DIGITAL ECONOMY & CROSS BORDER TRANSACTIONS

VALUED-ADDED TAX (VAT) POLICY AND ADMINISTRATIVE CONSIDERATIONS FOR AFRICAN COUNTRIES
Digital Economy and Cross Border transactions:

Valued-Added Tax (VAT) Policy and Administration considerations for African Countries

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Acronyms

VAT – Value-Added Tax
GST – Goods and Services Tax
B2B – Business to Business
B2C – Business to Consumer
C2B – Consumer to Business
C2C – Consumer to Consumer
MNE – Multinational Entities
HMRC – Her Majesty’s Revenue and Customs
OECD – Organisation for Economic Cooperation and Development
EU – European Union
UK – United Kingdom

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The digital economy is a frontier issue in VAT administration for most jurisdictions, especially in Africa. Therefore, examples of legislation and administrative processes are limited. The examples used in this document are those publicly available and suitable for illustrative purposes. Also, considering the jurisdictional spread of operations of entities operating in the digital economy, some level of consistency across jurisdictions is necessary to enable ease of compliance.

This technical paper was developed to articulate the VAT policy and administrative considerations for operations in the digital economy, specifically the supply of electronic services. Business models in the digital economy are still evolving; thus the ATAF VAT Technical Committee will continue reviewing the applicable considerations and provide updated publications.

For all feedback, clarifications, or enquiries, please contact us through vat@ataftax.org
1. Introduction

Advancement in technology and the advent of the internet has given rise to business models that enable entities to conduct business across many jurisdictions without having any physical nexus in these jurisdictions. The entities supply goods and services, including intangibles, into multiple countries and receive payments without having a physical presence in the countries. Businesses are now also able to offer goods and services without owning any inventory or cost intensive tangible assets e.g. online platforms. Some of the most well-known examples of these entities are Amazon, Facebook, Google, Alibaba, Jumia, Konga et cetera. The operations of these entities are usually referred to as e-commerce and the totality of e-commerce and the peripheral industry is generally tagged as the Digital Economy.

While e-commerce presents an economic opportunity for the continent, it also presents challenges for tax administrations. The Value-Added Tax (VAT) implications must be carefully appraised considering that the ability not to own inventory/assets or have physical nexus results in low or no visibility on e-commerce transactions by the tax administrations. Thus, VAT being a consumption tax charged on supply of goods and services will be highly affected by the dynamics of e-commerce.

ATAF has developed this guideline to help African tax administrations understand the relevant issues that must be addressed in view of the proliferation of e-commerce on the continent and its impact on VAT collection.

The technical and administrative issues in this guideline aim to help African tax administrations adjust their VAT systems to meet the challenges presented by e-commerce.

2. Mode of Transactions

There are various types of products, business models and transactions in the digital economy. The main two types of transactions are distinguished as below.

**E-contract for tangible goods** - In this case, the transaction is concluded via the Internet for the sale of tangible goods. The tangible goods are delivered via a courier or postal service. Generally, these transactions pose little to no risk for VAT. This is because the tangible goods are taxed by customs when they enter the country.

**E-contract for intangibles** - In this case, the transaction is concluded via the Internet and the delivery of intangibles also takes place via the Internet. These types of transactions pose a risk for VAT. This is because the importation of intangible goods often goes undetected or present the challenge of determining the jurisdiction of taxation due to their mobility.

These transactions materialize in business models consisting of regular B2C store set up or in a marketplace that connects buyers and sellers. The latter type of model is generally referred to as a digital marketplace.
Digital Marketplaces[1] (including Gig/Sharing Economy Platforms) - These are platforms that bring together buyers and suppliers to facilitate transaction between the parties. They usually do not own inventory or engage in supply of services to consumers on their platform. Examples are Airbnb, Uber, Alibaba/Aliexpress, Konga et cetera. There are platforms that own some inventory or engage in supply of services to consumers on their platform. Some examples are Jumia, Amazon, Apple/App Store, Google Play Store et cetera. Digital Marketplaces exist for goods (inclusive of intangible goods) and services.

3. Opportunities and Risks

Opportunities
- Revenue authorities can piggyback on technology to automate tax administration. The advent of technologies that have enabled e-commerce to present the opportunity for revenue administrations to consider which of such technologies can facilitate administrative efficiency.
- Domestic revenue mobilisation can be effectively improved as e-commerce expands the tax base by increasing the number of cross border transactions.
- Review and amendment of the extant laws to bring them up to date with the current business environment. Changes in the way business is done or the way transactions are consummated should be a motivation to update extant tax laws.

Risks.
- Lack or inadequate visibility and transparency of online transactions will result in low data integrity for administration of VAT and may give rise to recurrent fraud and revenue leakage.
- Late and/or poor remittance of VAT due to the inability of revenue authorities to have visibility of transactions or enforce compliance on foreign suppliers.
- Inaccurate implementation of VAT where the rules are not clear on the VAT implication of cross border transactions.
- Growth of hidden economy where there is no visibility on online transactions.

4. Tax Implications

The tax implications of the emergence of the digital economy and cross border transactions will be evaluated based on technical and administrative implications for tax authorities in Africa.

4.1 Tax base

In discussing the tax base, the relevant factors/issues that may erode or grow the tax base must be considered. Below are some of the issues to be considered in securing the tax base.

4.1.1 Definition of Goods & Services and its Supply

Considering that e-commerce has not only birthed new and dynamic business models but has also resulted in products (intangibles) that may be challenging to categorise as traditional goods or

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[1] A “digital marketplace” means a platform that enables the direct interaction between buyers and sellers of goods and services through electronic means [Kenyan VAT Act No. 23 of 2019 s.18(b)].
services, it is necessary to clearly define goods and services in a concise but comprehensive way that captures all the emerging products in the digital economy.

This should also be extended to the definition of supply of goods and services to ensure that all the relevant forms of supply are catered for under VAT, especially as regards to the transfer, sharing or ceding of rights.

Scenario(s)
Company A has developed a software that requires no human intervention from the supplier for it to function. Company A allows customers to download and make use of the software through subscription. Note that the software is intangible, not owned by the customer and requires no effort from the supplier for it to function.

While this may seem like a straight case of charging VAT on the transaction as a supply of good or service, there can also be the argument that it is outside the scope of VAT for the following reasons:

a. The software is not tangible and therefore may not be a good within the context of the traditional definition of goods. Neither is it a service, as it is a product that was created through human effort (like every other product) but it does not require human effort from the provider for it to function.

b. The transaction is neither a supply of goods nor service but a mere grant of right to use the intangible good. Thus, it will be outside the scope of VAT if the traditional definition of goods and services does not include supply of rights.

The above scenario is also applicable to the traditional transactions involving intangibles like copyright, franchise et cetera.

Goods and Services and their supply should be defined in such terms that intangibles and rights are not unintentionally left outside the scope of VAT. The definition should cover both tangible and intangible goods (inclusive of grant, surrender or transfer of rights). Exclusions can be made for specific items by clearly stating them in the definition, its subsections, or an exemption schedule.

