

## Growing impact of third-parties in VAT taxation – insights from digital platforms

Rosnące znaczenie podmiotów trzecich w opodatkowaniu VAT – spostrzeżenia na przykładzie platform cyfrowych

Растущее значение третьих субъектов в налогообложении НДС – выводы на примере цифровых платформ

Зростаюче значення третіх осіб в оподаткуванні ПДВ – висновки на прикладі цифрових платформ

**ROBERT ZIELIŃSKI, PROF. ALK**

Dr. habil., Kozminski University

e-mail: rzielinski@kozminski.edu.pl, <https://orcid.org/0000-0002-0100-1457>

**EMILIA SROKA**

Dr., Kozminski University

e-mail: emilia.sroka@gmail.com, <https://orcid.org/0000-0003-4171-2023>

**Summary:** This article examines the increasing involvement of third parties, particularly digital platforms, in VAT taxation. It discusses the shift from traditional state-centric tax collection to a model where private entities play a crucial role in ensuring tax compliance. It highlights the EU VAT's "deemed supplier" regimes, which impose increased liability on digital platforms facilitating transactions, and explores the potential advantages and disadvantages of this approach.

**Key words:** VAT taxation, digital platforms, tax compliance, deemed supplier regime

**Streszczenie:** Niniejszy artykuł poświęcono problematyce rosnącego zaangażowania stron trzecich, szczególnie platform cyfrowych, w opodatkowanie VAT. Omówione zostało przesunięcie od tradycyjnego, skoncentrowanego na państwie modelu poboru podatków do modelu, w którym prywatne podmioty odgrywają kluczową rolę w zapewnieniu zgodności z prawem podatkowym. W tym kontekście podkreśla się znaczenie reżimu uznanego dostawcy na gruncie unijnego podatku VAT, który nakłada zwiększoną odpowiedzialność na platformy cyfrowe ułatwiające transakcje. W artykule podjęto próbę sformułowania potencjalnych zalet i wad tego podejścia.

**Słowa kluczowe:** opodatkowanie VAT, platformy cyfrowe, zgodność z prawem podatkowym, reżim uznanego dostawcy

**Резюме:** В данной статье рассматривается растущее участие третьих сторон, в частности цифровых платформ, в налогообложении НДС. В ней обсуждается переход от традиционной модели сбора налогов, ориентированной на государство, к модели, в которой частные субъекты играют ключевую роль в обеспечении соблюдения налогового законодательства. В этом контексте подчеркивается важность режима предполагаемого поставщика (*deemed supplier*) в рамках НДС ЕС, который возлагает повышенную ответственность на цифровые платформы, способствующие осуществлению сделок. В статье предпринята попытка сформулировать потенциальные преимущества и недостатки такого подхода.

**Ключевые слова:** налогообложение НДС, цифровые платформы, соответствие с налоговым законодательством, налоговый режим предполагаемого поставщика (*deemed supplier*)

**Резюме:** Ця стаття присвячена зростаючому залученню третіх сторін, зокрема цифрових платформ, до оподаткування ПДВ. У ній обговорюється перехід від традиційної моделі збору податків, орієнтованої на державу, до моделі, в якій приватні суб'єкти відіграють ключову роль у забезпеченні дотримання податкового законодавства. У цьому контексті підкреслюється важливість режиму умовного постачальника на підставі ПДВ Європейського Союзу, який покладає підвищену відповідальність на цифрові платформи, що сприяють здійсненню транзакцій. У статті зроблено спробу сформулювати потенційні переваги та недоліки такого підходу.

**Ключові слова:** оподаткування ПДВ, цифрові платформи, згідність з податковим правом, режим умовного постачальника

## Introduction

The evolving role of third parties in VAT taxation, particularly within digital platforms, has become increasingly significant. This paper explores the shift from traditional state-centric tax collection to a model where private entities, such as digital platforms, are becoming pivotal in ensuring tax compliance.

The trend of delegating tax collection duties to third parties is explained through examples of two trends: “privatization” and “responsibilization.” Privatization refers to the transfer of some government functions, as tax collection, to private entities. Responsibilization, on the other hand, refers to situation where private organizations and individuals share with governments the responsibility for effective reducing opportunities for tax evasion.

Delegating tax compliance duties to third parties is particularly evident in the context of the EU VAT.

