CURRENT PROBLEMS OF (NON-) TAXATION OF THE COLLABORATIVE ECONOMY[1]

AKTUÁLNE PROBLÉMY (NE) ZDAŇOVANIA KOLABORATÍVNEJ EKONOMIKY

Soňa Simić [2]

https://doi.org/10.33542/SIC2022-1-09

ABSTRACT

The presented paper is devoted to current issues of collaborative economy with a focus on its relevant tax law aspects and taxation or non-taxation. The paper analyses the possibilities of taxation of collaborative platforms income arising from sources in the territory of the Slovak Republic in the context of recent changes in Act No. 595/2003 Coll. on Income Tax, on the basis of which the institute of a permanent establishment of a digital platform and the ancillary application of the institute of withholding tax by service providers was enacted in the legal system of the Slovak Republic. In addition to the above issues, the paper also addresses selected issues of indirect taxation of the collaborative economy, in particular the taxation of peer-to-peer transactions with value added tax and answers the fundamental question of whether private individuals providing services in the collaborative economy (also referred to as "peers") can be considered as taxable persons for the purpose of the common value added tax system.

ABSTRAKT

Predložený príspevok je venovaný aktuálnej problematike kolaboratívnej ekonomiky so zameraním na jej relevantné daňovo-právne aspekty a jej zdaňovanie, resp. nezdaňovanie. Príspevok analyzuje možnosti zdaňovania príjmov kolaboratívnych platforiem plynúcich im zo zdrojov na území Slovenskej republiky vo svetle nedávnych zmien zákona č. 595/2003 Z. z. o dani z príjmov, na základe ktorých bol do právneho poriadku Slovenskej republiky zakotvený inštitút stálej prevádzkarne digitálnej platformy za súčasného zakotvenia subsidiárneho uplatnenia inštitútu zrážkovej dane. Okrem uvedených otázok sa príspevok zaoberá aj vybranými otázkami v oblasti nepriameho zdaňovania kolaboratívnej ekonomiky, najmä zdaňovaním peer-to-peer transakcií daňou z pridanej hodnoty, kedy odpovedá na zásadnú otázku či možno súkromné osoby poskytujúce služby v kolaboratívnej ekonomike (označované aj ako „peers") považovať za zdaniteľné osoby z pohľadu systému dane z pridanej hodnoty.

I. INTRODUCTION

The digital economy, the platform economy or the sharing economy, also synonymously referred to as the collaborative economy.[3] It is apparent that all of these terms refer to relatively new phenomena which are related to the implementation of digital technologies in the functioning of socio-economic relations and are the result of the ongoing digitisation process in almost all sectors of the economy. It can be said that digital platforms have gradually become

[1] This work was supported by the Slovak Research and Development Agency under the Contract no. APVV-19-0124.

[2] JUDr., Pavol Jozef Šafárik University in Košice, Faculty of Law, Slovak Republic
Univerzita Pavla Jozefa Šafárika v Košiciach, Právnická fakulta, Slovenská republika.

[3] The terms collaborative and sharing economy are now used interchangeably. In lexicological practice, the term collaborative economy is the younger of these terms and this term began to be widely used in Slovakia only in connection with the Permanent Representation of the Slovak Republic to the EU and the holding of the Collaborative Economy Conference. Collaborative comes from the Latin collabōrāre, i.e. "to work together". In addition to these terms, this type of economy can also be referred to as a collaboration-based economy or, more concisely, an economy of collaboration, or even a resource-sharing economy. See: KALAMÁNOVÁ, K.: Zdieľaná ekonomika či kolaboratívna ekonomika? In: Kultúra slova. Vedecko-popularizačný časopis pre jazykovú kultúru a terminológiu. Vol. 52, 2018, No. 3, pp. 172–176. ISSN: 0023-5202. Available at: https://www.juls.savba.sk/ediela/ks/2018/3/ks3-2018.pdf#page=46.

an integral part of the digital market. However, despite the widespread presence of these digital business models, there is still no single definition and understanding of them. On the contrary, there is rather a consensus that it would be difficult to arrive at a single legally relevant and timeless definition of digital platforms due to the existence of a large number of different digital platform models, the broad scope of their areas of operation, as well as due to the rapidly changing digital environment.