Intangibles should be covered by the definition of services to avoid place of supply rule inconsistencies that may arise if intangibles are defined under goods. Place of supply rules for goods are typically tied to physical location where the supply is actually made/used/consumed. Thus, these place of supply rules will not necessarily be applicable to the supply of intangibles.

Example 1

“Supply of goods” shall mean the transfer of the right to dispose of tangible property as owner.

“Supply of services” shall mean any transaction which does not constitute a supply of goods [2].

The EU adopted the above definitions in its VAT Directive. It is a simple definition that ensures all types of supply are captured in the VAT base.

The use of the phrase “any transaction” in the definition of supply of services creates a level of generality that - read together with the definition of supply of goods - ensures that rental, granting, assignment or surrender of any right or the making available of any facility or advantage in respect of tangibles and intangibles are all captured in the VAT base without leaving some transactions out of scope as a result of a gap between definition of goods and services.

**Example 2**

"goods"-  
(a) means any movable or immovable property; and  
(b) includes animals; but  
(c) does not include money

“services” means anything which is not goods or money

1. Subject to the other provisions of this Act,

“supply” means -  
a. in the case of goods, the transfer for a consideration of the right to dispose of the goods as the owner  
b. in the case of services, the performance of services for a consideration.

1. Without prejudice to the provisions of the Third Schedule and to any regulations made under subsection (4) -  
a. “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;  
anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services

This second example is from the Mauritius VAT Act and it shows a different drafting style where goods and services are defined separately from what constitutes a supply. However, it still maintains the principle of a broad base just like in the first example. Narrowing of the tax base for other relevant reasons are usually done through exemptions.

**4.1.2 Place of Supply**

Place of supply is critical in deciding the jurisdiction where VAT is to be charged in cross-border transactions. It is generally accepted that the destination principle should be the basis for deciding place of supply. Under the destination principle, the place of supply is the jurisdiction where the recipient or consumer of the supply is located.

Some VAT legislation implement the destination principle by clearly outlining rules on how to decide place of supply depending on the nature, mode, VAT identity or location of supply. Other jurisdictions infer it through the definitions of imported and exported goods and services.

In practice, the implementation of the destination principle is challenging for the supply of intangibles because the place of delivery may differ from the place of consumption. Also, it is difficult for suppliers to identify the tax status of the recipient or place of use in order to determine the jurisdiction of tax.

**Scenario**

Company B is a social media platform that offers online adverts on its platform. Customers can upload adverts remotely from anywhere in the world and choose their target audience. Company B displays the advert to its platform users who are within the chosen demographics and maybe across different countries.

In this scenario, what must be determined is if the place of supply is one of the following:

a. The jurisdiction of Company B which is the location from which the supply was fulfilled
b. The jurisdiction of the customer of Company B who received the supply of advert services
c. The jurisdictions of the platform users which is where the advert was displayed and probably generated sales.

The critical issue to be decided in the above scenario is the question of where the consumption took place.

It is ideal that the place of consumption is the place of supply; however, there are certain types of supplies that make it difficult to establish the place of consumption. Therefore, place of consumption proxies or deemed place of supply rules may be required. For example, the place of consumption of an e-book or e-music is difficult to determine accurately. In this case a proxy or deemed place of supply rule is advised. In the case of intangibles, the recipients place of residence can be used as deemed place of supply. Below are some considerations for the designing of supply rules.

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**Business to Business (B2B)**

In B2B supplies, the determination of the place of supply of tangible goods can be determined based on the location where the goods are delivered. This may differ for the supply of services, which, due to their intangibility and mobility, do not require delivery at a physical address. Consequently, various jurisdictions use proxies in place of location of delivery as the basis for determining place of supply of services.

**Business to Business (B2B) - Place of Use as basis for Place of Supply[4]**

Business to business supplies are generally for the use by the business in making taxable supplies in the furtherance of that business. The goods may be supplied at a location different from where the recipient business is incorporated. The location of the recipient business must be used as proxy/deemed place of supply. This is in line with the destination principle. This is because notwithstanding the place where the supply is delivered or provided, the business operations to which the supply is beneficial (or used) is at the location of the customer.

In a B2B transaction, the supplier and customer should be identified according to the information in the business agreement.[5] The business agreement and the supporting documents usually reflect the nature of supply, the customer and the nature of business and location of the customer. All the above are necessary in determining who is the customer (business or consumer), location of the parties (import or export) and nature of supply (goods or services).

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[5] Business agreement is a written or oral/tacit agreement for the supply of goods or services.
In determining tax jurisdiction, it is also important to take note of the following business arrangements and their possible implications.

**Single Location Entity**

Where the supply arrangement is between two separate legal entities with just one location, the following VAT implications may be applicable.

i. Where the customer makes onward supply to related business(es) i.e. separate legal entities, the jurisdiction of tax should be the location of these related businesses in line with the destination principle. The onward supply should be treated as a separate supply agreement between the customer and its related businesses.

ii. Where the supply is delivered or provided directly to a third party, the jurisdiction of tax should still be determined based on who is the customer according to the terms of the business agreement. The jurisdiction of tax is that where the customer is located.

Where the payment for the supply is made by a party other than the customer, the jurisdiction of tax should still be that of the customer as identified in the business agreement.

**Multiple Location Entity (MLE)**

Where the supply is made to an entity with establishments in more than one jurisdiction, the terms and use of the supply should be examined to determine the jurisdiction of tax. Having determined the customer, nature of supply, location of delivery and user of the supply, the following approaches can be adopted in determining the jurisdiction of tax.

i. Direct Use – Where the establishment of the MLE that is using the supply is obvious and certain in the business agreement or operations, the jurisdiction of tax should be the jurisdiction of that establishment e.g. Company A is an MLE with establishments B,C,D,E in different jurisdictions. It procures a service from Company X; however, the business agreement clearly states that the service will be used by Establishment B. Jurisdiction of Establishment B will be the jurisdiction of tax under the direct use approach.

ii. Direct Delivery – Where the business agreement or operations shows that the service or intangible is physically supplied to an establishment of an MLE then the jurisdiction of tax should be the jurisdiction of that establishment e.g. Company A is an MLE with establishments B,C,D,E in different jurisdictions. It procures a training service from Company X; however, the business agreement clearly states that the training will be provided to Establishment C at the location of Establishment C. The jurisdiction of tax under the direct delivery approach will be the jurisdiction of Establishment C.

iii. Recharge Method – Where there is shared or multiple use of the supplied service or intangible by the MLE across its establishments in different jurisdictions, the MLE should internally recharge the cost of such service or intangibles to the various establishments that used it. VAT should then be applicable on the recharged amount in the jurisdictions of use. In applying the recharge method, the two levels in the transaction can be separated as follows.

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[6] Establishment means a fixed base or infrastructure through which an entity can make or receive supplies from or for its operations.
• The first level is the external acquisition of the services or intangibles. For this level, the business agreement with the external supplier will identify which establishment of the MLE is acquiring the supply i.e. represents the MLE in the business agreement. The tax jurisdiction at this level should be that of the location of the establishment representing the MLE in the business agreement.