An example analyzed in the paper is the trend of imposing increased liability on digital platforms facilitating underlying transactions through the “deemed supplier” regimes. The first such regime for digital platforms was introduced in 2015 and covered platforms involved in the provision of electronic services. In 2021, another regime of this kind was introduced for e-commerce sector platforms. Currently, the European Commission is planning to introduce another deemed supplier regime for accommodation and passenger transport sector platforms, which is expected to come into effect as early as 2025.

The goal of this paper is not an exhaustive discussion of these solutions but rather to illustrate the trend of expanding third-party role in VAT collection and, on example of deemed supplier regime, analyze its potential advantages and disadvantages. The article was prepared based on the dogmatic-legal method. The study pertains to European Union VAT solutions, and since it is a harmonized tax, the described observations will also apply to the Polish tax system.

## 1. Role of third parties in tax collection

Ensuring payment of taxes to the appropriate authorities is essential for the effective operation of any tax system. The literature on this subject suggests that efficiency of tax collection requires significant investment in developing the administrative competencies of the tax system and enforcing compliance with existing rules.<sup>1</sup>

At times, this burden is partially shifted onto entities outside of the tax administration, involving third parties to enhance tax collection efforts. The imposition of obligations on third parties is a common feature of tax systems<sup>2</sup> and does not represent a penalty or sanction. Rather, it is a standard method integrated into the tax system for collection purposes.<sup>3</sup> Imposing the obligation to pay tax on an entity other than the taxable person aims to enhance the likelihood of actual tax collection.<sup>4</sup>

For example, when the obligation to pay transaction tax is imposed on intermediaries involved in the transaction, such as digital platforms, tax compliance may increase because firstly intermediaries tend to be fewer in number and thus easier to monitor than their clients, especially if the latter are end consumers,<sup>5</sup> and secondly targeting legal enforcement efforts towards a concentrated group of larger and wealthier actors is a much simpler task than monitoring a dispersed group of low-income individuals.<sup>6</sup>

It's worth noting that this approach aligns with the fundamental structure of indirect taxes, such as VAT. In the realm of VAT, the individuals who bear the economic burden of the tax are not the same entities that ultimately settle the tax. The basic structure of VAT is designed such that although the consumer bears the economic burden of the tax, VAT is accounted for and paid by the entrepreneur, who acts as the “intermediary” between the consumer and the State. Consequently, entrepreneurs (referred to as taxable persons) bear the responsibility for VAT settlement – they collect the tax from consumers and, after deducting the input VAT, remit it to the tax authorities. This is a logical solution, because in practice, it seems impossible to impose VAT compliance obligations on numerous and mostly

---

<sup>1</sup> J.A. Mirrlees, *The Economic Approach to Tax Design*, in: *Tax by Design*, eds. S. Adam et al., New York 2011, p. 43.

<sup>2</sup> P. Baker, P. Pistone, K. Perrou, *Third-Party Liability for the Payment of Taxes and Their Fundamental Rights*, *World Tax Journal* 2023, vol. 15, no. 1, p. 86.

<sup>3</sup> *Ibidem*.

<sup>4</sup> *Ibidem*, p. 87.

<sup>5</sup> G. Beretta, *European VAT and the Sharing Economy*, Alphen aan den Rijn 2019, pp. 273–275.

<sup>6</sup> M. Viswanathan, *Tax Compliance and the Sharing Economy*, in: *The Cambridge Handbook of the Law of the Sharing Economy*, eds. N.M. Davidson, M. Finck, J.J. Infranca, Cambridge 2018, p. 362.

individual consumers. Instead, these obligations are placed on fewer, but better-prepared taxable persons – businesses engaged in VAT – taxable activities.

Currently, there is a trend towards shifting an increased burden of tax collection from states to private entities. One such trend is “privatization,” where specific administrative tasks within the tax system are outsourced to the private sector if doing so enhances efficiency or effectiveness.<sup>7</sup> However, when delegating certain administrative activities, the state retains its autonomy, as private entities do not have the authority to set taxes resulting from laws or government decisions.<sup>8</sup> As indicated by doctrine, one of the crucial lessons learned in recent years is that a strong state does not necessarily equate to a large state. Therefore, in the realm of tax administration, entrusting certain tasks to the private sector instead of directly handling them may lead to higher efficiency, contributing to building a smaller but stronger tax administration.<sup>9</sup> This trend is exemplified in “withholding at source” practices, where agents (third-parties) in the private sector are responsible for withholding taxes and remitting them to the government. The advantages of this solutions are numerous. It is essential to note, for example, the simplification resulting from reducing the number of individuals filing taxes without decreasing the number of taxpayers (in some countries, the adoption of withholding at source led to a significant decrease in the number of tax returns to be processed). Moreover, this solution has proven effective in reducing tax evasion. Nevertheless, some concerns have been raised that this tool requires monitoring withholding agents in a widespread system of withholding at source.<sup>10</sup>

