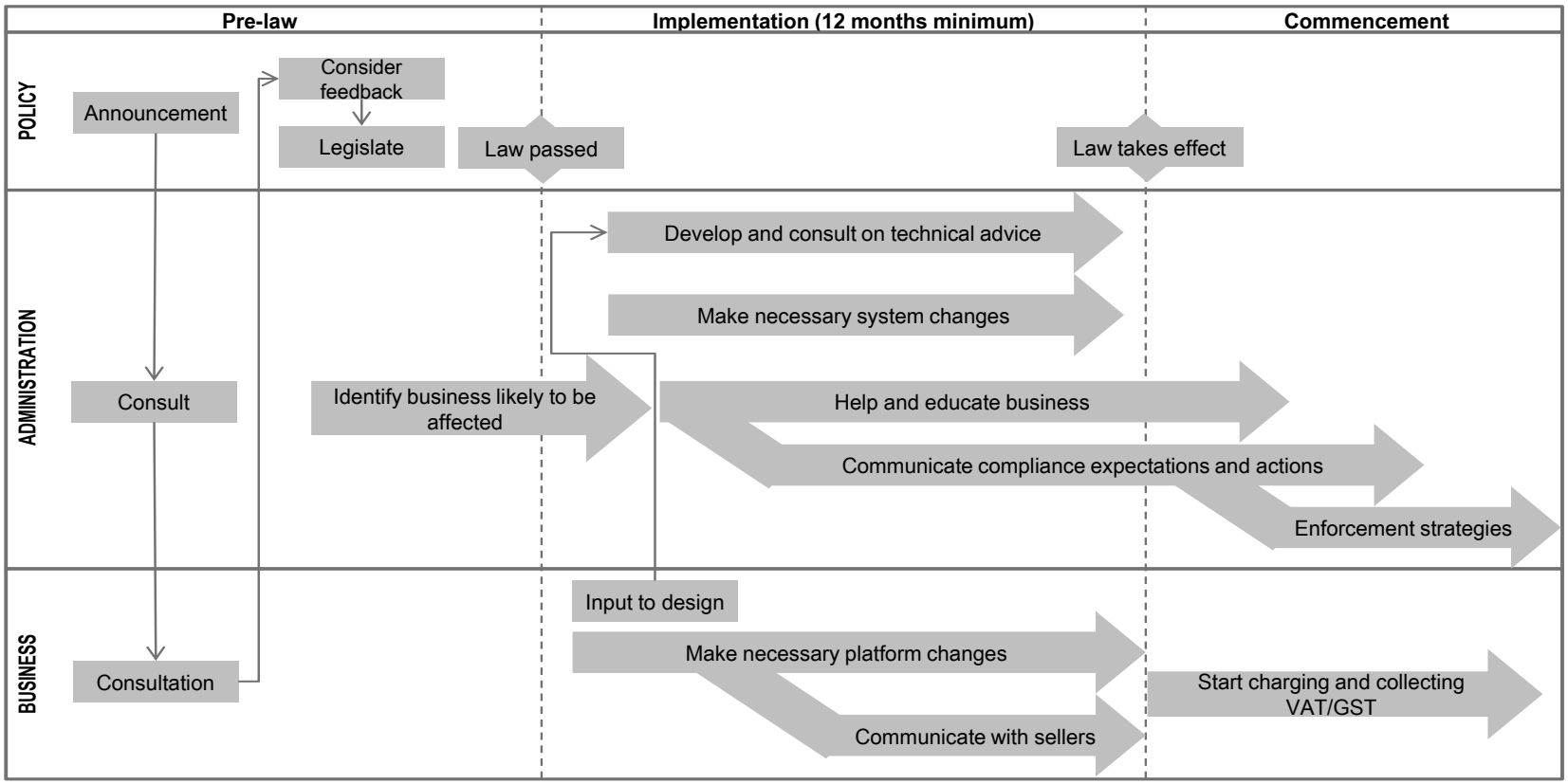
- Jurisdictions are encouraged to make available on-line all information necessary to register and comply with the simplified registration and compliance regime, preferably in the languages of their major trading partners;
- Jurisdictions are also encouraged to make accessible via the Internet the relevant and up-to-date information that non-resident businesses are likely to need in making their tax determinations. In particular, this would include information on tax rates and product classification.

