VAT and the Sharing Economy

Call for Evidence

The British Vehicle Rental and Leasing Association (BVRLA) represents the demand side of the automotive industry. Our members engage in vehicle rental, leasing and fleet management. BVRLA members own and operate more than five million cars, vans and trucks. They spend more than £30 billion upgrading their fleets each year and are responsible for buying around 50% of new vehicles sold annually in the UK, including 83% of vehicles manufactured in the UK for sale in the UK. The vehicle rental and leasing industry supports over 465,000 jobs, adds £7.6 billion in tax revenues and contributes £49 billion to the UK economy each year.

The BVRLA and its members are supportive of HM Treasury's work looking at the Sharing Economy. The Sharing Economy is already substantial in the UK and will continue to grow. For fair competition between the Sharing Economy and traditional businesses to exist it is vital that there is a level playing field. The Sharing Economy should not face significantly lower taxation levels, regulatory requirements or safety standards. VAT is a key part of this framework and we would welcome further engagement with HMT on this and other areas of taxation and the Sharing Economy.

Consultation questions

Q1: What are your initial impressions of the Sharing Economy? Is the government right to be looking into it in the context of VAT?

Yes, the government is correct to be looking at the Sharing Economy in the context of VAT. The BVRLA's particular focus is peer-to-peer (P2P) vehicle rental, but we believe our views hold across all segments of the Sharing Economy.

The P2P rental platform facilitates private individuals renting out their vehicle or vehicles to other individuals. It is unlikely that the individuals placing vehicles on the platforms will pass the VAT threshold. As identified by HMT in the Call for Evidence this means that despite the cumulative values of rentals being transacted on these platforms being well in excess of the VAT threshold, HMRC will not receive any VAT.

In contrast, a successful traditional daily rental operation will pass the VAT threshold and need to charge VAT on every rental. This creates an uncompetitive landscape where the P2P rental platforms and their users can accrue all the benefits of scale and reach of a large daily rental business but not face the same taxation burden. We would also note that the challenge of appropriate taxation and regulation for the Sharing Economy business model is not just VAT. There are wider concerns, especially around safety, which the P2P rental platforms create.

The Sharing Economy will continue to grow in its importance in the UK but it is critical that the government proactively works to ensure that, just because services are supplied by private individuals, they are still safe and consistent with wider regulatory expectations placed on a sector. Sharing should not be given the opportunity to exist as a second-tier, low taxation, low regulation economy, but as a space that enables fair competition, empowers citizen entrepreneurs and enables consumers to enjoy the same standards of safety and protection they are used to.

Q2: Are there any Sharing Economy business models which the definition and guidance we have set out do not cover but which we should be aware of?

Not that we are aware of.

British Vehicle Rental and Leasing Association
River Lodge, Badminton Court, Amersham, Bucks HP7 0DD
tel: 01494 434747 fax: 01494 434499 e-mail: info@bvrla.co.uk web: www.bvrla.co.uk

Q3: Do you agree with the government's assessment of the size and nature of the Sharing Economy in the UK? Have you or your organisation produced analysis not listed above on the size and nature of particular sectors of the Sharing Economy in the UK?

The BVRLA produced a report looking at "Peer-to-Peer Car Rental in the UK" in October 2019. This report was an analysis of the current offerings on the market, the nature of their services and a literature review of relevant global studies looking at the market. P2P vehicle rental is not as developed as other parts of the Shared Economy in the UK. Other jurisdictions have either seen greater uptake or more research into the P2P rental market.

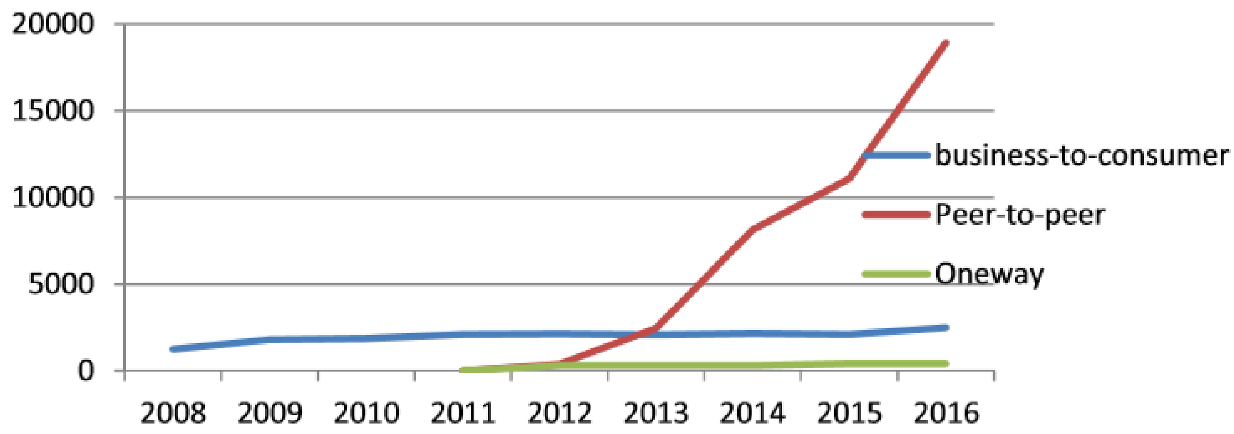
There are four main P2P rental platforms operating in the UK, two of which are UK based and two of which are based in the US. These operators mainly have a focus on major cities and airports. The BVRLA report's secondary research found that in late 2019 it was estimated that the platforms had over 4,500 cars listed and 165,000 users in the UK.