The second interesting trend is the phenomenon of “responsibilization.” This trend, which emerged as a new method of governing crime, involves private parties who are not part of the criminal justice system being legally or administratively held responsible for crime prevention. So instead of the state alone bearing the responsibility for crime control, the new strategy involves identifying private organizations and individuals who should share the responsibility for effectively reducing opportunities for crime.<sup>11</sup>

The literature suggests that this phenomenon can be observed in the context of VAT – there is an increase in responsibility on third parties with certain business

---

<sup>7</sup> L. Fernando, R. Acuna, *Privatization of Tax Administration*, in: *Improving Tax Administration in Developing Countries*, ed. R.M. Bird, M. Casanegra de Jantscher, Washington, D.C. 1992, p. 377.

<sup>8</sup> *Ibidem*.

<sup>9</sup> *Ibidem*, pp. 377–378.

<sup>10</sup> See more: *ibidem*, pp. 384–385.

<sup>11</sup> R. de la Feria, *Tax Fraud and Selective Law Enforcement*, *Journal of Law and Society* 2020, vol. 47, no. 2, p. 261.

connections to VAT fraudsters (including the seller of the goods to the alleged fraudster, the purchaser of those goods, an intermediary, or even a warehouse keeper) in this regard.<sup>12</sup> Entrepreneurs are often required to conduct due diligence to ensure that their business partners are not involved in fraud, as failure to do so may result in some liability when tax authorities provide objective evidence of the businesses' knowledge of the fraud.<sup>13</sup>

Responsibilization strategies offer certain advantages. It is emphasized that it can serve to generate additional revenue from businesses that do not engage in fraud, in order to compensate for losses incurred as a result of fraud.<sup>14</sup> However, it is also pointed out that while states are increasingly outsourcing policing tasks to private actors, significant risks persist regarding the proper engagement of the private sector in combating fiscal corruption.<sup>15</sup> Additionally, such actions may lead governments to focus not solely on combating tax fraud, but rather on minimizing their losses. In the literature, it is suggested that the reduction in the VAT gap may be partially attributed not solely to the reduction of fraud itself, but also to the implementation of measures aimed at maximizing revenue collection.<sup>16</sup>

Among the new trends in increasing third-party liability, there is also a strategy of greater involvement of intermediaries in VAT tax collection. Although, as noted above, the very structure of this tax inherently entails the responsibility of "third-parties" for its settlement, namely entrepreneurs acting "on behalf of" consumers who bear the economic cost of the tax, it is now possible to observe the phenomenon of imposing on certain VAT taxable persons (such as digital platforms, intermediating in transaction) the obligation to account for VAT "on behalf of" other VAT taxable persons. In specific situations, digital platforms will account for VAT "on behalf of" their underlying suppliers. This leads to further "narrowing" of the number of entities responsible for VAT settlement. This phenomenon, illustrated by the deemed supplier regime, is discussed below.

---

<sup>12</sup> Ibidem, p. 258.

<sup>13</sup> A taxable persons are denied the right to deduct not only when they themselves commit fraud, but also when it is proven that they, to whom goods or services which served as the basis on which to substantiate the right to deduct were supplied, knew or should have known that their acquisition was connected to VAT fraud (see, for instance, the CJEU's ruling of 24 November 2022, Finanzamt M., C-596/21, EU:C:2022:921, § 25).

<sup>14</sup> R. de la Feria, *Tax Fraud...*, p. 242.

<sup>15</sup> B. Hock, *Policing Fiscal Corruption: Tax Crime and Legally Corrupt Institutions in the United Kingdom*, *Journal Law and Contemporary Problems* 2022, vol. 85, no. 4, p. 182.

<sup>16</sup> R. de la Feria, *Tax Fraud...*, p. 242.

## 2. Increasing role of digital platforms in VAT collection – deemed supplier regime

Over recent years, the platform economy has transformed from a community-driven practice, primarily focused on sharing private resources, into lucrative business models, with participants becoming more professionalized. Consequently, legal interventions, including those within the EU VAT framework, have become necessary.

