

TO WHOM IT MAY CONCERN

Position on the European Commission's proposal for a Council Regulation on "VAT in the digital age" (ViDA)

1. EXECUTIVE SUMMARY

The European Holiday Home Association (EHHA), the united voice for short-term rental accommodation in Europe, supports the intent of the Commission's proposal for the "VAT in the Digital Age"¹ (ViDA), which aims to simplify taxation rules adapted to the digital age, fight tax fraud and benefit businesses. We agree with the Commission that real-time digital reporting for VAT purposes through e-invoicing will help Member States step up the fight against VAT fraud, and that a single EU-wide VAT registration will simplify VAT obligations to businesses selling to consumers in another Member State. **However, we would like to raise several concerns on the deemed supplier (DS) regime in the proposal, particularly regarding the short-term rental (STR) accommodation services facilitated via online STR platforms.**

The DS regime appears to target certain large platforms, but in reality, it **impacts the thousands of SMEs and individual property owners that make up the underlying accommodation rental sector.**² Under the DS regime, any accommodation booked through online platforms which is supplied by a non-VAT registered person would be subject to VAT. This in turn would pull occasional hosts and micro-entrepreneurs into the VAT net even though they currently would not be subject to VAT or remain well below existing national VAT thresholds. The VAT determination would shift from the status of the supplier, as all sound VAT regimes employ, to how a provider rents their accommodation. This has been pitched as a fairness measure to create parity with hotels. However, this does not take into account the following:

- A short-term rental service does not offer the same services as a hotel (i.e. a front desk, gym, restaurant). STRs are usually family oriented (with children and pets) accommodation channels which allow overnight stays like at home away from home.
- Hotels will gain an unfair advantage because they will pay a lower effective VAT rate (hotels may claim input credit whereas non-VAT registered providers cannot).

Imposing VAT on small STR accommodation providers (such as hosts) who occasionally rent their own home or secondary family home would make their accommodation less affordable, undermining their ability to supplement their other income, afford the increased cost of living and cover expenses like bills and necessary repairs.

In addition, ViDA would impose an additional tax on tourism, making EU travel more expensive. The price impact of imposing VAT on small STR accommodation providers (hosts and/or VAT-exempt enterprises) will be substantial, as this could result in altering guests' travel decisions. Small STR providers are typically spread across all regions (even those with limited or no hotels)³ and contribute to sustainable tourism in Europe by promoting travel to less frequented locations. This additional tax will have a negative effect on the tourism ecosystem, as budget conscious guests are more likely to visit for a shorter time and spend less money, with a possible long term negative impact on the EU's tourism economy and GDP as such.

¹ European Commission's VAT in the digital age initiative, website: https://taxation-customs.ec.europa.eu/taxation-1/value-added-tax-vat/vat-digital-age_en

² For a depiction of what the STR ecosystem looks like across the EU, see here: <https://ehha.eu/str.png>

³ EUROSTAT data on STRs, 3 April 2023, website: <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20230403-3>

According to our preliminary assessment, the DS regime for STR offered online could potentially lead to negative impact on EU's GDP in the billions, due to an expected higher price of accommodation provided by small STR providers and double taxation⁴. The PwC report "The Impact of Taxes on the Competitiveness of European Tourism"⁵, prepared for the European Commission, highlighted that there is a high elasticity of demand for tourism; in other words, they have found that **tourist demand is highly sensitive to changes in prices**. For example, Peng et al (2015) study conducted a meta-analysis of international tourism demand elasticity studies. They found that an average price elasticity of tourism demand in Europe is -1.291 for inbound tourism, which suggests **that a 1% increase in price would lead to a 1.291% fall in tourism demand in Europe on average. The study suggests that any increase in taxes will be passed through to consumers and this will likely have a disproportionately large negative impact on tourism flows and, as a result, on the wider economy.**

The burden of new reporting mechanisms and the obligation to collect and remit VAT will disproportionately affect smaller platforms and SMEs. Any overly prescriptive regime that does not capture the STR ecosystem, such as the DS regime, could stifle innovation (mostly for EU based smaller accommodation platforms and property managers), reduce competition, create barriers to entry for private individuals and for VAT-exempt enterprises, limit consumer choice and harm some accommodation providers for the benefit of the others. Furthermore, VAT imposition on small STR accommodation providers may discourage them from reporting accurately, with the risk of increasing the "off the radar" market.

Member State autonomy to make VAT policy decisions will be overridden. Currently Member States can exempt, partially exempt, or make holiday rentals subject to VAT based on their tourism ecosystem. However, ViDA would override Member State autonomy to make these decisions, mandating a uniform EU-wide treatment in this industry.

Only certain online platforms will be subject to the DS regime. This allows guests to platform shop and find the same listing on certain platforms where no VAT is applied resulting in a cheaper price for the guest. As a result, **many rentals in the sector could opt for a cash economy and offline which is off the radar for VAT and income taxes⁶.**

ViDA and Tour Operator Margins Scheme (TOMS) are both tourism specific sector regimes that should be considered at the same time. Dealing with a deemed supplier now and TOMS later does not make sense as many platforms, in part, may fall under both. TOMS has been subject to debate for many years, and it seems prudent to update the entire VAT ecosystem at once.