• The second level is the recharge of the cost to the establishments of the MLE that are using the service or intangible. The tax jurisdiction at this level are the respective jurisdictions of the establishments that are being recharged by the MLE. The VAT should be charged on the portion of the cost recharged to each establishment.

Where an MLE does not recharge such cost, the relevant tax authority can deem it as recharged for VAT purposes.

The policy decision that tax authorities need to make under the recharge method is on the acceptable methods/basis for allocation of the cost across the establishments. One approach could be to accept allocations done in line with the Generally Accepted Accounting Principles (GAAP) and the other approach will be to clearly state the basis of allocation in the legislation. There is hardly any approach that covers all grounds; thus, the basic principle should be to have an approach that is fair and reasonable. The fair and reasonable approach may be to apply the three approaches to best fit scenarios, respectively.

Business to Business - Place of Residence as a basis for Place of Supply

Under this approach, the place of supply is determined based on the residence of the entity procuring the supply regardless of place of use of the supply. It is a less challenging approach but it also prone to tax planning schemes. For example, if Company A resident in Country X procures a software online for use by its related Company B resident in Country Y, the place of supply will be Country X which is the place of residence of Company A.

Business to Consumer (B2C)

In e-commerce, the B2C supplies consist mainly of low value goods (tangible and intangible). Yet, the aggregated value over a period may be significant. In the case of tangible goods, the place of supply should be determined based on the location to which the goods are being delivered i.e. delivery address. This should be presumed to be the place of consumption based on the information available when making such orders. VAT compliance is generally ensured by the Customs authority when the goods enter the country through borders.

For intangible goods and services, the place of supply should be the place of residence of the consumer. The usual place of residence is the place where the consumer has an established home or regularly lives. Temporary abodes and places of transitory visits should not qualify as usual place of residence.
However, considering how challenging it may be to determine place of usual residence, a combination of other indicators can be used to decide place of supply where necessary e.g. billing address, Internet Protocol Address of the device to which the digital good was downloaded, debit/credit card (bank) information, contact phone number on record and Global Positioning System (GPS) location of the device used in accessing the service.

Use of proxy i.e. place of residence of the procurer of services for determining place of supply reduces complexity and aids ease of compliance for both B2B and B2C supplies. However, tax administrations must set clear guidelines on how to determine place of residence and provide resources that will enable cross border suppliers of digital services to verify place of residence e.g. TIN/Business registration database.

Some jurisdictions provide a distinctive definition of electronic services, and the place of residence proxy is adopted specifically for electronic services while the other services are covered under the general rule. With this approach, the definition of electronic services must be comprehensive enough to accommodate the continuously evolving types of electronic services.

The other approach is to have a general rule that by design covers both electronic services and other services.

None of the above approaches invalidates other policy considerations in the design of place of supply rules e.g. the provision of specific rules for other relevant sectors or transactions.

Approaches may differ, but the most important factor is having a place of supply rule that is unambiguous, non-contradictory, fair and effective without compromising the taxing rights of the jurisdiction.

Example 1

“enterprise” - …[7]

the supply of electronic services by a person from a place in an export country, where at least two of the following circumstances are present:

a. The recipient of the electronic services is a resident of the Republic;

b. any payment to that person in respect of such electronic services originates from a bank registered or authorised in terms of the Bank Act 94 of 1990;

c. The recipient of those electronic services has a business address, residential address or postal address in the Republic

In the South African VAT Act, the rules for establishing the place of supply for cross border supply of electronic services is specific as shown in the example above. Supply of electronic services is not covered under the general rule. Rather, the legislation used the basis that carrying on of an enterprise in South Africa is chargeable to VAT to include the supply of electronic services as part of what constitutes an enterprise where certain conditions (a, b and c in the example above) are met. In taking that approach, the stipulated conditions which are tied to residence becomes the proxy for place of consumption.

It is important to note that under this approach, there is the need to clearly define electronic services.

Electronic services: services capable of delivery from a remote location which are supplied over the internet or other electronic network, or where delivery of the services is essentially automated.

Standard Registration

VAT registration usually requires the taxable person to provide certain documentation to validate its jurisdiction of establishment, line of business and types of supplies. It also obligates the taxable person to meet detailed information requirements regarding invoices, returns and record keeping.

Standard registration facilitates VAT monitoring, assurance, collection and enforcement as it provides the Revenue Authority with vital and comprehensive information. However, there is the challenge of enforcing standard registration compliance on foreign entities who do not have physical presence in a country where they makes cross border suppliers to customers. Also, there is the challenge of having an entity with multiple locations burdened with compliance obligations across different jurisdictions. These challenges have resulted in the adoption of a simplified registration for foreign entities being taken into consideration.

Simplified Registration

Foreign entities making cross border supplies into multiple jurisdictions will be inundated with compliance obligations and high cost of compliance if required by each jurisdiction to fully comply with its standard registration requirements. Simplified registration minimizes the above situation by requiring a simplified returns and payment process from the foreign entities. It also removes or reduces the invoicing requirements for the entity. The returns may be in an agreed template without the bulk of supporting documents.

4.2 Administration and Compliance

4.2.1 Registration

Domestic entities are generally obligated to register for VAT except where threshold rules apply. The challenge is with foreign entities that make Vatable supplies into a country without having any form of establishment or nexus in that country. Most VAT legislation does not require such entities to register as taxable persons and this may be because of the challenges of enforcing compliance on an entity that is not within Revenue Authority’s jurisdiction. Also, requiring such entities to register may create a compliance burden and dampen ease of doing business. However, some jurisdictions require these foreign entities to register for VAT. The issue for policy/legislation design then is that of how to balance the impact of the registration requirements on the ease of doing business i.e. simplification, business decisions i.e. neutrality, and compliance/enforcement i.e. efficiency.

[8] Unofficial translation of the VAT Act of Norway on www.skatteetaten.no – The definition used in this document was abridged for illustration.

In this situation, the customers of the foreign entity may not be able to claim input VAT. The OECD identifies the underlisted as the main features of a simplified registration regime.

It is important to note that under this approach, there is the need to clearly define electronic services.

a. Simplified registration procedure, with required information kept to a minimum and the availability of online registration at the tax administration’s website;

b. No input tax recovery, but suppliers may register under the normal collection regime and recover input tax according to normal rules;

c. Simplified returns, with option to file electronically;

d. Electronic payment methods;

e. Simplified and electronic record keeping requirements;

f. Elimination of invoicing requirements, or issuing invoices in accord with rules of the supplier’s jurisdiction;

g. Online availability of all information necessary to register and comply with simplified regime;

h. Use of third-party service providers to assist in tax compliance;

i. Compliance burdens proportional to revenues involved and maintaining neutrality between domestic and foreign suppliers.

Simplified Registration (foreign entities only) should be the preferable regime as it eases compliance for foreign entities making supplies into a lot of jurisdictions and may be overwhelmed by an obligation to enrol under standard registration across numerous jurisdictions.