Use of third-party service providers

- Compliance for non-resident suppliers could be further facilitated by allowing such suppliers to appoint a third-party service provider to act on their behalf in carrying out certain procedures, such as submitting returns;
- This could be especially helpful for small and medium enterprises and businesses that are faced with multi-jurisdictional obligations.

Source : Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report (OECD, 2015[1]).

Annex D. Possible implementation timeframe



Source : OECD analysis.

Annex E. A high-level overview of current customs procedures

Under the current customs procedures (the so-called Traditional Collection model), the customs authorities generally assess and collect the duties and taxes payable on each individual consignment of goods based on the information in the import customs declaration.

In principle, the VAT/GST on imports is collected with the customs duties at the same time (i.e. the time of importation) before the goods are released from customs clearance. The import VAT/GST is generally assessed based on the customs value to which certain elements may be added such as costs of transport, other ancillary costs, and duties (although duties will generally not be collected on imports of low-value goods sold on-line as the value of these goods is usually below the relevant customs threshold). The person designated as the declarant (under the Revised Kyoto Convention which entered into force in 2006 the "declarant" is defined as any person who makes a goods declaration or in whose name such as declaration is made)/consignee/importer of record on the import declaration is generally liable to the customs authorities to account for the import VAT/GST. This person can be the purchaser/consignee or the vendor/supplier of the goods depending on the contractual arrangements between parties.

A third party can also be designated as a representative of the importer of record or the declarant for completing the customs procedures and pay the duties and taxes. In this case, the declaration can be done in the name of a person being represented by the third party (direct representation) or in the third party's own name (indirect representation). In some countries in which a third party acts under direct representation, the person he or she represents assumes liability: in case of indirect representation, the third party himself is responsible. In some instances, the person and the third party will be considered severally and jointly liable for the payment of customs duties and taxes due. In a number of countries, the third party is commonly registered as a customs broker in the country of import (i.e. the country of destination).

When goods are imported through ***express carriers/couriers***, the relevant data and scanned documents are usually transmitted, in electronic format, to the customs authorities in the country of export and in the country of destination for customs clearance. This system allows the customs authorities at destination to obtain information prior to the arrival of a shipment in the country. Thanks to the electronic processing, in particular pre-arrival processing and risk assessment implemented by many administrations, this advance cargo information, complemented with advance payment of duties and taxes allows goods to be cleared immediately upon arrival without being stopped at the border for examination or assessment.

The situation is different in the ***postal environment***. This process is still predominantly paper based and relies primarily on the sender in a third country to provide the correct information. In the absence of electronic data transmission systems, the importation through postal operators typically requires that each individual consignment is stopped at the border so that the necessary information to assess the tax implications can be captured, liabilities can then be established and the appropriate process to ensure the payment of duties and taxes be made. However, electronic systems that are being developed in the

international postal environment for safety and security purposes could also be used in the future for tax collection purposes.

Other actors involved in the customs clearance as well as revenue collection procedures may include: the ***customs brokers*** i.e. persons engaged by the vendor, the carrier or the importer that are - depending on contractual arrangements- in charge for managing the data required for the clearance and entry of imports and to pay duties and taxes that are due; the freight forwarders who are mainly rendering services of any kind relating to the carriage, consolidation, storage, handling, packing or distribution of the goods as well as ancillary and advisory services in connection therewith. In addition, the freight forwarders can also act as a declarant, taking responsibility for the customs declaration and guaranteeing the payment of taxes and duties.

Overall, this traditional approach with respect to revenue collection targets the first taxing point within the border control, as illustrated in the flow chart of the Figure 2.2 of the report.