2. POLICY RECOMMENDATIONS

Considering the above, **we strongly urge the EU to stand against the deemed supplier section of ViDA**, in order to protect small STR accommodation providers (hosts and/or exempted from VAT enterprises) and maintain an affordable and accessible tourism and travel ecosystem in Europe.

⁴ Please see Annex 1 below for a concrete example on double taxation of online platforms' service fee

⁵ Final Report "The Impact of Taxes on the Competitiveness of European Tourism", 2017, website: <https://www.europarl.europa.eu/cmsdata/130660/The%20Impact%20of%20Taxes%20on%20the%20Competitiveness%20of%20European%20tourism.pdf>

⁶ Please see Annex 1 below for a concrete example on the lack of channel neutrality

At the very least, we suggest postponing the DS regime until the proper analysis of DAC7 is available to Member States. This will allow stakeholders to understand the VAT situation and make informed policy decisions.

Additionally, we urge European policymakers to take a holistic approach on the future of travel and other regulatory dossiers impacting tourism, especially as parallel new obligations and taxes in the tourism sector are being introduced. This includes the so-called Fit for 55 jet tax proposal, which would increase jet fuel costs by an almost 90%⁷, or the new European Travel Information and Authorisation System (ETIAS) which introduces a €7 fee to nationals of around 60 countries worldwide entering the EU without a Schengen visa later in 2024⁸.

We stand ready to continue the dialogue and provide further examples on how some of the provisions under consideration would affect the day-to-day operations of STR players.

3. ADDITIONAL TECHNICAL INFORMATION

Harmonisation of platform reporting obligations risks being diluted. At this stage, there are a number of new EU legislations, creating uncertainty for online platforms of varying sizes as to how they should comply with them in 27 EU Member States⁹. According to the Commission’s proposal for a regulation on data collection and sharing for STR accommodation, online STR platforms will have to report platform activity data (number of nights and guests) to Member States authorities. Under the Directive on administrative cooperation in the field of taxation (DAC-7), online platforms must provide tax authorities with data on income generated by STR activities. Moreover, under the Digital Services Act (DSA), online platforms will have to answer specific requests in certain situations. The ViDA introduces yet another additional reporting obligation to online STR platforms. For instance, for supplies falling outside the DS model, the platform will be obliged to keep the records relating to both business to business (B2B) and business to consumer (B2C) supplies (Article 242a). While EHHA members support platform data sharing obligations, we urge the Commission and Member States to first wait for the results of DAC-7 as a first step. It is only after DAC-7 has been fully implemented, that interoperable data sharing solutions compliant with the highest EU standards (such as GDPR) that are not too cumbersome for platforms can be constructed.

Consistency of the STR definition across EU regulatory proposals. The Commission’s proposal for a regulation on data collection and sharing relating to short-term accommodation rental services defines ‘short-term accommodation rental service’ as the short-term letting of a unit, against remuneration, whether on a professional or non-professional basis, as further defined by national law. On the other hand, ViDA defines the STR as: “the uninterrupted rental of accommodation for a maximum of 45 days with or without the provision of other ancillary services shall be regarded as having a similar function to the hotel sector” (Article 46a). While we understand the Commission’s proposal defers to national laws for defining STRs, we are surprised to see that ViDA takes a stronger stance and sets EU-wide day caps on the STR activity. We are concerned that setting a specific day cap without understanding local STR definitions will increase the number of STR accommodation providers under the deemed supplier than originally intended by the Commission. For example, even small VAT-exempted B&Bs, guesthouses, or family hotels on STR platforms could fall under the ViDA definition of STR. For

⁷ [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2022\)698900](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)698900)

⁸ https://travel-europe.europa.eu/etias/what-etias_en

⁹ Compliance with increasing reporting obligations with tight application deadlines puts not only a heavy financial burden on online platforms operating across the Member States but also forces them to shift away from their primary focus (to do business) and work only on the development of technical solutions. While big online platforms will be able to comply with the requirements, small online platforms may simply give up – they have no resources to do that.

the sake of clarity and to avoid negative impact on STR players and the ecosystem, we believe that ViDA should not be the place to define STR activity.

One of a kind, disproportionate obligations on specific players in the travel sector will result in a major competitive disadvantage. The deemed supplier (DS) regime unfairly imposes unique, one of a kind¹⁰ and disproportionate obligations and liabilities on online STR platforms, creating a major competitive disadvantage and potentially blocking their access to the EU travel market. The proposed rules shift the burden and costs to collect and remitting the VAT in 27 Member States onto online STR platforms, regardless of their shape and size¹¹.

Drastic change in VAT rules will directly affect STR rules at a local level. Under the proposed rules, private individuals (hosts) offering STR accommodation on an occasional basis on online STR platforms will be pulled into the VAT net. The latter will in turn alert local governments to apply discriminatory STR rules that are typically only applied to commercial enterprises. For example, local authorities may require occasional property owners to change the use of their property from residential to commercial before offering it for STR. Such changes would block STR providers' market access, damaging all other players in the chain¹².

