Extending online marketplace liability to combat non-compliance

Response from the Chartered Institute of Taxation (CIOT) and its Low Incomes Tax Reform Group (LITRG)

1. Executive Summary

1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.

1.2. We are responding to the government's VAT consultation on extending online marketplace liability to combat non-compliance, in which the government is considering reforming the current VAT rules to achieve three key objectives:

i. addressing as much of the VAT non-compliance as possible
ii. protecting businesses not required to register for VAT
iii. raising revenue from tackling non-compliance to fund improvements for the business rates system for high streets.

1.3. The VAT non-compliance in 1.2(i) above is identified as:

i. Some overseas businesses are evading UK VAT by presenting false UK establishments to the online marketplace (OMP). The current VAT rules require the OMP to account for UK VAT only on sales made by overseas sellers, and domestic sellers may account for their own VAT. Where a fake UK

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establishment is achieved, the overseas seller is treated as a domestic seller and hence can retain the UK VAT which is not declared to HMRC.

ii. For OMPs that only have domestic sellers, for example, takeaway food delivery OMPs, HMRC have experienced disaggregation, where the seller sets up a number of businesses operating across several OMPs and via other means, and they deliberately appear to keep each business with trading income under the VAT registration threshold, thereby evading VAT.

iii. Deliberate underdeclarations by domestic sellers who then dissolve the business before the VAT can be recovered. Some go on to create phoenix businesses to repeat the cycle.

1.4. We support the proposal to extend the OMP VAT accounting rules to VAT registered domestic sellers.

1.5. We support the proposal that the minimum platform threshold is set at the VAT registration threshold, though note that this needs to work correctly for businesses that breach due to the turnover of the preceding twelve months so that their effective date of registration does not create a commercial disadvantage – i.e. by creating an earlier effective date of registration than exists under the current law and which would continue to apply for non OMP sellers.

1.6. We do not support the VAT rate relief proposal in its current form. The increase in burdens and consequences for the smallest businesses appear disproportionate.

1.7. We would like to see HMRC consult with the OMPs to explore how timelier data sharing could improve the identification of business selling across multiple OMPs. We would also like to see further cross working with other government departments as demonstrated in HMRC's recent increase in unannounced visits to high street retailers.

2. About Us

2.1. The Chartered Institute of Taxation (CIOT) is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

2.5. The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those who are least able to pay for professional advice. We also produce free information, primarily via our website www.litrg.org.uk, to help make a difference to people's understanding of the tax system.

2.6. LITRG works extensively with key stakeholders such as HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the tax system. LITRG also considers the welfare benefits system, and other related systems, to the extent that they interact with tax.

3. About you

3.1. Question 1: What is your name or business/organisation's name?

3.2. This is a joint response by the Chartered Institute of Taxation (CIOT) and its Low Incomes Tax Reform Group (LITRG).

3.3. Question 2: Are you responding to this consultation as:

3.4. A representative body: The CIOT is a UK professional body for advisers dealing with all aspects of taxation. LITRG is an initiative of the CIOT giving a voice to low income unrepresented taxpayers who are unable to afford professional advice.

3.5. Question 16: Please provide any further information about your organisation or business activities that you think might help us put your answers into context.

3.6. CIOT members are tax professionals, either working as advisors or in-house in businesses and firms of all sizes. Some members advise OMPs and/or domestic and overseas sellers using such platforms. They are also experienced in implementing VAT changes either with their clients or within their own organisations.

4. The OMP liability extension proposal

4.1. The position for the different types of OMPs and the different types of evasion may require differing solutions and implementation dates.

4.2. For OMPs that are already subject to the 2021 VAT changes where it is they, rather than the overseas seller, that must account for the UK VAT on sales made by overseas sellers, would appear to be in a

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position to be more readily able to make the internal system changes required to extend the VAT rules to include VAT registered domestic sellers for all business to consumer sales, having already gone through this once already. This change would also reduce the impact and risks for the OMP of determining whether a seller is established in the UK or not.

4.3. It may not be necessary for all the VAT proposals in the consultation to take place at the same time. For the circumstances described above in paragraph 4.2, where the OMP is already experienced in declaring VAT for overseas sellers, the implementation date to extend the scope to VAT registered domestic sellers could, in principle, be sooner than any changes for OMPs that will be new to the extended liability rules due to only having domestic sellers, which would in turn reduce VAT evasion from such OMPs in a shorter timeframe. A suitable lead in time for extending the scope to domestic sellers for the circumstances in paragraph 4.2, if ahead of other proposed changes for OMPs, could be advised by the OMPs and domestic sellers themselves.