The term "digital platform" is now used to refer to the wide range of diverse digital services provided or the methods and tools used to provide them. Digital platforms are generally known as two-sided or multi-sided markets where users are brought together by a platform operator in order to facilitate an interaction (exchange of information, a commercial transaction, etc.).[4] It is also possible to define a digital platform as an entity that (i) offers digital services, (ii) is or can be operated as a two- or multi-sided market business model, and (iii) allows the facilitation of interaction between different sides, even where there is no direct interaction among them.[5]

As outlined above, the attempt to define digital platforms entails the risk that their definition either does not cover all digital platform models or, on the contrary, does not accurately capture their essence. Nonetheless, most digital platforms exhibit certain features. The first characteristic of digital platforms is their capacity to facilitate, and extract value, from direct interactions or transactions between users. The second relevant characteristic is the ability of digital platforms to collect, use and process a large amount of data in order to optimise the services provided in the future. The third characteristic of digital platforms is the capacity to build networks where any additional user will enhance the experience of all existing users – so-called "network effects". The fourth feature is their ability to create and shape new forms of markets which may disrupt traditional ones, as well as to organize new forms of participation or business of entities, and the fifth and final characteristic of digital platforms is reliance on information technology as the means to provide services.[6]

The basic framework of the collaborative or also sharing economy, within which collaborative or also intermediary platforms operate, was defined by the European Commission in 2016 in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European agenda for the collaborative economy *(hereinafter referred to as "European Agenda for the Collaborative Economy")*. According to the European Commission, the term "collaborative economy" refers to business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals.[7] At the same time, however, the European Commission stresses that the collaborative economy is a rapid evolving phenomenon and its definition may, or rather must, evolve accordingly.[8]

The European Agenda for the Collaborative Economy defined guidelines on five key issues that need particular attention.[9] As the last key issue (without any hierarchy of relevance, of

[4] Commission Staff Working Document: Online Platforms Accompanying the document Communication on Online Platforms and the Digital Single Market {COM(2016) 288 final}.

[5] Liability of online platforms. STUDY Panel for the Future of Science and Technology. p. 3. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/656318/EPRS_STU(2021)656318_EN.pdf.

[6] Commission Staff Working Document: Online Platforms Accompanying the document Communication on Online Platforms and the Digital Single Market {COM(2016) 288 final}.

[7] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European agenda for the collaborative economy {SWD(2016) 184 final}.

[8] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European agenda for the collaborative economy {SWD(2016) 184 final}.

[9] The need to differentiate between the provision of services by private individuals and the provision of services by businesses was highlighted in the context of the assessment of ***market access requirements*** (in particular business authorisations, insurance and others). For services provided by collaborative platforms, it is true that their nature needs to be assessed on a case-by-case basis. See also: RÓZENFELDOVÁ, L.: The Nature of Services Provided by Collaborative Platforms. In: EU and Comparative Law Issues and Challenges Series (ECLIC), Vol. 4, 2020, pp. 894–914.

course), the issue of *taxation* of the collaborative economy was also identified. Taxation issues were only broadly defined in the European Agenda for the Collaborative Economy. The fact that businesses providing comparable services should be subject to functionally comparable tax obligations was also emphasised. Although there is a consensus among the States on the characterisation of digitalisation as a global phenomenon transcending the dimensions of national legislations, a persistent problem in this area is the absence of a certain coordinated approach and the application of different digital taxation rules not only within the internal market of the European Union *(hereinafter referred to as "EU").*

The aim of this paper is to define and assess selected partial problems related to the taxation of collaborative platforms' income derived from sources in the territory of the Slovak Republic, as well as to the taxation of transactions carried out in the collaborative economy with value added tax *(hereinafter referred to as "VAT"),* focusing on *peer-to-peer* transactions, in the light of the wide range of problems arising from digitalisation in the area of taxation. In this context, the paper analyses amendments to Act No. 595/2003 Coll. on Income Tax made by Act No. 344/2017 Coll., which, among other things, added to the legislation of the Slovak Republic the conditions for the creation of the so-called permanent establishment of a digital platform. The paper also defines the basic types of transactions that are carried out in the supply chain taking place within the collaborative economy and attempts to clarify the answer to the fundamental question whether private individuals providing services in the collaborative economy (also referred to as "*peers*") can be considered taxable persons within the meaning of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax *(hereinafter referred to as "VAT Directive").*

