

Tax competition can never be the basis for fair competi...

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The [FT reports this morning](#) that:

When you book an Airbnb room in London, around a third of the \$100 saving you make over the price of an average hotel room is due to tax advantages that favour Airbnb's business model, according to research by the Financial Times.

They add:

The extent to which Airbnb's business model benefits from tax advantages is particularly evident in London because the UK has high rates of business property taxes and value added tax on hotel stays, combined with generous tax exemptions for owners renting rooms in their homes and for small businesses.

VAT and property taxes account for up to 17 per cent of the price of a typical London hotel room after the recovery of VAT paid on costs. The VAT on most Airbnb stays can be as little as 0.6 per cent because the UK only levies the tax when businesses sell more than £83,000 per year – a threshold reached by very few Airbnb hosts. It is otherwise only payable on Airbnb's booking and service fees.

So, it is exploitation of the tax system that is creating Airbnb's price advantage.

It is not alone in this: Uber does much the same thing. It too has claimed to act as an agent for the sales of independent third parties - its drivers. The result has been that because Uber drivers are not VAT registered nor does much of what Uber charges reflect VAT due. That may, and I think should, change now it is known that Uber drivers are workers: the logical consequence of that is that Uber should be liable for VAT due on journeys it arranges. The issue will involve many, many millions of VAT before resolved.

And this responsibility for VAT is also an issue with Amazon and eBay where despite new legislation there is little indication that effective action is being taken as yet to stop traders who clearly cannot be paying their taxes due for using these platforms. During

the last month or so I was shown details of companies that had been struck from the Register of Companies without ever filing accounts still trading on one of these platforms.

We have then a situation where fundamentally honest businesses are being undermined by agency models of selling via the internet where the agent legally denies responsibility for the operation of taxes due and as a consequence some at least is either avoided or evaded. The agents will do doubt be acting in accordance with legal advice that says everything they are doing is legally sound. I am not suggesting otherwise. But then, all tax planning works on the basis of such advice: it provides a safety net when legal challenge from a government arises. If opinion has been secured it is not possible to say that the agent has been reckless and so tax penalties cannot usually be charged.

The opinions are, then, like tax risk insurance. But the fact that they will exist (and I am certain they will: it would be reckless for them not to be) suggests that those operating in this way are knowingly operating in areas of legal uncertainty. The risk was not created when asking for the opinion: the choice to take the risk was when making the commercial decision to compete on the basis of a potential tax advantage that ultimately provides a price advantage to drive business, whoever might have saved the tax.

Three things follow. First, this means these are precarious business models. If the law is changed as I think it must be (and Brexit will make it much easier to change VAT law to tackle such abuses) then the tax advantage can be removed. This means there is no certain sustainable value in these models.

Second, in the meantime business that is committed to adding value within the economy is undermined, and I think few can argue that this is not the case, meaning that this basis of competition has a real long term cost.

Third, the loss in government revenue combined with the uncertainty of collecting tax from those who for whom these platforms act as agents increases the risk of a growing UK tax gap, which is then used as an excuse to undermine the provision of essential services in the UK, spreading the risk and uncertainty resulting from the use of these already unstable trading arrangements.

The conclusion is that whilst I cannot dispute that tax can be used as a basis for short term economic competition I can also unambiguously suggest that the outcomes are almost wholly negative.

So what to do? Three things. First, make the platform the principal in the transaction in all cases. That will mean it is responsible for the VAT due on the sale.

Second, make the platform responsible for the product sold. So, it is responsible for the

safety and insurance of the Uber car, the safety of the Airbnb property, and so on.

Third, deny tax relief to the platform on the payments it makes to its suppliers if it cannot prove that they are registered for tax. In addition, require that they provide full information on payments made to each one to HMRC. That way the risk of evasion is greatly reduced.

What after that? I think more steps might be required. These models do not also contribute to local communities the way traditional businesses have by paying business rates, for example. The chance that an online additional sales tax might be required to manage this clearly needs to be investigated. I won't be doing that here though.

I am not saying these measures solve the problems of artificial tax competition. But they do help address them. And that is essential: current models of online selling are likely to prove to be deeply and negatively disruptive to the UK economy. Urgent action is needed. But will a government bogged down in brexit notice?