4.4. We note that UK VAT registered sellers would be impacted by the changes in paragraph 4.2, as they will make a deemed supply to the OMP at the zero-rate and the VAT on their sales will be accounted for by the OMP, who will in turn declare and pay it to HMRC. Domestic sellers may be impacted by decreased cashflow, as they will bear the VAT on the costs of purchasing stock but will not gain the benefit of using the output VAT on sales as working capital until the VAT return is due. Although they may opt to file monthly VAT returns if they become a repayment trader to speed up the process of filing and claiming the input VAT, this comes with an increase in administration. This may disproportionately impact smaller VAT registered businesses. However, as this is an anti-fraud measure targeting known evasion, the balance of fairness to the taxpayer and to the collecting authorities must be considered. HMRC uses an anti-fraud VAT measure in the domestic reverse charge (DRC) that is applied to VAT registered businesses, who are placed in a similar position to the proposed deemed supply trading conditions, so domestic sellers would be in a similar situation to other businesses that are subject to the DRC.

4.5. It is possible that sellers currently using a fake UK establishment to evade VAT could seek to exploit the exemption from the extended VAT rules for business-to-business transactions, as these transactions allow the seller to account for the UK VAT themselves. It would require the collusion of the business buyer, but we note that this level of sophistication was present in carousel fraud business to business transactions, so should not be ignored. We recommend that HMRC anticipates a shift in behaviours that seek to exploit any exemptions and should consult with OMPs to understand if they are able to identify sudden shifts in trading patterns and the consequences of seeing suspicious activity.

4.6. For OMPs that are new to an extension to OMP VAT rules as they have only domestic sellers, it would, in principle, be fair to allow the same implementation time as was given to OMPs to ready themselves for the 2021 changes for the OMP VAT accounting rules for overseas sellers. As mentioned in paragraph 4.4 above, the VAT registered domestic sellers would be in a similar situation to suppliers of goods or services that are impacted by the DRC, and we generally support changes to VAT arrangements in circumstances where the aim is to tackle tax evasion.

4.7. ***Question 18: As the proposed policy change could have varying impacts on specific sectors, please state any sector specific impacts you anticipate following the proposed rule change.***

4.8. We note that for domestic sellers of takeaway food, the change to a deemed supply rule impacting the VAT liability of the sale of delivered hot food could cause increased errors in the VAT accounting when distinguishing between deemed supplies via a delivery OMP and standard rated sales of 'in-house' delivered food or sales at the trading premises either 'at the counter' or eat-in. Staff operating the tills or order system may have little understanding of the VAT impacts of classifying different sales. Some will be genuine errors though it is possible some deliberate miscoding could take place, treating a standard rated sale as if it is a deemed sale thereby accounted as zero-rated in the VAT accounting.

4.9. HMRC inspectors would need to be able to reconcile the figures declared by the OMPs for the trader against the VAT registered businesses own VAT returns. We note that OMPs are required to submit an annual digital platform report that identifies sales made for its sellers, though we also note that the extraction of specific data from these reports for specific traders may be somewhat in arrears meaning that a trader with deliberate evasion could carry out such activities for c.15-24+ months before HMRC carry out an inspection, by which time they may pursue deliberate insolvency, one of the types of VAT evasion mentioned in the consultation document. We recommend that HMRC considers whether an increased frequency of the digital platform report could assist in reducing the time available to businesses seeking to evade VAT, and possibly its development of suitable AI to rapidly interpret the data from multiple OMPs. We recommend that such increased administration for the OMPs should only be considered where HMRC are able to rapidly act upon more timely declarations. We recommend that HMRC consults with OMPs about whether shorter reporting periods is considered a preferred option to increase actions against dishonest traders.

4.10. Question 19: What are your views on the Minimum Platform Threshold as a policy option? If the MPT is set at the VAT threshold, how else could non-compliant smaller businesses be addressed?

4.11. Where the MPT is set at £90,000, this protects the smallest businesses from compulsory VAT registration. The UK's VAT registration threshold offers a simplification for small businesses to avoid VAT administration and the complex rules, reducing the impact to cashflow and exposure to VAT penalties. The CIOT, as an apolitical body, does not normally comment on the setting of thresholds as that is a matter for government.