II. RELEVANT ASPECTS OF THE COLLABORATIVE ECONOMY FROM AN INCOME TAX PERSPECTIVE

The diversity of the collaborative economy is also reflected in the composition of the entities that are involved in its functioning. The European Commission defined three main categories of actors operating in the collaborative economy, which are:

1. **service providers** who share assets, resources, time and/or skills – these can be *private individuals* offering services on an occasional basis *(peers),*[10] or *professional service providers* acting in their professional capacity;
2. **users of these services**[11] and
3. **collaborative platforms** acting as intermediaries that connect service providers with users and that facilitate transactions between them.[12]

https://doi.org/10.25234/eclic/11932. Another key issue identified was the ***liability regime for collaborative platforms***, in particular in relation to the conditions for exemption from liability for hosting service providers. As regards another key issue, namely ***protection of users***, the blurring of the lines between "businesses" and "consumers" may be a problematic aspect, given the diversity of relationships arising in the collaborative economy between different actors, particularly in the case of peer-to-peer transactions. Key issues include the ***status of self-employed persons and workers in the collaborative economy***, which also raises the fundamental question as to the applicable rights and the level of social protection system. See Also: LATTOVÁ, S.: Online Platforms and "Dependent Work" After Uber. In: Masaryk University Journal of Law and Technology Vol. 15, 2021, No. 2, pp. 197–223. DOI 10.5817/MUJLT2021-2-3.

[10] The provision of services by private individuals on a *peer-to-peer* basis is identified by the European Agenda for the Collaborative Economy as a specific feature of the collaborative economy.

[11] Prof. Babčák states that from the point of view of tax administration, the least interesting entity is the **user of the transport and/or accommodation service**, for the reason that no tax obligation arises from the receipt of these services, since the price of the service already includes or should include VAT or accommodation tax. See: BABČÁK, V.: Slovenské daňové právo na ceste od tradičnej ku zdieľanej ekonomike. In: IV. Slovensko-české dni daňového práva: Zdaňovanie virtuálnych platidiel a digitálnych služieb - COVID-19 a iné aktuálne výzvy pre daňové právo. Košice: UPJŠ, Vydavateľstvo ŠafárikPress, 2021, p. 36 and following, ISBN: 9788057400431. https://doi.org/10.33542/SCD21-0043-1-01.

[12] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European agenda for the collaborative economy {SWD(2016) 184 final}.

Collaborative platforms, in particular when providing intermediary services to their users across different countries, do not need to be established and are generally not even physically present in the jurisdiction in which the underlying service is provided, but only have a **digital presence** in the relevant jurisdiction. Current corporate taxation rules largely rely on the physical presence of the entity in the jurisdiction. From the perspective of the taxation of the income of a collaborative platform, or the operator of that collaborative platform, for corporation tax purposes, the residence of the company is relevant to the determination of the **tax residence** of the entity. The existence of (i) a *residence* or (ii) a *place of management* in the territory of a State is now one of the established requirements for the tax residence of a legal person.[13] For example, the Airbnb platform which, according to the Terms of Service, offers an online venue that enables users to publish, offer, search for, and book services, is operated by Airbnb Ireland UC, a private unlimited company incorporated under Irish law and resident in Dublin. In addition to the above, the online payment services of the intermediated relationships and other payment activities of the Airbnb group in the EU are managed by Airbnb Payments UK Ltd. resident in London.[14] Similarly, the Bolt platform which, according to the General Terms for Drivers, connects passengers with drivers to help them move around cities more efficiently,[15] is operated by Bolt Technology OÜ resident in Tallinn, and the entity in charge of making payments is also another company, Billify OÜ.[16]

Thus, the collaborative platform generally, with certain exceptions, provides services in the territory of States and derives income from sources in the territory of States in which it has a **non-resident taxpayer** status in terms of tax jurisdiction. Of course, the situation is conceptually different with regard to the presence of the providers of intermediated services, who, depending on the type of service provided, are present in the place of supply (in the case of drivers providing transport services), or "only" real property owned by them is located in the place of supply (in the case of hosts providing accommodation services).