All foreign entities (inclusive of entities on a digital marketplace platform) making supplies into the jurisdiction should be required to register without applying threshold rules. Monitoring threshold compliance for non-resident suppliers may create an administrative challenge as access to financial information by the revenue authority may be limited. Domestic entities on a digital marketplace should enrol under the extant registration regime as required for local operators with threshold rules taken into consideration.

Digital marketplace operators should be required to submit periodically, the list of sellers on its platform who have made sales within or above the registration threshold. This will enable the tax authority monitor registration compliance.

4.2.2 Filing

Foreign entities making cross border supplies into multiple jurisdictions will be inundated with compliance obligations and high cost of compliance if required by each jurisdiction to fully comply with its standard registration requirements. Simplified registration minimizes the above situation by requiring a simplified returns and payment process from the foreign entities. It also removes or reduces the invoicing requirements for the entity. The returns may be in an agreed template without the bulk of supporting documents.
While domestic suppliers should file standard returns as required under extant rules for domestic supplies, foreign suppliers should file returns under a simplified regime. Like the simplified registration regime, the simplified filing regime should require only critical information with minimal or no documentary requirements.

More importantly, foreign suppliers should be provided with a functional digital channel for filing returns. Digital filing facilitates ease of compliance.

Domestic Suppliers – Standard filing with all the necessary documentation as may be required by existing rules.
Foreign Suppliers – Simplified filing through a digital channel. Filing should be twice a year to reduce the compliance burden, thus encouraging compliance. It is important to ensure that the information being demanded through the return is information that the foreign supplier already obtains or can duly obtain in its business process.

4.2.3 Collection and Payment

Collection and Payment of VAT from/by foreign suppliers can be challenging especially with regards to supply of intangibles. The challenges range from lack of understanding of payment requirements and mechanism, and inadequate payment channels. Consequently, jurisdictions use a mix of mechanisms to facilitate payment compliance. The mechanism may differ depending on the type of transaction or parties involved in the transaction. Some of those mechanisms are outlined below.

Reverse Payment

Reverse charge is a collection mechanism that transfers the obligation of accounting for VAT to the buyer. The receiver of the supply self-charges VAT on the supplies received. In a pure reverse charge regime, the seller may not be obligated to reflect VAT in the pricing of the supplies, instead, the buyer raises a VAT invoice and remits the applicable VAT to the tax authorities. In the implementation of the reverse charge mechanism, the buyer should be allowed full input credit for substantiated VAT collected under the reverse charge mechanism.

Withholding VAT

Some jurisdictions use withholding VAT as a compliance tool for monitoring and assuring the veracity of reported transactions, information in VAT returns and VAT paid.

Withholding VAT is implemented by having the receiver of the supply withhold and remit the VAT which is included in the invoice of the supplier. Withholding VAT is like the reverse charge in its mechanics of operation but differs in the legal obligation of the supplier. Withholding VAT may still require the supplier to account for the VAT on its supply i.e. the VAT will be reflected in the pricing and the invoice to be issued to the customer. Implementing WHT for B2C transactions will be cumbersome as it may result in an influx of tax returns from individuals which may overwhelm the revenue authority.
Split Payment

Split payment is a new terrain in VAT collection mechanism. It is a mechanism that requires VAT to be charged and remitted immediately payment is being made for a supply.

The mechanism can piggyback on available technology. It will require that payments (especially digital/card payments) of considerations for a supply should have the VAT element charged immediately by the card issuer/payment platform and remitted immediately into the revenue account as designated by the tax authority. This requires synergy between the payment platform providers and the tax authority as it needs some reiteration of the payment portals and processes which may have financial, regulatory and/or administrative challenges. It is critical under this approach for the system to be able to identify the Internet Protocol (IP) address of the buyer and that of the seller which in combination with bank/billing details and delivery address will be used to determine the tax jurisdiction before the application of the split payment.

Variation 1: This will require a foreign entity to open a dedicated VAT escrow account in the country of supply. All VAT applicable to the foreign entity’s supply to the country are charged by the seller and paid directly by the buyer to the escrow account while the consideration for the supply is paid into the foreign entity’s business account at the same time. Use of the escrow allows the foreign entity to reconcile the balance of the account with its transactions and returns and adjust if applicable before remitting to the government VAT collection account.

Notwithstanding that Variation 1 allows the foreign entity to make adjustment or claim input VAT where applicable, it puts a compliance burden on the foreign entity as it will have to open an escrow account in every country of operations.

Variation 2: In this scenario, the VAT is paid directly to the designated government account for VAT collection instead of an escrow account. There is no room for adjustments except through subsequent returns. This variation removes the bank account compliance burden on the foreign entity; however, it will require a very close synergy with the payment platform providers and investment in technology.

Domestic Supplies

VAT collection mechanisms applicable to domestic supplies should be applicable to local operators except if the revenue authority deems it fit to have a sector specific mechanism.

B2B

The reverse charge mechanism is the preferred approach for VAT collection on B2B cross border transactions. It obligates the buyer to account for the VAT on supplies received from foreign entities. This obligation to account for the VAT provides visibility and opportunity for enforcement for the tax administration as it can have access to the records of the entity (buyer) operating in its jurisdiction.

[8] Unofficial translation of the VAT Act of Norway on www.skatteetaten.no

- The definition used in this document was abridged for illustration.
The reverse charge mechanism should also be applicable to cross border supplies made to government ministries, departments, agencies and recharges for shared services within an MNE.

**B2C**

Due to the challenges of monitoring and enforcing reverse charge mechanism if applied to the large population of consumers, it is preferable to have the foreign supplier charge and remit VAT on cross border supplies of intangibles. In this regard, foreign entities making supplies into the jurisdiction will be required to enrol for simplified VAT registration, returns filing and payment regime. Also, convenient payment channels need to be provided.

5. Digital Marketplace/Intermediation Platforms

Digital marketplaces aggregate buyers and suppliers on their platforms and facilitate transactions between the two parties. In some instances, the platform operator[10] charges the suppliers or buyers for the use of the platform. Consequently, the platform is exposed to the following possible VAT obligations.

**a. VAT on services to Marketplace Participants** – Some digital marketplace operators charge marketplace participants (suppliers or/and buyers) a service fee for using its platform. The fee could be in the form of a fixed sum for every sale or a percentage of transactions done on the platform by the participant. Whether this charge is a fixed sum or a percentage of the transaction amount, it constitutes a service charge as the basis for such charge by the platform is the provision of a marketplace for the suppliers and buyers (supply of digital marketplace services[11]).

The participants are being charged for the use of the digital marketplace platform therefore VAT should be applicable to the fee. The place of supply rule under this circumstance should be applied based on the rules in the jurisdiction of the market participant paying for the service. The collection mechanism should be aligned with the methods applicable to B2B and B2C transactions respectively.

**b. VAT on Services Supplied Directly to Buyers** (except supply of digital marketplace services) – Some digital marketplace may provide services directly to buyers on the same platform that they have granted access to other suppliers. Where such platforms are in the tax authority’s jurisdiction, it should charge and account for VAT on the sales of its inventory in line with extant rules applicable to supplies by a domestic entity. Foreign digital marketplaces should operate within the VAT rules applicable to a foreign supplier.