4.12. We note that if a small business is only selling via one OMP, the MPT may be suitable to identify businesses that are nearing the VAT registration threshold. There are two separate rules that identify the time by which a business must register for VAT: the 'look forward' test that obliges businesses to register for VAT where their turnover will breach the VAT registration threshold in the next 30 days alone, and the 'look back' test, that is based on the taxable turnover over the preceding 12 months.

4.13. For the 'forward look' rule the MPT would not be able to forecast the future £90,000 turnover in a month to have the OMP charge VAT at the right time, as the seller must be registered from the first day of the month in which they know they will sell £90,000 sales in that month alone.

4.14. We are concerned that the £90,000 MPT would declare VAT too early for small businesses that are obliged to register for VAT based on the last twelve month's trading; they must register from the first day of the second month following the breach in threshold. In effect this means that their income in the first month following the VAT threshold breach is also VAT free and having the OMP declare VAT in this period would put them at a disadvantage compared to sellers not selling via an OMP. HMRC should consider whether there could be legal challenge on this point. Breaching the £90,000 threshold on a 'look back' basis could trigger communications by the OMP to the seller so that the correct effective date of registration can be used for the seller by the OMP to account for the correct VAT from the right date, though we appreciate that this would increase the OMP's administration.

4.15. We note that where a seller trades on multiple OMPs, the MPT is less effective as, in principle, the seller could drive sales up to nearing the MPT on each OMP, thereby evading VAT by failing to register at the right time. See our further comments in question 20.

4.16. ***Question 20: What are your views on an MPT set lower than the existing VAT registration threshold, and would you be supportive of such a policy if the funds raised were used for improvements to the business rates system for high street businesses?***

4.17. The CIOT, being an apolitical body, would not normally comment on how the government decides to spend additional revenues, so the proposal to spend additional VAT on business rate improvements has no bearing on our view of the proposed VAT policy changes. It is not clear in the consultation how the additional revenues collected from any of the proposed measures will be identified by HMRC to divert them directly to improving business rates. OMPs are not currently required to provide any additional detail in the VAT return declarations, and the output VAT in these VAT returns will significantly increase, as they will include not only the VAT currently being evaded but also the majority of VAT that is already being declared by compliant domestic sellers.

4.18. The consultation suggests that non-compliant sellers could disaggregate sales across multiple platforms and suggests that an MPT set a threshold lower than the VAT registration threshold, could address some of this VAT evasion.

4.19. From an internet search for OMPs for one type of market, for example the food delivery sector, there are several web returns listing the top 6/top 10 (and more) OMPs offering food delivery services . Even with a very low MPT, for example £30,000, there would still be an opportunity for sellers to spread sales across ten or more OMPs and trade well over the VAT registration threshold, so a low MPT would not be as effective in sectors where there is plenty of opportunity to register with multiple OMPs.

4.20. There are several routes to consider identifying food businesses with other government departments, for example in the food delivery sector, local authorities will have registration records of even the smallest food businesses as well as environmental health inspections for food hygiene ratings. OMPs if they do not already could request the local authority registration reference and HMRC may be able to cross reference these details from the digital platform reports. However, such cross referencing would require more timely data from the OMPs in order to more quickly identify non-compliance.

4.21. Cross working with data from Companies House may also indicate disaggregation where directors hold multiple businesses in the same sector. For more sophisticated evasion, we would have concerns about the use of false directors, who can be at increased risk of being vulnerable people, but may suppress the identity of a shadow director.

4.22. As domestic sellers may also trade outside of the OMP for example from a retail outlet, any measures for OMP trading must be accompanied by an increase in targeted inspection work. We note that HMRC issued a press release in June 2026 confirming that it will carry out more than 30,000 interventions this year to tackle tax fraud and illegal activity on the high street. If it is not already happening, we suggest that HMRC adds the sectors that sell via OMPs but also have retail outlets to this campaign so that unannounced visits form part of the work to tackle VAT evasion for this sector.