In particular, Article 7, paragraph 1 of the OECD Model Tax Convention on Income and on Capital[17] is relevant in relation to the possibility to tax the income of non-resident platform operators established outside a jurisdiction with **corporate income tax**. That provision implies the basic rule that the profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a **permanent establishment** situated therein. The permanent establishment rule thus delimits the right of each State to tax the income of a particular entity and constitutes an instrument of tax law, the essence of which lies in the establishment of a minimum level of activities carried on by the entity (non-resident) which must be met in order for the State to be able to levy tax on the non-resident entity. In terms of the various elements of the tax, we may also identify with the opinion that the permanent establishment has the closest relationships with the taxpayer, as it is one of the conditions relating to the activities carried out by that entity which, if fulfilled, give rise to a tax liability in a particular jurisdiction on the basis of the fulfilment of the legally

[13] For the purposes of the Model Tax Convention on Income and on Capital, the term "resident of a Contracting State" means *any person who, under the laws of that State is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.* See Article 4 of the Model Tax Convention on Income and on Capital.

[14] See: Terms of Service for European Users. Available at: https://www.airbnb.co.uk/help/article/2908/terms-of-service?_set_bev_on_new_domain=1639569484_N2U5YWQ0OGFlZmI3.

[15] Article 1.4. of the General terms for Drivers. Available at: https://bolt.eu/sk/legal/sk/terms-for-drivers/.

[16] Article 1.13 of the General terms for Drivers. Available at: https://bolt.eu/sk/legal/sk/terms-for-drivers/.

[17] The text of the OECD Model Tax Convention on Income and on Capital was updated in 2017 following the outcomes of the Action Plan on Base Erosion and Profit Shifting Project, known in its short form as the "BEPS Project". In particular, the permanent establishment issue is addressed in Action 7 of the BEPS Project, which focuses on strategies used to avoid the establishment of a taxable presence in a particular jurisdiction under tax conventions. See: OECD (2019), Model Tax Convention on Income and on Capital 2017 (Full Version), OECD Publishing, http://dx.doi.org/10.1787/g2g972ee-en.

established criteria.[18] The characterisation of a permanent establishment as a kind of fiction and the emphasis on the absence of its legal personality can also be found in the doctrine of tax law.[19] For the purposes of the OECD Model Tax Convention on Income and on Capital, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.[20] This definition of permanent establishment can be described as "traditional" in the following context of the initiatives to extend the definition of permanent establishment towards the digital space. The above definition of permanent establishment has generally been consistently adopted in most bilateral double taxation conventions, which ultimately facilitates the assessment of the creation of a permanent establishment in individual specific cases.

1. Digital platform as a legal reason for the creation of a permanent establishment of a non-resident taxpayer under Act No. 595/2003 Coll. on Income Tax

The conditions under which a taxpayer with limited tax liability (non-resident taxpayer) has a permanent establishment created in the territory of the Slovak Republic are laid down by Section 16(2) of the Act No. 595/2003 Coll. on Income Tax *(hereinafter referred to as* "*Income Tax Act*"*)*. This provision, which defines the conditions for the creation of a permanent establishment, was changed by the recent amendment to the Income Tax Act by Act No. 344/2017 Coll. in force from 1 January 2018, following the challenges arising from digitalisation and changes in the manner of carrying out activities subject to taxation.

This amendment firstly added the definition of a digital platform to the basic terms of the Income Tax Act, which for the purposes of the Income Tax Act means a hardware platform or a software platform necessary for the development and administration of applications.[21] The Explanatory Memorandum to Act No. 344/2017 Coll. specifies this legal concept and further describes a digital platform in more details as "*a modern technological business model enabling the exchange of information between several groups of users, in particular between end users and holders of movable or immovable property or service providers...".* A certain illogicality in this definition of a digital platform can be seen in the explicit acknowledgement of an alternative relationship between hardware and software platforms.