**c. Joint and Several Liability** – Based on the registration and filing requirements of the tax jurisdiction, a digital marketplace operator can be held liable for failure of participants on its platform to meet the relevant VAT requirements. Legislation should also empower the tax authority to request for the removal of participant(s) from the marketplace for failure to comply with VAT obligations. The digital platform operator should be obligated to provide information on the activities of its marketplace participant(s) on request or periodically. Adequate penalties should be applicable for infractions by the platform operator.

[10] “You operate an online marketplace if you control access to it, or its contents.” (HMRC Guidance on Businesses selling goods in the UK using online marketplaces - July 2018)

[11] This is where the digital marketplace operator grants suppliers and buyers access to its platform for a fee.
Also, the joint and several liability rule can be extended to any related party e.g. dependent agent of the digital marketplace entity that is resident in the jurisdiction of the revenue authority. The related party can be appointed to be an agent for fulfilment of VAT obligations of the foreign supplier. This is also applicable to all other foreign suppliers that are not operating a digital marketplace.

The VAT compliance obligations of digital marketplace may also be applicable to gig and sharing economy business models[12] as they also aggregate willing parties on the platform to sell, buy or exchange goods and services. However, the gig and sharing economy have some peculiarities that may be articulated as below.

- Informality due to high number of individuals acting as suppliers/providers in the market
- Easy entry and exit by market participants
- Cash transactions that maybe completed outside the marketplace platform
- Transactions sometimes involve consideration in kind or cost sharing.

Supply of digital marketplace services and the supply of other non-exempt services directly to buyers should be subject to VAT. The registration, filing and payment regimes suggested in this guideline are applicable to digital marketplace operators. Joint and several liability should be implemented to make the digital marketplace operators provide necessary information on market participants and facilitate enforcements. Information requirements should be restricted to information that the supplier already obtains or can duly obtain in its business process.

Where information is required beyond what is obtainable within the current business processes, the operator should be given adequate time to reprogram its business process to obtain such information without negatively impacting its operations. Consistency in time and type of information required should be implemented by standardizing the format, period and type of information as obtainable within the business processes of operators. Consideration should also be given to the level of control a digital marketplace operator exerts on transactions as some platforms only provide an environment for transacting parties to meet and/or interact without having visibility or control on the consummated details of transaction. In this situation, the marketplace operator may not have access to information required by the tax administration.

A digital marketplace which is sometimes referred to as intermediation services should be defined in the legislation. It can be defined as an online platform that facilitates the sale by users of any services, goods, or other property to other users.

**Example**

“**digital marketplace**” means a platform that enables the direct (or indirect) interaction between buyers and sellers of goods and services through electronic means.[13]

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[12] Gig and sharing economy involves individuals or entities offering their unused or underutilized resources to other parties either for a fee or in exchange for another resources. The model is usually operated through digital marketplace model to have liquidity of suppliers and consumers.

[13] Kenyan VAT Act No. 23 of 2019 s.18(b)
The example above is from Section 18(b) of the Kenyan VAT Act which has been altered by the addition of “or indirect” for illustrative purposes.

6. Compliance Checks, Audit & Investigation[14]

As there are many digital economy business models, systems, transactions, and processes, the following list of questions should help revenue authorities to establish the nature, processes, procedures, and scope of an operator in the digital economy. Note that this may only be applicable where the revenue authority has jurisdiction to conduct compliance activities e.g. audit of domestic entities.

i. “What products or services may be purchased on the business website or by use of e-mail? If you ask that at a meeting, compare the information given with your findings from the audit of the records. If you cannot tell where the income is recorded in the records, ask the trader to tell you.

ii. When was the website “opened” for business? Did the business exist prior to creation of the website? Is the business conducted over the Internet separate or distinct from the taxpayer’s historic line of business? Ask whether the Internet-based business is an extension of an existing business or is it a new business?

It is important to establish the date on which the website became operational. The date the domain name was obtained should help although business need not have begun on the same date. Invoices from consultants or purchases of software, and service dates on bills from the taxpayer’s Internet Service Provider (ISP) will help to establish when the website became operational or when it was upgraded from advertising to sales capability.

i. What domain names have been registered by the trader or on his behalf? What domain names does the trader have control over?

Ask for the date of registration and the name of the person who registered the site. A trader can have more than one domain name and it is important to establish the details for each one. Registration information can include the name, address and telephone number for the registrant, the billing and technical contact points, the host site name and its Internet Protocol (IP) address. The amount of information may vary from registration agency to registration agency.

iv. How is the amount payable to the Internet Service Provider determined?

The fee charged by the ISP might be either connection or volume based. A connection-based fee is based on the simple fact that the taxpayer is paying for basic point of presence (POP) on the Internet. A volume-based fee is based upon what is known as bandwidth and storage volume. It is possible to have either or both. Bandwidth refers to the ability of the site to handle access volume. As access to a site grows, the host must expand its ability to service multiple users. This is done by expanding bandwidth. Therefore, a large bandwidth implies a high-volume website. Storage volume is associated with the sophistication of the website. The website is resident on the host company’s computer as a sub directory. The sub directory consists of separate text, graphic, video, and sound files.

[14] The considerations in italics are contributions from Nick Brain based on his work with the HMRC in Cyprus (Nick Brain, DFID)
The larger and more graphic content of the site, the more storage space is required when someone accesses it.

In addition to bandwidth and storage, volume-based billing may also include charges for other ancillary services, such as computer graphics interchange (CGI) routines, Perl Scripts and server-side applications. The billing for such extras is not necessarily volume based but is generally associated with high volume sites.

In summary, the higher the cost of setting up and maintaining a site, the more sophisticated it is likely to be, and the more sophisticated it is the greater the likelihood that it is generating a correspondingly high volume of business.

v. How was the website developed? For example, by an outside consultant, or by internal staff, or by website design software. How much has the taxpayer paid to outside vendors for website development and website hosting?

Obtain details of all related costs, including consulting fees, salaries and design software. This provides intelligence on transactions by service providers that may not have been visible to the tax authority. It also helps determine if the entity has duly applied relevant VAT rules to services provided by foreign suppliers.

vi. What kind of credit cards does the business’ financial institution(s) allow?

An Internet business can accept credit cards and have them processed through multiple financial intermediaries. This should be examined in detail. In the United States, the experience of the Internal Revenue Service knows that the diversion of credit card receipts is the main way to under-report income on the Internet.

Drawing up a flow chart of the transactions through the system, especially the interface between the website and the accounting records, may help to identify “leakage” of receipts from the system.

vii. What is the name of the financial institution(s) that clears credit card receipts? Was an application or a merchant services sign-up form completed for the credit card clearing services?

There is a wealth of information on the sign-up form. Ask to see copies of all such form(s). In addition to the names of the financial institution, make note of the following:

- the account numbers
- dates opened and closed
- changes in financial institutions.

In most businesses, the merchant receives approval as a credit card vendor from a commercial bank. Usually, a small business will utilise the services of a local bank. A typical flow of transactions in processing credit card payment is as follows:

- the merchant deposits the credit card slips to its account
- the bank posts the deposit to the credit card processing account
- the bank then transfers a deposit to the merchant’s current account.