Q4: If not covered in your response to the previous question, could you please provide us with any projections which you or your organisation have produced regarding the future growth of the Sharing Economy in the UK?

We have not produced projections on the future growth of the Sharing Economy or P2P rental in the UK. However, as mentioned in response to the question above, the UK is not the most developed market for this offering and there are insights from other markets which can inform how it might develop in the UK.

Analysis from the Dutch market by Nijland and Van Meerkerk in their 2017 paper "Mobility and environmental impacts of car sharing in the Netherlands"[1] shows that the sector can experience relatively rapid growth.

Number of shared cars in the Netherlands based on type of sharing organisation, between 2008 and 2016



Source: Figure reproduced from Nijland H and Meerkerk J (2017) 51, p86, which they, in turn, report is derived from http://kpvvdashboard-4.blogspot.nl

Similarly Frost and Sullivan's 2018 report on P2P[2] highlights the increase in the number of P2P car rental operators from 10 in 2009 to more than 50 globally in 2018. They forecast that there will be 12.1% annual

[1] Nijland H and Van Meerkerk J (2017) Mobility and environmental impacts of car sharing in the Netherlands. Environmental Innovation and Societal Transitions 23, pp84-91.

[2] https://ww2.frost.com/news/press-releases/automotive-transportation/p2p-carsharing-companies-widen-portfolio-and-footprint-by-collaborating-with-shared-mobility-stakeholders/

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growth in the use of these platforms, meaning that, by 2030, they will have 71 million members, 3.8 million vehicles and be generating more than $7 billion in revenue.

Q5: Do you consider the balance to be changing between VAT-registered and non-VAT registered businesses in terms of relative contribution towards the UK's economic output?

The BVRLA has not conducted an analysis of this change.

Q6: Have you or your organisation produced analysis of the revenues which underlying service providers generate on digital platforms; if so, please could you summarise the results for us?

We have not produced an analysis of the revenues that underlying service providers generate on P2P rental platforms and this was not an area covered by our report.

Q7: Should the government consider alternative VAT rules to the agent-principal rules in the context of the Sharing Economy? Should we consider solutions which, under certain circumstances, would require Sharing Economy digital platforms to account for VAT on the supplies that underlying service providers make to consumers?

We believe that the government must consider an alternative set of VAT rules for platforms operating in the Sharing Economy. We believe that the scope of these rules should be beyond just the commission fees that accrue to the platform for facilitating the service provision but on the actual service as well.

We agree with the Call for Evidence that there is a need for a new approach to the agent and principal classifications of Sharing Economy platforms for VAT purposes. There should be a clear test applied to platforms to determine whether they constitute a fundamental part of the service on offer or are an ancillary marketing method to an underlying service provision. Where a service could not exist in the way it is offered on the platform without the support of that platform, we believe the platform should pay VAT on the full supply of services to the consumer.

The test should focus on the background support that a platform offers to those listing their services on it and the control it exerts over them. This would include factors such as providing insurance coverage, controlling the payment systems, performing centralised bidding capabilities, setting fundamental service requirements or polices. Where these are in place, the platforms have created a service offering that is uniform across all individual participants and is more theirs than the underlying service providers.

In the case of P2P rental operators, these platforms may arrange collection and delivery of vehicles, insurance during the rental period, apps to control access to the vehicle and monitor its condition, designated parking bays at airports and valet services. Without the provision of these services, the 'private' vehicle rental would be unable to occur. The unified service offering of the vehicle from the underlying service provider and the ancillary services from the platform is entirely contingent on those the platform provides. This unified service should then be treated as an offering by the platform and VAT on the full supply be collected from the platform.

Conversely, where the platform is acting as a method for connecting varied service providers with customers, and these services can exist outside of the platform, then the current approach to VAT is sufficient. These "listing" type platforms do not assume the functions of a traditional principal and it is correct to maintain the current agent and principal approach for them.

HMT has already identified some of the key elements that should inform the test around whether the platform pay VAT on the full supply of services. Included in the Call for Evidence are some reasonable criteria around "able to engage with the consumer, control of the authorisation and processing of consumer payments, arbitrating disputes between consumers and underlying service providers, and control or imposition of restrictions on the marketing and advertising of the underlying service providers". Several additional considerations should inform any test and BVRLA believes that HMT should consult on the exact specifications and details of a test to ensure it is fair across all sectors of the Sharing Economy.