The platform economy introduces novel pathways for addressing tax obligations. Digital platform operators inherently possess detailed transactional data, allowing tax authorities to capitalize on this advantage. Moreover, by concentrating regulatory efforts on singular entity (digital platform), the costs associated with legal enforcement can be reduced.<sup>17</sup> Collecting VAT through digital platforms, rather than from numerous individual suppliers, seems to be an efficient method.<sup>18</sup>

To engage platforms in VAT collection, the EU legislator decided to introduce the deemed supplier regime (DSR) into the EU VAT system.

DSR is the most far-reaching legislative solution imposing liability on the digital platform for the VAT collection. This solution introducing a mechanism into the VAT system where a platform in certain circumstances, be deemed fully liable for accounting for VAT on the underlying transaction, as if it were the underlying supplier itself. The platform will, as it were, step into the tax role of the underlying supplier.

The first such regime for digital platforms was introduced in 2015 and basically covered platforms taking part in the supply of electronic services. This DSR will hereafter be referred to as the digital model. In 2021, another regime of this kind was introduced for digital platforms facilitating some e-commerce transactions. This DSR will be referred to as the e-commerce model. Currently, the European Commission (EC) is planning to introduce another DSR for platforms facilitating the supply some tangible services (accommodation and passenger transport), which is expected to come into effect as early as 2025. This DSR will be referred to as the service model.<sup>19</sup>

---

<sup>17</sup> B. Kuijper, T. Cameron, Z. Szatmári, *Technology-Enabled Tax Compliance*, Bulletin for International Taxation 2020, vol. 74, no. 10, p. 589; K. Zale, *Scale and the Sharing Economy*, in: *The Cambridge Handbook...*

<sup>18</sup> L. Scarcella, *E-Commerce and Effective VAT/GST Enforcement: Can Online Platforms Play a Valuable Role?*, Computer Law & Security Review 2020, vol. 36, 105371, p. 15.

<sup>19</sup> Such terminology is used, for example by: E.T. Sroka, *Comparing Deemed Supplier Regimes: E-Commerce and Short-Term Rental/Passenger Transport Platforms in the EU VAT System*, Lisboa 2024 (The Lisbon International & European Tax Law Seminars, no. 9).

## 2.1. Digital model

The main principles behind the digital model are regulated in Article 9a of Implementing Regulation (IR).<sup>20</sup> According to this provision, where electronically supplied services or internet telephone services (telephone services provided over the Internet) are supplied through a telecommunications network, interface or portal, e.g. an app shop, it is presumed for the purposes of applying Article 28 of the VAT Directive that the taxable person involved in the supply of those services is acting in his own name but on behalf of the supplier of those services, unless the taxable person explicitly designates that supplier as the person supplying the service and this is reflected in the contractual arrangements between the parties. The provision of Article 9a IR therefore introduces a rebuttable presumption<sup>21</sup> that in certain situations the tax liability will rest with the intermediary.

This provision was introduced by Implementing Regulation 1042/2013.<sup>22</sup> According to recital 4 of this regulation, it was necessary to specify who is the supplier for VAT purposes where electronically supplied services, or telephone services provided through the internet, are supplied to a customer through telecommunications networks or via an interface or a portal.

## 2.2. E-commerce model

The main principles behind the e-commerce model are regulated in Article 14a of the VAT Directive.<sup>23</sup> According to the first paragraph of this provision, if a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the distance sale of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding

<sup>20</sup> Council Implementing Regulation (EU) No. 282/2011 of 15 March 2011 Laying down Implementing Measures for Directive 2006/112/EC on the Common System of Value Added Tax, OJ L 77, 23.03.2011, pp. 1–22.

<sup>21</sup> According to some authors, Article 9a IR does not shift the burden of the proof but rather clarifies which specific proof must be provided in order to make a distinction between a disclosed and an undisclosed agent, therefore the use of the word “presumption” is probably confusing. Ch. Amand, *Disclosed/Undisclosed Agent in EU VAT: When Is an Intermediary Acting in Its Own Name?*, *International VAT Monitor* 2021, vol. 32, no. 5, p. 244.

<sup>22</sup> Council Implementing Regulation (EU) No. 1042/2013 of 7 October 2013 Amending Implementing Regulation (EU) No. 282/2011 as Regards the Place of Supply of Services, OJ L 284, 26.10.2013, pp. 1–9.