Source: Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report (OECD, 2015[1])

Annex F. Current international regulatory e-commerce developments

World Customs Organisation (WCO)

- WCO's Cross-Border E-Commerce Framework of Standards that provides common standards, technical specifications, and guidelines for the effective management of cross-border E-Commerce from both facilitation and control perspectives. This constitutes a set of customs standards (15 in total) on: Advance Electronic Data and Risk management; Facilitation and Simplification; Fair and Efficient Revenue Collection; and Safety and Security, etc. – see Annex G for further information. These Standards (delivered in June, 2018) represent a political commitment even though they are not legally binding, and provide operational solutions that WCO Members have started engaging other relevant government agencies and e-commerce stakeholders.

- WCO's ongoing work to facilitate exchange of information between Customs and e-commerce intermediaries (including marketplaces).

- WCO Immediate Release Guidelines: approved Guidelines for the immediate release of consignments by customs Version III 2018 applicable also on low value consignments for which no duties and taxes are collected (below the *de minimis* threshold) aiming to: facilitate the pre-arrival processing and risk management of the consignments based on advance electronic information; streamline and expedite the handling of the consignments upon arrival; assist Customs administrations in determining data requirements and the exact procedure to be applied.

- WCO Guidelines on Customs-Tax Cooperation: already approved Guidelines to strengthen cooperation among Customs authorities and Tax authorities, formulated with the support of WCO Members and development partners that aim to provide reference guidance to Customs and Tax authorities who wish to go further in their cooperation and develop operational models which enable agencies to work together to their mutual benefit.

- WCO/UPU Customs-Post EDI Messaging Standards and associated Guidelines are being developed to implement the advance electronic exchange of information between customs authorities and postal services in practice.

Universal Postal Union (UPU)

- The Universal Post Union (UPU) is developing a Postal Technology Centre aimed at making data available electronically in the postal operator environment. This includes (will include) an electronic Customs Declaration System (CDS) on the basis of joint messaging standards, which will enable customers to enter data about an item on-line and enable postal services to provide advance data about postal shipments.

European Union (EU)

- As of 2021, all imports arriving in the EU will be declared electronically using a specific data set depending on the type of operator and the mode of transport. The data set will ensure that information for establishing VAT and/or customs liabilities is present together with information for customs control purposes.

Source: WCO and other publicly available sources.

Annex G. WCO cross-border e-commerce framework of standards (2018)

The Framework of Standards is intended to provide global baseline standards to assist Customs and other relevant government agencies in developing E-Commerce strategic and operational frameworks supplemented by action plans and timelines. It provides the standards for the effective management of cross-border E-Commerce from both facilitation and control perspectives.

- **Standard 1: Legal Framework for Advance Electronic Data**

  A legal and regulatory framework should be established for requiring advance electronic exchange of data between relevant parties involved in the E-Commerce supply chain, and Customs administrations and other relevant government agencies to enhance facilitation and control measures, taking into account applicable laws, inter alia, those related to competition (anti-trust), and data security, privacy, protection, ownership.

- **Standard 2: Use of International Standards for Advance Electronic Data**

  Relevant WCO and other international standards and guidance should be implemented in accordance with national policy, in an effective and harmonised manner, to facilitate the exchange of advance electronic data.

- **Standard 3: Risk Management for Facilitation and Control**

  Customs administrations should develop and apply dynamic risk management techniques that are specific to the E-Commerce context to identify shipments that present a risk.

- **Standard 4: Use of Non-Intrusive Inspection Technologies and Data Analytics**

  Customs administrations should use data analytics and screening methodologies in conjunction with non-intrusive inspection equipment, across all modes of transportation and operators, as part of risk management, with a view to facilitating cross-border E-Commerce flows and strengthening Customs controls.

- **Standard 5: Simplified Clearance Procedures**

  Customs administrations, working in coordination with other relevant government agencies as appropriate, should establish and maintain simplified clearance formalities/procedures utilising pre-arrival processing and risk assessment of cross-border E-Commerce shipments, and procedures for immediate release of low-risk shipments on arrival or departure. Simplified clearance formalities/procedures should include, as appropriate, an account-based system for collecting duties and/or taxes and handling return shipments.