The DS regime harms EU travel recovery, hits the smallest and most vulnerable STR players (private individuals) the hardest, limits consumer choice and has negative spill-over effects on other sectors. Charging VAT tax on the location of the supply (i.e. the STR accommodation) rather than the supplier's status (VAT or non-VAT payer) amounts to an extra tax on tourism. Travellers appreciate STRs because they increase choice and, often, better facilities, and better locations¹³. Imposing an additional tax on STR services will increase prices, reduce travel accessibility, and limit choices for travellers. It will also harm private individuals who rely on STR income during times of cost-of-living crisis, as well as negatively impacting ancillary service providers and other local companies supporting the STR ecosystem¹⁴.

Requiring VAT obligations without a right for any benefit will further disadvantage VAT-exempt private individuals, micro-enterprises, and SMEs. Under usual VAT rules, taxable persons can deduct the VAT paid on the services purchased to make that supply. According to the proposed DS regime, online STR platforms will have to charge the VAT on an accommodation supply provided by private individuals or VAT-exempt small enterprises which would have no input tax deduction right (Article 136b). By imposing VAT tax on supply (STR accommodation) that would otherwise fall outside the VAT scope and by disallowing to use VAT input deduction benefits, smaller players like private individuals, micro-enterprises, and VAT-exempt SMEs are put at a disadvantage in favour of larger players.

Complexity of STR ecosystem: channel neutrality and further questions on who will be liable for VAT. We urge the Commission and Member States to pay special attention to fundamental VAT principles such as channel neutrality. The potential shift towards the DS regime will determine the taxability of an accommodation supply based on the means by which it is offered (online or offline), and not on the supply or supplier itself. This would result in the same accommodation supply being subject to VAT (if offered online), and not subject to VAT (if

¹⁰ Other sectors and industries except for transport are not affected.

¹¹ According to the Impact Assessment of the European Commission on data collection and sharing relating to short-term accommodation rental services and amending Regulation (EU) 2018/1724, there are over 700 online STR platforms operating in the EU.

¹² STR Ecosystem and its players: <https://ehha.eu/str.png>.

¹³ Eurobarometer Survey on STR in the EU, website: <https://europa.eu/eurobarometer/surveys/detail/2279>

¹⁴ STR Ecosystem and its players: <https://ehha.eu/str.png>

offered offline). STR bookings can be made through various channels, such as online or offline, and depending on the STR players involved, different taxation regimes will apply, for example¹⁵:

- The DS regime in consideration could burden a substantial number of smaller tour operator (travel agents) platforms, requiring them to account for one supply differently (e.g. TOMS) than the remaining tour supplies (in case of STR – DS regime).
- In most Member States property managers (PM) act on behalf of private individuals (property owners). This means that PMs are the ones who have the contract and hold the account with online STR platform to promote these properties in the name of owners. In this case, PM would declare to the STR platform that they are a VAT payer (as usually they are businesses) and for this reason they would fall outside of the deemed supplier regime. But, the provider of the underlying service (provider of the STR accommodation) is the private individual and many tax authorities (like Portugal) demand that the owner (not the PM) issues the accommodation invoice to the guest. As ViDA proposes to eliminate the VAT exemption for private individuals and VAT-exempt enterprises, online platforms may request their clients to issue an invoice as required by national law creating an additional burden and further disadvantaging the smallest segment of the STR ecosystem.
- We also need clarity and guidance on which operator would be liable for VAT, as there is often the case of platforms advertising accommodation rentals that are listed on other platforms in parallel or in the same platform on platform ecosystem¹⁶.

¹⁵ STR Ecosystem and its players: <https://ehha.eu/str.png>

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ANNEX I: CONCRETE EXAMPLES OF HOW ViDA WILL IMPACT THE TRAVEL SECTOR

Lack of Channel Neutrality

Assume a 100 EUR/night STR in Denmark (25% VAT) advertised via different channels

<i>Channel STR advertised via</i>	<i>Price/Night for Consumer</i>
<i>Offline (phone, office, repeat customer)</i>	100 EUR/night
Small online platform (VAT exempt)	100 EUR/night
Online platform	125 EUR/night
Meta-search platform	100 EUR/night

Online Platforms' Service Fee Double Taxation

Assume British consumer booking STR in Spain

Assume 600 GBP for STR + 80 GBP for platform's service fee

Current Rules	ViDA
600 GBP STR accommodation charge	600 GBP STR accommodation charge
80 GBP Platform's service fee	80 GBP Platform's service fee
16 GBP UK VAT	16 GBP UK VAT
	+
	16.80 GBP Spanish VAT
696 GBP TOTAL CHARGE	712.80 GBP TOTAL CHARGE

[According to the data by Avalara](#), there are over 60 countries around the world that have introduced VAT for Electronically Supplied Services (ESS), based on the place of establishment of the recipient of the service (consumer), while ViDA proposal foresees that the online platforms' service fee should be subject to VAT where the underlying service (STR accommodation) is located. This situation creates a double taxation of platforms' facilitation fee and should be at all costs avoided.