There are no geographic limits on the Internet and the connection with the local financial community may be minimal for an Internet-based business.
Banking and credit card relationships may be fractionalised on the Internet. For example, company A may be using a credit card processor to verify account number validity, a second financial institution to provide credit card merchant (clearing) services, and a third financial institution to deposit the proceeds of the transactions. This last financial institution may be a local bank or could be located anywhere in the world.

One typical scenario is to have a domestic bank serve as the depository for the credit card receipts. The domestic bank’s private banking department then facilitates transfer of funds to an offshore subsidiary. The offshore subsidiary then issues the taxpayer a credit card, which is funded by the offshore account.

The lesson here is that, on the Internet, a different party can handle each step of the processing of a credit card sale. As the payment process is handled in several steps by banks, the final deposit can be posted anywhere. It is very important to check the sales slips and, where information about the sale is limited, it will be necessary to question the trader to ensure that the nature and value of the transaction can be identified in the sales records.

Although payments are typically made using entities such as JCC, there are a number of website hosting services that will provide a free website in exchange for the exclusive right to process the credit card transactions originating with that website.

ix. Does the business’s financial institution(s) provide: charge authorisation, transaction captures, settlement, charge-back handling, reconciliation, reporting, or prepaid card issuance and acceptance?

Charge authorisation establishes that a hold is placed on a customer account at the time of order to minimise sales in excess of the credit limit.

Transaction capture refers to the process of recording the actual sales transaction for the merchant.

Settlement refers to the actual transfer of funds to the merchant’s account in settlement of the customer charge.

Charge-back handling refers to the situation where a customer objects to a billing. This amount is then "charged back" or offset against the merchant’s other settlements.

Reconciliation involves the process of establishing the source and payment of sales to the actual settlement remittance provided to the merchant.

Reporting is the provision of statements showing sales activity.

Prepaid card issuance and acceptance refers to what is sometimes known as a debit or prepaid card in which the customer prepays an amount. It is used until exhausted but may be replenished if the customer makes a further payment. Phone cards, toll cards and some debit cards are examples of prepaid cards. It is important to establish how the trader operates payment systems such as ‘Cyber-cash’ or ‘e-money’.
x. What type of purchase payment enabling software is used? Is the Internet site is hosted by a company that provides payment-enabling software?

Obtain the software name and the name and address of its supplier. If the internet site is hosted by a company that provides payment-enabling software, then obtain the details. This area is changing fast. To process a payment from an Internet website requires a special type of software. It uses the security features of Secure Socket Layer (SSL) type technology to make sure that credit card data cannot be intercepted by anyone on the Internet. Of the many retail software packages on the market, many use a turnkey "load the software and you’re in business" approach. For a minimal fee, the software vendor will handle the actual sales activity.

xi. How are credit sales handled and how are they recorded in gross receipts?

This is exactly as you ask in any business audit. However, with an Internet-based sales operation, the various elements of this process may be far flung and, if a trader experiments with alternative methods, this can be a difficult process to determine.

xii. How are non-credit sales handled and how are they recorded in gross receipts? Are transactions which are paid for by cheque, e-cash, money order, or even cash handled differently from credit card sales?

xiii. How is information for approved or authorised credit card product purchases processed?

It is important to find out what actual steps are involved to approve and authorise a customer credit card number for a purchase from a commercial website.

xv. What is the sequence from order entry to delivery?

This will tell you, for example: when income should be recognised, stock updated, actual delivery date or the cut-off date to be used.

If you draw a flowchart and verify the audit trail for all the steps in the process it should be possible to ascertain the link between the physical flow of goods and services, and the taxpayer’s method of accounting for the sale. In addition to determining whether the taxpayer is using a proper method of accounting, a system ‘walkthrough’ may identify weaknesses in internal control that would warrant an adjustment to the scope of any audit plan for sales and cost of goods.
xv. What procedures are in place to ensure that internet sales are fully recorded in accounting systems?

If the process is automated, obtain details of the software used. The simplest form is the manual entry of internet sales into records whether manual or electronic. At the other extreme, is the fully integrated system automatically enter internet sales in the computer accounting records. Several accounting software packages, such as SAGE, offer such functionality.

xvi. How are products delivered and which carriers are used?

A business may use more than one carrier. Information that can be used to check the sales records, for example, can be found by examining the shipping records.

Firstly, the total cost of “freight out” is indicative of the total volume of sales.

Secondly, the information on shipping can help to quantify stock issues, such as:

- goods on consignment
- year-end stock provisions
- timing of stock updates
- when title passes, and
- reimbursement for insurance, shipping and handling costs.

Finally, the shipment records can be used as an “independent third party” for internal control and verifying income reported.

xvii. In a business with both e-commerce and non-e-commerce trading, what proportion of total sales does the website generate?

One way to check is to list all suppliers to test sales and stock. Look for suppliers providing stock that is not as you would expect the business to sell. That may suggest e-commerce sales.

xviii. Where are stock deliveries made from?

E-commerce businesses will not necessarily deliver from a warehouse located at the business or operations address.

Products sold by Internet means are often shipped from the manufacturer direct to the purchaser – the business’ customer. However, the selling business may collect, into its warehouse, stock from more than one supplier or location where the items form one composite order. Then it would send all in one shipment to the customer.

By identifying stock shipped from foreign suppliers to foreign customers on behalf of a website-based business in your jurisdiction may reveal unreported income.

xix. Does the trader have any paid referral or advertising contracts with other Internet websites?

If the answer is ‘yes’, obtain copies of the contracts.

A business may pay other website operators a fee for referring visitors to its site. This referral fee may be based on the number of hits recorded by the referring website or on a percentage of the sales arising from those customers referred.
Whilst the contract may show the relationship and payment terms, it may not contain everything you may expect. Many contracts for e-commerce arrangements are relatively informal. It may be no more than a copy of a web page offering terms and prices for setting up a banner ad on another page with the contract being formed by an exchange of e-mails between sites. Please obtain copies of all such information to help establish the relationship and that the income generated has been properly accounted for.

In straight, arm’s length barter situations, we would take the market value of the goods or services acquired as the measure of any receipt. The most common, straightforward situation is where company A provides a link to company B’s site in return for a reciprocal link from company B’s site.

xxi. Does the trader have any links with any foreign operations?

No foreign presence is needed as e-commerce transcends borders and we now live in a time of international e-commerce business. If a taxpayer has foreign sales or investments, there may also be foreign bank account(s), and the need to consider cross-border transaction matters.

xxii. Does the trader have any direct or indirect control over foreign bank accounts?

Sales to foreign customers should always alert the auditor to the possibility of foreign bank facilities, which, of course, should be examined to find out whether there is unreported income of, for example, interest or sales.