4.23. Question 22: For all respondents, what would the administrative impacts of implementing such a scheme be?

4.24. Where an MPT is very low, a small trader whose annual turnover is below the compulsory VAT registration limit may feel forced to register voluntarily if a platform accounts for VAT on their sales if they, in themselves, are above a (low) MPT. Such traders are unlikely to have significant amounts of input tax to offset so the admin of being voluntarily registered is likely to be quite onerous without much benefit, leaving them at an increased risk of potential errors and penalties. There is also the obligation to comply with Making Tax Digital for VAT and so the cost of purchasing software to do so is another expense for the smallest businesses. Even with the possibility of the VAT relief, it would appear to be a disproportionate burden for small amounts of VAT that would not normally be due for such sellers. This could also be distortive - the business is forced to choose between using OMPs as a sales channel and accepting the potential VAT admin burden or choosing not to use an OMP to save on the VAT admin burden and losing out on potential sales, placing these types of businesses in a difficult position.

4.25. Question 23: What other options could you suggest for reducing the impact on the smallest UK businesses?

4.26. The simplest option to reduce the impact on small businesses would be to have the MPT set at the VAT registration threshold. For the reasons set out in paragraph 4.19, for sellers with the opportunity to sell over several OMPs, it does not take many OMPs before a determined evader can trade over the VAT registration threshold which defeats the purpose of a low value MPT.

4.27. Our preference would be that intelligence on turnover levels is determined from timelier OMP data, if that is possible, and the incorporation of other identifier references into the data provided to HMRC, for example a local authority business registration reference, so that businesses can be mapped across multiple OMP data sets more readily. In the roundtable meeting we attended, another stakeholder suggested an HMRC OMP registration reference for all sellers so that could also be considered. The intelligence from data would be complemented by the increased unannounced visit programme in HMRC's June 2026 press release, mentioned in paragraph 4.22.

4.28. We would prefer that the VAT rate relief proposal is not taken forward as this would increase complexity, administration, impact staff resource, impact cashflow and increase penalty risks for the smallest businesses. Currently the software suppliers for MTD for VAT do not have functionality for this particular VAT accounting method and it would take time and cost to develop it, which may mean that the smallest businesses only have more expensive MTD options.

4.29. Question 25: If second-hand goods are excluded from OMPL, what risks remain around misrepresentation of goods as second-hand?

4.30. We would anticipate that for participants of more organised and sophisticated VAT evasion, the exemption for second-hand goods could be a route to exploit the VAT OMP rules in a similar way to business-to-business sales. OMPs may already have developed suitable AI that detects changes in trading patterns and a change in business model from new goods to second hand could be rapidly highlighted. HMRC may want to consider how potential suspicious activity for selling via an online marketplace could be reported outside of the annual digital platform report.

4.31. If the second-hand scheme were in scope, we would be very concerned that private sellers could easily be impacted if they are incorrectly deemed to be business sellers, as private sellers are most likely to be unrepresented and with lower incomes and without the support, they may need to rectify the error.

4.32. Any changes to the VAT accounting of second-hand sales via OMPs must also be compliant with the Windsor Framework for sellers based in Northern Ireland.

5. Administration and business impacts for OMPs and their users

5.1. Question 27: How long would it take you to implement the changes that would be needed to administrate this policy?

5.2. We would not be implementing this measure directly. However, we note that the introduction of other anti-fraud VAT measures, such as the 2021 extension rules for OMPs, or the domestic reverse charge, have been given differing lead in times.

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5.3. The domestic reverse charge for building and construction services had several consultations and the measure was originally due to have an eleven-month lead in time, announced in the November Budget 2018 for an October 2019 start. However, this was subsequently delayed twice due to its complexity at the same times as other concurrent demands on affected business including Making Tax Digital for VAT, the UK's exit from the European Union and COVID.

5.4. Conversely, the VAT domestic reverse charge for renewable energy certificates was introduced with one day's notice and no consultation due to the serious and credible threat to the VAT system.

5.5. We note that some businesses are currently dealing with MTD for ITSA changes and most businesses will need time to prepare for the electronic invoicing changes due to be implemented in 2029. We recommend that businesses are given clarity and certainty on what changes will be taken forward and in what timeline so that they can plan for any upcoming changes to selling via an OMP as well as HMRC's having time to implement upcoming digitalisation projects.

6. Acknowledgement of submission

6.1. We would be grateful if you could acknowledge safe receipt of this submission and ensure that the Chartered Institute of Taxation and its Low Incomes Tax Reform Group are both included in the List of Respondents when any outcome of the consultation is published.

6.2. We would be happy to meet with HMRC to discuss any of the points raised in this submission.

The Chartered Institute of Taxation
18 August 2026