<sup>23</sup> Council Directive 2006/112/EC of 28 November 2006 on the Common System of Value Added Tax, OJ L 347, 11.12.2006, pp. 1–118.

EUR 150, that taxable person is deemed to have received and supplied those goods himself. The second paragraph states, in turn, that where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the supply of goods within the Community by a taxable person not established in the Community to a non-taxable person, the taxable person who facilitates that supply is deemed to have received and supplied those goods himself.

This provision was introduced by Council Directive (EU) 2017/2455. According to recital 7 of this directive, its main objective is to ensure the effective and efficient collection of VAT and to reduce the administrative burden for vendors, tax administrations and consumers. Recital 7 highlights that a major share of distance sales of goods, both supplied from one Member State to another and from third territories or third countries to the Community, are facilitated through the use of an electronic interface such as a platforms. It was considered necessary to involve such entities in the VAT collection process by introducing a provision stating that they are the persons who are deemed to make those sales.

Thus, in the situations described above, the platforms will be deemed to be the supplier and obliged to collect VAT on the sales they facilitate.

### 2.3. Service model

In 2020 the EC announced the strategy for taxation supporting the economic recovery.<sup>24</sup> Among the actions listed there was the adaptation of the VAT framework to the platform economy by examining the role platforms can play in securing the collection of VAT. The EC's analysis resulted in the publication of "VAT in the Digital Age" (VIDA) legislative package on 8 December 2022, which consists of drafts of three pieces of legislation introducing amendments to the EU VAT system: proposal amending the VAT Directive,<sup>25</sup> proposal amending Regulation 282/2011,<sup>26</sup> and proposal amending Regulation 904/2010.<sup>27</sup> The VIDA package for platform

---

<sup>24</sup> European Commission, An Action Plan for Fair and Simple Taxation Supporting the Recovery Strategy, COM/2020/312 final, 15.07.2020.

<sup>25</sup> Proposal for a Council Directive Amending Directive 2006/112/EC as Regards VAT Rules for the Digital Age, COM/2022/701 final, 8.12.2022.

<sup>26</sup> Proposal for a Council Implementing Regulation Amending Implementing Regulation (EU) No. 282/2011 as Regards Information Requirements for Certain VAT Schemes, COM/2022/704 final, 8.12.2022.

<sup>27</sup> Proposal for a Council Regulation Amending Regulation (EU) No. 904/2010 as Regards the VAT Administrative Cooperation Arrangements Needed for the Digital Age, COM/2022/703 final, 8.12.2022.



economy is expected to come into effect on 1 January 2025, but this date is subject to change as legislative work on the proposal is still ongoing.

The main principles behind the service model are regulated in the proposed Article 28a of the VAT Directive. According to this provision, notwithstanding Article 28 of the VAT Directive, a taxable person who facilitates, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental services, as referred to in Article 135 (3) of the VAT Directive, or passenger transport, will be deemed to have received and supplied those services themselves where the person providing those services is one of the following:

- (a) a non-established person who is not identified for VAT purposes in a Member State;
- (b) a non-taxable person;
- (c) a taxable person carrying out only supplies of goods or services in respect of which VAT is not deductible;
- (d) a non-taxable legal person;
- (e) a taxable person subject to the common flat-rate scheme for farmers;
- (f) a taxable person subject to the special scheme for small enterprises.

The above means that when the underlying supplier does not charge VAT because it is one of the persons listed in a–f, the digital platform will charge this tax to the consumer and will account for this tax. The digital platforms will be deemed to be the supplier and obliged to collect VAT on the supplies they facilitate. Therefore, this solution will not simultaneously impose a burden on the listed underlying suppliers, as they will still not be required to register and account for VAT themselves.