An entity can operate in the traditional and digital economies (online and offline) simultaneously therefore, compliance officers should research the online presence of all entities undergoing any form of compliance check.
7. Next Steps for African Countries

7.1 Stakeholders Consultation

The business models under the digital economy may vary across markets around the globe. It is therefore critical to have an inclusive approach for developing legislative and administrative policies for VAT application in the digital economy. This is very important where countries are adopting unilateral approaches to addressing the digital economy as it will help the authorities get an insight on the peculiarities of operating and complying in the local market vis-à-vis the technological, legislative and administrative solution to which the operators are already complying in other jurisdictions. The digital economy is technology driven and most of the operators supply into multiple jurisdictions using one technology; therefore, being an outlier jurisdiction in terms of compliance requirements may work against ease and level of compliance as the operators’ business processes may be affected or overwhelmed.

Also, there should be policy and legislation workshops with the relevant stakeholders. The issues and approaches suggested in this technical paper may require some sort of legal framework if it is being adopted; therefore, it is important for policymakers and legislators to be duly informed on the VAT implications of digital economy operations. They also need to understand the urgency of these measures to mitigate revenue loss and distortions to domestic markets by foreign operators in the digital economy.

7.2 Legislation

The digital economy had resulted in some frontier issues for VAT operations across jurisdictions. Most VAT policies and legislation were designed when the digital economy had not become prevalent, thus they were not designed to address some of the inherent VAT issues. Consequently, African jurisdictions will need to duly legislate on the VAT implications of the digital economy by updating their VAT laws.

Moreover, considering the dynamic nature of the digital economy, the VAT Act should provide for the amendment of certain rules through regulations and directives without requiring a full legislative process.

Revenue authorities should use powers to make regulations or directives within the existing law where applicable to address the VAT implications of transactions in the digital economy.

7.3 Administration

The fact that the digital economy has enabled the ability to scale to mass through digital technology has tested the effectiveness of VAT systems and administrations. As the business processes are based on digital technology and obliterates physical borders (in the supply of intangibles), the solutions to be adopted by tax administrations will have to be digital too. Without digital solutions, VAT administration in the digital economy will be ineffective.

[15] Scale to mass is the ability of an entity to make supplies from its jurisdiction into multiple jurisdictions without having a physical presence or nexus in any of those jurisdictions.
i. Registration: Generally, tax administrations should have migrated or be in the process of migrating their registration process to a digital channel in this era of digitalisation. This facilitates ease of compliance, record management, accessibility, and analysis. Digital registration is important in the digital economy as it enables foreign suppliers to easily register for VAT and obtain a Taxpayer Identification Number (TIN), notwithstanding that they are not physically present in the tax jurisdiction.

ii. Tax Identification Number (TIN) Database: The integrity and accessibility of the TIN database is a primary requirement to developing an effective VAT system for the digital economy. All other processes and mechanisms for the administration of VAT in the digital economy are dependent on the ability of the market operators and tax administrations to know the tax identity and status of the participants in digital transactions. Consequently, tax administrations need to issue smart TIN and build databases that can actively interact with the systems of the digital economy operators in real time. The need for real time interaction between the systems is to enable the operators to identify the jurisdiction and tax identity (natural person or business) without disrupting their established business process. This interaction is one the most important factors that will enable digital economy operators to comply with VAT requirements as regards to knowing the chargeability of VAT, jurisdiction of VAT, applicability of any of the collection mechanisms and information requirements.

iii. Filing: The VAT returns filing channel must be digital; therefore tax administrations should expand existing digital filing capacities to foreign suppliers or develop online filing platform where none exists.

Jurisdictions will gain from researching the simplified filing regimes already obtainable in the industry and align their regime closely to these. This is to facilitate ease of compliance as the business operators will already have such data or information to be provided in the VAT return.

iv. Payment: Digital payment channels should be made available to taxpayers. Tax administrations can collaborate with existing digital payment platforms and card issuers to enable foreign suppliers to make payments through their digital systems. Collaborating with existing platforms will facilitate compliance by having payment platforms that are already in use by most digital economy operators, thus mitigating the need for major changes to business processes.

Tax administrations should work with the relevant regulatory agency(ies) to address any foreign currency payment barriers that may exist as it should be possible for foreign suppliers to make payments in currency of transaction/operations.

v. Refunds: It is generally not advisable to extend refunds to foreign suppliers under the simplified registration and returns filing regime. The revenue authority will not have enough information, documentary evidence or resources to conduct due diligence for such refunds being that simplified registration regime is a payment regime with limited compliance obligations.
Further, the jurisdiction will have to make a policy decision on whether foreign suppliers can opt for standard registration to have access to the refund mechanism. The revenue authority in implementing refund for foreign suppliers under the standard registration regime, may still face some of the due diligence challenges mentioned above.

vi. Taxpayer Communication and Education: All the systems and processes will not be effectively complied with where those with the burden of compliance do not understand the what, when, how and where of their obligations. Consequently, the tax authority should use various media to engage, educate and receive feedback from the relevant taxpayers.

A dedicated email and call desk may be established to handle correspondences regarding VAT issues in the digital economy. It is important that these channels are active considering that the taxpayers may not be resident in the jurisdiction. Instant messaging is another tool the tax authorities can adopt for system support on filing, payment, or registration issues as it provides for engagement with multiple people at once while providing immediate responses. However, official rulings and clarifications may not be provided through this channel. Official communications should be through the legally acceptable secure channels.

It is also ideal to publish a concise Frequently Asked Questions (FAQ) document on the salient issues about VAT compliance on digital economy transactions. More importantly, taxpayer education and engagement should be provided to operators in the digital economy including materials that can be used by marketplace operators to educate buyers and providers of goods and services.

evii. Capacity Building: Tax authorities should invest in building competence within their jurisdiction. Tax officers should be trained on the peculiarities of the digital economy with regards to the business models, systems, processes and their tax implications. Also, they should be well enlightened on changes in rules, processes or procedures in relation to VAT compliance for the digital economy.

It is also important to build capacity amongst the stakeholders e.g. tax consultants, judges et cetera. This should be targeted capacity building that helps each stakeholder understand their roles within the VAT compliance, enforcement and adjudication process.

8. Conclusion

The digital economy is dynamic and presents agile business models that requires tax administrations to also be agile. Agility of the VAT system requires ability to update rules and processes efficiently and effectively as the business environment changes. It also requires investment in relevant technology that can be adapted to prevailing digital environments of the present and the future.

Furthermore, it will be beneficial for African jurisdictions to attain a level of consistency in the VAT rules for the digital economy across the continent as it will facilitate compliance by foreign entities. Consistency will be an incentive for voluntary compliance as the cost of complying across multiple jurisdictions will be alleviated.
VAT has proven over the years to be a huge source of tax revenue for African countries; it is therefore important that tax administrations across the continent take strategic steps to expand the base by exploiting opportunities of taxing digital transactions.