- **Standard 6: Expanding the Concept of Authorised Economic Operator (AEO) to Cross-Border E-Commerce**

  Customs administrations should explore the possibilities of applying AEO Programmes and Mutual Recognition Arrangements/Agreements in the context of cross-border E-Commerce, including leveraging the role of intermediaries, to enable Micro, Small and Medium-sized Enterprises (MSMEs) and individuals to fully benefit from the opportunities of cross-border E-Commerce.

- **Standard 7: Models of Revenue Collection**

  Customs administrations, working with appropriate agencies or Ministries, should consider applying, as appropriate, various types of models of revenue collection (e.g., vendor, intermediary, buyer or consumer, etc.) for duties and/or taxes. In order to ensure the revenue collection, Customs administrations should offer electronic payment options, provide relevant information online, allow for flexible payment types and ensure fairness and transparency in its processes. Models that are applied should be effective, efficient, scalable, and flexible, supporting various business models and contributing to a level playing field for and among the various E-Commerce stakeholders.

- **Standard 8: *De minimis***

  When reviewing and/or adjusting *de minims* thresholds for duties and/or taxes, Governments should make fully informed decisions based on specific national circumstances.

- **Standard 9: Prevention of Fraud and Illicit Trade**

  Customs administrations should work with other relevant government agencies to establish procedures for analysis and investigations of illicit cross-border E-Commerce activities with a view to prevent and detect fraud, deter the misuse of E-Commerce channels and disrupt illicit flows.

- **Standard 10: Inter-agency Cooperation and Information Sharing**

  Governments should establish cooperation frameworks between and among various national agencies through relevant electronic mechanisms including Single Window, as appropriate, in order to provide cohesive and coordinated response to safety and security risks stemming from cross-border E-Commerce, thus facilitating legitimate trade.

- **Standard 11: Public-Private Partnerships**

  Customs administrations should establish and strengthen cooperation partnerships with E-Commerce stakeholders to develop and enhance communication, coordination and collaboration, with an aim to optimise compliance and facilitation.

- **Standard 12: International Cooperation**

  Customs administrations should expand Customs cooperation and partnerships to the cross-border E-Commerce environment in order to ensure compliance and facilitation.

- **Standard 13: Communication, Public Awareness and Outreach**

  Customs administrations should make consumers, the public and other stakeholders aware of the regulatory requirements, risks and responsibilities associated with cross-border E-Commerce through comprehensive awareness raising, communication, education and outreach programmes.

- **Standard 14: Mechanism of Measurement**

  Customs administrations should work with relevant government agencies in close cooperation with E-Commerce stakeholders to accurately capture, measure, analyse and publish cross-border E-Commerce statistics in accordance with international statistical standards and national policy, for informed decision making.

- **Standard 15: Explore Technological Developments and Innovation**

  Customs administrations in collaboration with other relevant government agencies, private sector and academia, should explore innovative technological developments and consider whether these developments can contribute to more effective and efficient control and facilitation of cross-border E-Commerce.

Source: WCO.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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ISBN 978-92-64-73705-1 – 2019

The Role of Digital Platforms in the Collection of VAT/GST on Online Sales

This report provides practical guidance to tax authorities on the design and implementation of a variety of solutions for digital platforms, including e-commerce marketplaces, in the effective and efficient collection of VAT/GST on the digital trade of goods, services and intangibles. In particular, it includes new measures to make digital platforms liable for the VAT/GST on sales made by online traders through these platforms, along with other measures including data sharing and enhanced co-operation between tax authorities and digital platforms. It builds on the solutions for the effective collection of VAT/GST on digital sales included in the International VAT/GST Guidelines and the 2015 BEPS Action 1 Final Report "Addressing the Tax Challenges of the Digital Economy." It is of particular relevance recognising the growing importance of the platform economy and notably the potential of digital platforms to significantly enhance the effectiveness of VAT/GST collection given their important role in generating, facilitating and/or executing online sales.

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ISBN 978-92-64-73705-1

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