The main goal of the VIDA package is to address the challenges of platform economies by ensuring equal treatment of digital and offline sectors in short-term accommodation and passenger transport, as well as enhancing the role of platforms in VAT collection when they facilitate short-term accommodation or passenger transport services.<sup>28</sup>

### **3. Potential advantages and disadvantages of deemed supplier regime**

The introduction of DSR could bring many benefits, especially from the perspective of tax administration. Firstly, this solution transfers the responsibility for tax

---

<sup>28</sup> Proposal for a Council Directive Amending Directive 2006/112/EC as Regards VAT Rules for the Digital Age, COM/2022/701 final, 8.12.2022.

accounting and collection from numerous, typically small entities (the underlying suppliers) to a smaller number of generally much larger entities (the platforms facilitating transactions). This shift makes it simpler for tax authorities to monitor and enforce the accurate accounting of underlying transactions. Investigating fewer, larger platforms appears to be less burdensome than auditing numerous small underlying suppliers.<sup>29</sup> Furthermore, it seems that digital platforms have a greater ability to make appropriate tax decisions and correctly account for transactions than a wide range of, usually small, traders.<sup>30</sup>

Shifting the liability for tax accounting to platforms thus also reduces the tax compliance burden on the underlying suppliers. This is because suppliers do not have to deal with charging the correct amount of VAT to the customer and remitting it to the tax office.<sup>31</sup>

However, it should be noted that although DSR is generally considered a proportionate solution, there are doubts about the potential negative effects of placing the responsibility for VAT collection on platforms instead of individual suppliers.

Firstly, implementing DSR could result in additional administrative burdens and compliance difficulties for platforms. To introduce the DSR into the tax system, platforms must have the ability to exert a certain level of influence and control over the underlying transaction. If they lack access to information about underlying transactions or if obtaining it would require radical changes to their business model, then the liability for VAT collection should not be shifted to them<sup>32</sup>. Additionally, for many platforms, adopting DSR would necessitate significant IT system changes to ensure the efficiency of the new regulations.<sup>33</sup> It is rightly pointed out that with DSR, platform operators essentially become unpaid tax collectors.<sup>34</sup> While they assist governments in collecting significant tax revenue, they also incur substantial costs.<sup>35</sup> Therefore, when introducing DSR, the financial capability of platforms to collect VAT on such transactions should also be taken into account.

---

<sup>29</sup> By placing the burden of tax accounting on platforms that have 'more to lose' than individual hosts, tax administrations increase the likelihood of tax compliance of these transactions. M. Viswanathan, *Tax Compliance...*, pp. 363–364.

<sup>30</sup> OECD, *Mechanisms for the Effective Collection of VAT/GST*, Paris 2017, pp. 26–27.

<sup>31</sup> M. Merckx, *Platform Liability: An Efficient and Fair Collection Model for VAT?*, in: *VAT Challenges and Opportunities in the New Digital Economy*, eds. Ch. Amand et al., Madrid 2022, p. 15.

<sup>32</sup> G. Beretta, *European VAT...*, pp. 298–301.

<sup>33</sup> OECD, *The Role of Digital Platforms in the Collection of VAT/GST on Online Sales*, 20.06.2019, pp. 36–37.

<sup>34</sup> A. Bal, *Platform Economy: Will The Real Tax Collector Please Stand Up?*, Forbes, 15.03.2023, <https://www.forbes.com/sites/aleksandrabal/2023/03/15/platform-economy-will-the-real-tax-collector-please-stand-up/> [access: 4.04.2023].

<sup>35</sup> *Ibidem*.

Secondly, if the cost of compliance associated with the DSR regime is considered high, smaller platforms may struggle to meet their obligations.<sup>36</sup> As noted in the literature, increasing complexity tends to favor larger entrepreneurs. Small or new operators in the market may choose not to start an online business, terminate it, or operate in the grey zone due to the complexity of compliance.<sup>37</sup>

This measure thus disadvantages smaller platforms and new market entrants, potentially strengthening platform monopolies. Larger platforms are better equipped to handle the complexity and regulatory burden, while smaller intermediaries may be driven out of the market. This could have a detrimental effect on market competitiveness.

## Conclusions

Currently, there is a noticeable trend of increasingly involving third parties in tax collection. This trend is also evident in the context of the EU VAT system. An example of such action is involving specific digital platforms in the VAT collection process, applying the deemed supplier regime to them. This process has unfolded gradually. Initially, in 2015, the EU legislator decided to introduce a rebuttable presumption, whereby certain platforms became responsible for collecting VAT “on behalf of” their actual suppliers under certain circumstances (the digital model of DSR). In 2021, the EU legislator further mandated platforms facilitating some supply of goods to bear full liability for collecting VAT on the underlying supplies (the e-commerce model of DSR). In 2025, there are plans to introduce another measure, imposing full liability on platforms for collecting VAT on underlying transactions when their hosts are not obligated to do so (the service model of DSR).