The digital economy is growing pervasively in Africa due to socioeconomic and low regulatory oversight factors. The ability to amass individuals as service providers who can compete with traditional operators may erode the tax base from traditional operators, and without adequate policy and administrative frameworks in place, African jurisdictions risk losing large sums of tax revenue.
Appendix 1: DIGITAL ECONOMY BUSINESS MODELS

SIMPLE ONLINE STORE SET UP

- Single service provider with an online store to interact with its customers
- Payment may be processed online or offline
- Supplier may have add-on services from other parties
- Transactions can be outright purchases or subscription based
- Advertisements on the platform
Digital Economy & Cross Border transactions : VAT Policy and Administration considerations for African Countries

DIGITAL MARKET ILLUSTRATION

- DMP connects both parties
- DMP operator may also offer its own products on the platform
- Transactions may be concluded within or outside the platform
- DMP may charge to commission either or both of the parties
- DMP may earn revenue from adverts and thus not charge commission to any of the parties.
- DMP may charge commission and still earn revenue from advertisements on the platform

BUYERS

Seeks suppliers on the DMP

Digital Marketplace Platform (DMP)

Seeks Customers on the DMP

SUPPLIER
## Appendix 2

### EXAMPLES OF DIGITAL ECONOMY OPERATIONS AND TAXABLE TRANSACTIONS

<table>
<thead>
<tr>
<th>Type of operations</th>
<th>Examples</th>
<th>VAT Incidence</th>
</tr>
</thead>
</table>
| Digital Marketplace Operator (including Sharing/Gig business model operators) | ![Apple App Store](image1), ![Google Play](image2), ![Airbnb](image3), ![Uber](image4), ![Booking.com](image5), ![Bolt](image6), ![Facebook Marketplace](image7) | - Commissions or service fees paid to the marketplace operator by participants (supplier and/or buyers) resident or with a fixed base/nexus in the jurisdiction. This includes fees for other peripheral services that may be offered by the platform operator.  
- Considerations paid to suppliers/providers of services by customers resident or with a fixed base/nexus in the jurisdiction for the supply of services.  
- Advert fees paid by entities resident (including fixed base/nexus) in the jurisdiction | |
| Video/Audio Streaming | ![Netflix](image8), ![Spotify](image9), ![iTunes](image10), ![iROKO TV](image11), ![YouTube](image12), ![Apple iTunes](image13) | • Subscription or content rental fees and outright purchase considerations paid by residents of the jurisdiction  
• Advert fees paid by entities resident (including fixed base/nexus) in the jurisdiction | |


<table>
<thead>
<tr>
<th>Type of operations</th>
<th>Examples</th>
<th>VAT Incidence</th>
</tr>
</thead>
</table>
| Social Networking (inclusive of Dating Apps) | ![Social Networking Icons](image1.png) | - Subscription fees paid by residents of the jurisdiction  
- In-app purchases by residents of the jurisdiction  
- Advert fees paid by entities resident (including fixed base/nexus) in the jurisdiction  
- Commissions or service fees paid by participants where the social network includes an element of digital marketplace or sharing economy |
| Online Gaming                      | ![Online Gaming Icons](image2.png)            | - Subscription fees or outright purchase considerations paid by residents of the jurisdiction  
- In-app purchases by residents of the jurisdiction  
- Advert fees paid by entities resident (including fixed base/nexus) in the jurisdiction |
<p>| Cloud Services                     | <img src="image3.png" alt="Cloud Services Icons" />           | Subscription fees or any other considerations paid by residents of the jurisdiction for services supplied                                    |
| Financial Services/ Intermediation | <img src="image4.png" alt="Financial Services Icons" />       | Commissions or service fees paid by residents of the jurisdiction. Exemption may apply where such services are classified as financial services which may be exempt from VAT |</p>
<table>
<thead>
<tr>
<th>Type of operations</th>
<th>Examples</th>
<th>VAT Incidence</th>
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<tbody>
<tr>
<td>Other Direct Sale/Service (including application software and web designing services)</td>
<td><img src="https://via.placeholder.com/150" alt="Zoom" />, <img src="https://via.placeholder.com/150" alt="WordPress" />, <img src="https://via.placeholder.com/150" alt="Microsoft Office" />, <img src="https://via.placeholder.com/150" alt="Canva" />, <img src="https://via.placeholder.com/150" alt="GoDaddy" /></td>
<td>• Subscription fees or outright purchase considerations paid by residents of the jurisdiction</td>
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<td></td>
<td><img src="https://via.placeholder.com/150" alt="Sublime Text" />, <img src="https://via.placeholder.com/150" alt="Wix" /></td>
<td>• In-app purchases by residents of the jurisdiction</td>
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<tr>
<td></td>
<td></td>
<td>• Advert fees paid by entities resident (including fixed base/nexus) in the jurisdiction</td>
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<tr>
<td></td>
<td></td>
<td>• Commissions or service fees paid by participants where the application/platform includes an element of digital marketplace or sharing economy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Consideration paid by residents of the jurisdiction for any add-on services</td>
</tr>
</tbody>
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The examples of entities and transactions above are for illustrative purposes and are also not exhaustive.
Appendix 3

INFORMATION THAT CAN BE INCLUDED IN THE SIMPLIFIED REGISTRATION AND FILING REGIMES

Simplified Registration

Some of the information that a simplified registration should contain is detailed below. The first seven bullets are as suggested in the OECD report[1]. This suggested information has been included in this paper to promote consistency with global practices.

- Name of business, including trading name
- Name of contact person responsible for dealing with tax administration
- Postal and/or registered address of the business and its contact person
- Telephone number of contact person
- Email address of contact person
- Websites 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
- Channels through which payments are received
- Description of goods or services offered
- Marketplace operators/intermediation platforms can provide information of the level control they have on goods or service delivery e.g. payment processing

Simplified VAT Return

A simple VAT return could contain the underlisted information as suggested in the OECD report [16]. This suggested information has been included in this paper to promote consistency with global practices.

- The supplier’s tax registration number issued by the taxing jurisdiction issued under the simplified registration regime.
- The tax period.
- The currency and, where relevant, the exchange rate used.
- The taxable amount at the standard rate.
- The taxable amount at reduced rate(s), if any.
- The total tax amount payable.

[16] Mechanisms for the Effective Collection of VAT/GST When the Supplier is not Located in the Jurisdiction of Taxation (OECD 2017)
Appendix 4

ILLUSTRATION OF THE SPLIT PAYMENT MECHANISM FOR DEBIT/CREDIT CARD TRANSACTIONS

Customer

Supplier

Customer's financial institution

Supplier's Bank

Customer
Place order & Pay
Purchase Price & VAT

Supplier
Transmit card & Transactions Details
Pay Purchase Price

Customer's financial institution
Transmit Tax Info
Remit VAT

Revenue Authority

Customer

Supplier

Customer's financial institution

Supplier's Bank

Customer
Place order & Pay
Purchase Price & VAT

Supplier
Transmit card & Transactions Details
Pay Purchase Price

Customer's financial institution
Transmit Tax Info
Remit VAT

Revenue Authority

Some Considerations for Application of Split Payment Mechanism

• Clear understanding and guidelines of the interaction between split payment and reverse charge or WHT where the latter mechanisms exist for B2B transactions and the former is also applicable for B2B.
• Ability of the platform to identify the identity of the parties i.e. natural person vs legal/businessperson especially where collection mechanism differs for the respective identities.
• Consistent application of nature of supply and place of supply rules inclusive exemption or zero-rating