Without amending the current VAT treatment there will continue to be unfair competition between the Sharing Economy and regular firms. Approaching the VAT issue in this way will also reduce the administrative burden for HMRC in collecting revenues, requiring interaction only with the platforms and not those listing on them. It will also trigger the use and enjoyment provisions of VAT supply rules which already ensure for the letting on hire of goods (including transport services) that if they are enjoyed in the UK the VAT on them is due in the UK.

Q8: Does your view about the need for alternative VAT rules in the context of the Sharing Economy vary according to economic sector and business model, or does it apply across all sectors and business models?

We believe it should apply across all economic sectors and business models. The test should be robust enough to work for all types of Sharing Economy activity. We also believe it is inappropriate to use the legacy nature of the VAT system to benefit some firms operating in some economic sectors. Business activities must not be excluded by omission. If there are economic sectors that the government wishes to support through reduced or zero VAT rates, then all firms should be treated equally.

A clear example in the vehicle rental sector is the rental of electric vehicles (EVs). The high upfront costs of BEVs and PHEVs are a key barrier for rental and car club companies looking to establish a profitable zero emission business model. Operators do not pay for the fuel used in their vehicles so the cost-savings from long-term EV use accrue to the customer, not the rental company. It means rental and car club firms are even more reliant on the upfront costs of EVs becoming aligned with ICE vehicles than private buyers and must charge customers higher rental fees for EVs.

Setting VAT at 0% for zero emission car club and rental transactions would help them reduce the price gap in customer rental payments and lead to a surge in EV fleets and journeys. This would be in line with broader government ambitions and the best interest of consumers. It would be fundamentally anti-competitive if the government decided instead to encourage EV rental by leaving legacy VAT arrangements so that a Sharing Economy platform could rent out private individuals' EVs VAT free.

Q9: Should the government review the cross-border place of supply rules in this context; specifically, in light of that fact that these give an unfair VAT advantage to digital platforms based outside the UK? If so, how would you recommend we address this?

As set out above we believe VAT should be paid on the full supply of the service. This would limit the need to review the cross-border place of supply rules, as the use and enjoyment rules apply to the letting on hire of goods which would cover most of the Sharing Economy.

If HMT opts for an approach focused only on commission fees, then a review of place and supply rules is necessary or else another layer of unfair competition between UK based platforms and those in the rest of the world exists. This added level of distortion can only incentivise firms to offshore their operations. However, reviewing place and supply rules for this specific subset of operators is additional complexity in the proposed VAT reforms. Instead focusing on the supply of the service and existing use and enjoyment provision would be a simpler and more appropriate approach.

Q10: What do you think about solutions that would require Sharing Economy digital platforms, wherever they are established, to register and account for UK VAT on the commission fees that they charge their underlying service providers? Please include details of your experiences of similar regimes in other jurisdictions.

As stated previously, focusing only on commission fees is inappropriate. It does not recognise the fundamental importance of platforms in the service offerings and will add complexity by requiring more fundamental changes in the VAT regime. However, if HMT opts for this approach then there must be a requirement to ensure VAT is paid by the platforms in the UK for the commission charged on UK transactions.

There is international support for multinational platforms to pay their fair share of local taxation. HMT would be able to mandate compliance and should not treat these platforms any differently to other firms around requirements to pay the VAT they owe.

Q11: Bearing in mind HMRC's desire to develop compliance measures which can be enforced with equal effectiveness upon both UK and offshore businesses, what do you think would be a proportionate and effective set of obligations, sanctions and administrative easements that HMRC could use to encourage compliance among digital platforms and underlying service providers?

This should be subject to further consultation by HMT, at this point the BVRLA does not have a set of obligations, sanctions and administrative easements to propose.

About the BVRLA

- Established in 1967, the BVRLA is the UK trade body for companies engaged in vehicle rental, leasing and fleet management.
- BVRLA members are responsible for a combined fleet of over five million cars, vans and trucks on UK roads, that's 1-in-8 cars, 1-in-5 vans and 1-in-4 trucks. The vehicle rental and leasing industry supports over 465,000 jobs, adds £7.6bn in tax revenues and contributes £49bn to the UK economy each year.
- On behalf of its 1,000+ member organisations, the BVRLA works with governments, public sector agencies, industry associations and key business influencers across a wide range of road transport, environmental, taxation, technology and finance-related issues.
- BVRLA membership provides customers with the reassurance that the company they are dealing with adheres to the highest standards of professionalism and fairness.
- The association achieves this by maintaining industry standards and regulatory compliance via its mandatory Codes of Conduct, inspection and governance programme and government-approved Alternative Dispute Resolution service. To support this work, the BVRLA promotes best practice through its extensive range of training, events and information-sharing activities.

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