The introduction of DSR has sparked differing opinions. On one hand, this arrangement could yield several benefits, offering clarity regarding a platform’s VAT obligations on underlying supplies and enhancing the efficiency of tax collection. Shifting VAT obligations from smaller suppliers to larger platforms may reduce costs and risks associated with VAT control, while potentially lowering compliance costs for underlying suppliers.

---

<sup>36</sup> As indicated by the OECD, not all platforms that meet the deemed supplier criteria will be able to meet the requirements imposed by this regime, particularly start-up businesses and small platforms. OECD, *The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration*, 19.04.2021, pp. 77–79.

<sup>37</sup> R. Barr et al., *E-Commerce and EU VAT: Theory and Practice*, Alphen aan den Rijn 2021, p. 2.

However, concerns arise regarding the negative repercussions of burdening platforms with VAT collection responsibilities. Implementing DSR could escalate bureaucratic burdens and costs for platforms, possibly leading to the exclusion of smaller operators from the market, thus harming EU competitiveness.

Therefore, it is crucial to carefully evaluate and justify the shift of excessive liability for overseeing the VAT system to private entities, such as digital platforms. Any implementation of DSR should be proportionate to its intended purpose, ensuring a balanced approach to tax collection and regulatory compliance.

## Bibliography

- Amand Ch., *Disclosed/Undisclosed Agent in EU VAT: When Is an Intermediary Acting in Its Own Name?*, *International VAT Monitor* 2021, vol. 32, no. 5.
- Baker P., Pistone P., Perrou K., *Third-Party Liability for the Payment of Taxes and Their Fundamental Rights*, *World Tax Journal* 2023, vol. 15, no. 1.
- Bal A., *Platform Economy: Will The Real Tax Collector Please Stand Up?*, *Forbes*, 15.03.2023, <https://www.forbes.com/sites/aleksandrabal/2023/03/15/platform-economy-will-the-real-tax-collector-please-stand-up/> [access: 4.04.2023].
- Barr R. et al., *E-Commerce and EU VAT: Theory and Practice*, Alphen aan den Rijn 2021.
- Beretta G., *European VAT and the Sharing Economy*, Alphen aan den Rijn 2019.
- de la Feria R., *Tax Fraud and Selective Law Enforcement*, *Journal of Law and Society* 2020, vol. 47, no. 2.
- Fernando L., Acuna R., *Privatization of Tax Administration*, in: *Improving Tax Administration in Developing Countries*, eds. R.M. Bird, M. Casanegra de Jantscher, Washington, D.C. 1992.
- Hock B., *Policing Fiscal Corruption: Tax Crime and Legally Corrupt Institutions in the United Kingdom*, *Journal Law and Contemporary Problems* 2022, vol. 85, no. 4.
- Kuijper B., Cameron T., Szatmári Z., *Technology-Enabled Tax Compliance*, *Bulletin for International Taxation* 2020, vol. 74, no. 10.
- Merx M., *Platform Liability: An Efficient and Fair Collection Model for VAT?*, in: *VAT Challenges and Opportunities in the New Digital Economy*, eds. Ch. Amand et al., Madrid 2022.
- Mirrlees J.A., *The Economic Approach to Tax Design*, in: *Tax by Design*, eds. S. Adam et al., New York 2011.
- OECD, *The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration*, 19.04.2021.
- OECD, *Mechanisms for the Effective Collection of VAT/GST*, Paris 2017.
- OECD, *The Role of Digital Platforms in the Collection of VAT/GST on Online Sales*, 20.06.2019.
- Scarcella L., *E-Commerce and Effective VAT/GST Enforcement: Can Online Platforms Play a Valuable Role?*, *Computer Law & Security Review* 2020, vol. 36, 105371.

Sroka E.T., *Comparing Deemed Supplier Regimes: E-Commerce and Short-Term Rental/Passenger Transport Platforms in the EU VAT System*, Lisboa 2024 (The Lisbon International & European Tax Law Seminars, no. 9).

Viswanathan M., *Tax Compliance and the Sharing Economy*, in: *The Cambridge Handbook of the Law of the Sharing Economy*, eds. N.M. Davidson, M. Finck, J.J. Infranca, Cambridge 2018.

Zale K., *Scale and the Sharing Economy*, in: *The Cambridge Handbook of the Law of the Sharing Economy*, eds. N.M. Davidson, M. Finck, J.J. Infranca, Cambridge 2018.