

# OECD finalises Model rules for platforms reporting on gig economy sellers

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## In brief

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The OECD has released a new global tax reporting framework that would require digital platforms to collect and report information on certain gig economy services offered by sellers. The 'Model Rules' have not changed significantly since the previous consultation and refer to sellers offering accommodation, transport, and personal services. These rules were approved by the G20/OECD Inclusive Framework (IF) on BEPS, so one would expect most of the current IF 137 members to adopt them. To support implementation of the rules, the OECD will develop the necessary international legal and technical framework to facilitate the automatic exchange of the information collected. A sellers' Code of Conduct will also help them meet their tax obligations.

In this Alert, we summarise:

- the background to the publications, including previous consultation
- the scope of the Model Rules with regard to services, platforms, and sellers, and
- the nature of the Code of Conduct.

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## In detail

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Following previous consultations, the OECD released:

- *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy* ('MRDP'), and
- *Code of Conduct: Co-operation between tax administrations and sharing and gig economy platforms.*

The accompanying [OECD press release of July 3, 2020](#) announcing the MRDP publication stated that the MDRP, which the G20/IF has approved, are:

"designed to help taxpayers in being compliant with their tax obligations, while ensuring a level-playing field with traditional businesses, in key sectors of the sharing and gig economy. They further seek to avoid a proliferation of different and unilateral reporting regimes, allow for the use of novel technology solutions and help create a sustainable environment supporting the growth of the digital economy."

In our March 20, 2020 [response](#) to the earlier consultation on the Model Rules, we stated the importance of consistently applying the reporting rules between countries and, as far as possible, taking into account not only direct tax needs but also indirect tax requirements. We noted that the reporting rules need to provide legal certainty, ensuring clear and consistent definitions, including safeguards for reasonable efforts, keeping in mind that platforms often have to rely on third-party data.

### **The Model Rules are targeted to certain services, platforms and sellers**

Under the MRDP, certain digital platforms are required to collect information on the income realised by those offering accommodation, transport and personal services through these platforms and report this information to tax authorities.

The Model Rules contain many defined terms, which seek to clarify the scope that jurisdictions should apply. Key areas of the Model follow.

- A **personal service** for this purpose should involve time-based or task-based work performed by one or more non-employees. There should be an exclusion also for work that is purely ancillary to the overall transaction.
- **Platform operators** should cover software products accessible by users that allow sellers to connect with them in order to provide relevant services. This includes arrangements for the collection of consideration on behalf of sellers.
- The **nexus for platform operators** to report in a particular jurisdiction primarily apply by residence (but secondarily apply by incorporation or management).
- On an optional basis, the definition of **excluded operators** could be applied to small-scale platform operators (in particular start-ups), platforms that do not allow sellers to profit from the consideration received, or platforms that do not have reportable sellers.
- The **scope of sellers** should cover both entities and individuals, although exclusions are encouraged for hotel businesses, publicly-traded entities, and government entities.
- **Due diligence procedures for platform operators to follow** should identify/ verify active sellers' details, set out the information to report and determine the appropriate jurisdictions for potential sharing purposes (they should be able to rely on an appropriate third-party service provider). This includes in particular the name, address, tax identification number (TIN, including the jurisdiction of issuance), and the seller's date of birth or business registration number.
- Sellers should receive **transitional relief if they** are registered on the platform prior to the platform operator becoming subject to the rules.
- The reporting time frame for calendar-year taxpayers is by the following January 31.

### **Sellers should be reminded of their obligations according to a Code of Conduct**

The Code of Conduct, published by the OECD Forum on Tax Administration, is intended to supplement the MDRP, in particular where sellers are not subject to reporting under the model rules, for example because the transactions are out of scope or the jurisdiction has not yet implemented the model rules. A 2019 draft was subsequently revised following further consultation.

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## The takeaway

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The Model Rules and Code of Conduct seek to encourage countries to adopt common reporting rules for certain platforms that facilitate sales in the gig economy. If considered by countries alongside reporting rules for VAT/GST compliance, these could help clarify the position for platforms, sellers, and tax authorities.

A number of individual countries have already imposed reporting obligations that vary significantly. The European Commission has also published a draft Directive (DAC7) that includes reporting and sharing rules across the EU. The Commission believes that DAC7 is aligned with the Model Rules, but DAC7 goes further in some respects by including the supply of goods (something that the OECD says should be considered later). Compliance would be more efficient for taxpayers and tax authorities if all these rules were to align with the OECD Model.

To support wide implementation of the MRDP, the OECD will need to take forward work on the international legal and technical framework to facilitate the automatic exchange of the information collected under the MRDP.

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## Let's talk

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For a deeper discussion of how this issue might affect you, please get in touch with your usual PwC contact or one of the following:

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