The second relevant change brought about by Act No. 344/2017 Coll. was the addition of a provision regulating the conditions for the creation of a permanent establishment, under which repeated intermediation of services of transport and accommodation, **including through a digital platform**, shall also be considered as the performance of an activity with a fixed place in the territory of the Slovak Republic.[22] Similarly, the Explanatory Memorandum to Act No. 344/2017 Coll. explains this change by stating that such digital platform activities may be considered to be "*in particular the intermediation of the entering into a contracts between holders of movable or immovable property or service providers and end user*". Furthermore, the Explanatory Memorandum to Act No. 344/2017 Coll. states that the aim of that provision is "*to clarify the definition of a permanent establishment by introducing a legal fiction, since the current provision does not reflect the modern business models of recent years, where activities are carried out in the territory of individual States without the physical presence of entrepreneurs in the territory of the State and their virtual presence is sufficient, and there is discrimination against entrepreneurs – taxpayers with limited tax liability who carry out activities in our territory through permanent establishments and taxpayers with unlimited tax*

[18] PONOMAREVA, K. A.: The concepts of legal status of the permanent establishment in the area of digital economy. In: J. Sib. Fed. Univ. Humanit. Soc. Sci., 12 (11), 2019, pp. 2079–2090. DOI: 10.17516/1997-1370-0513.

[19] A permanent establishment may be characterised by activity (in the functional sense) rather than by features characteristic of the subjects of law. Similarly, it does not have legal personality.

[20] Article 5, paragraph 1 of the OECD Model Tax Convention on Income and on Capital.

[21] See Section 2(ag) of the Income Tax Act.

[22] See Section 16(2) of the Income Tax Act.

liability who are obliged to duly tax their income". However, the introduction of a legal fiction of the creation of a permanent establishment has not resulted in the declared clarification of the definition of a permanent establishment, but in its significant extension including situations in which there is no **taxable nexus** for the taxation of the income of a digital platform in accordance with current rules of international taxation.[23] Despite the fact that digital platforms today provide services in a variety of areas, the amendment in question is characterised by its considerable substantive limitation to the areas of accommodation and transport only.[24] This amendment to the Income Tax Act represents an attempt by the Slovak legislature to introduce taxation of income of digital platforms derived from sources in the territory of the Slovak Republic.[25] However, rather than producing the desired results, the amendment has attracted a wave of criticism from the professional public.

In particular, a crucial question is the possibility of a non-resident taxpayer, i.e. also the operator of a collaborative platform, becoming liable for tax on the basis of a permanent establishment of a digital platform in the territory of the Slovak Republic under national law in the context of the application priority of international double taxation conventions over such law. The creation of a permanent establishment of a taxpayer in a particular case must be assessed according to the relevant international double taxation convention concluded between the State in which the digital platform operator is a tax resident and the Slovak Republic. As mentioned above, the definition of permanent establishment has been consistently adopted in bilateral double taxation conventions from the OECD Model Tax Convention on Income and on Capital, whereas these bilateral conventions today define "only" the conditions for the creation of a "traditional" (non-digital) permanent establishment and do not yet reflect the provision of services by digital platforms. As a result of the application priority of international double taxation conventions over the Income Tax Act, the extension of the definition of permanent establishment in the Income Tax Act has not had a practical impact on the ability of tax administrators to levy tax on non-residents on the basis of the creation of a permanent establishment of a digital platform under Section 16(2) of the Income Tax Act.[26]

In addition to stipulating the conditions for the creation of a permanent establishment of a digital platform, it is necessary to emphasize that the Income Tax Act also lays down a procedural **registration obligation** in relation to the creation of a permanent establishment.[27] Digital platform operators were thus obliged to apply for registration of the digital platform to

---

[23] For more information on the category of taxable nexus in the digital economy, see for example: ŠTRKOLEC, M.: Daňové právo a jeho reflexia na nové javy v ekonomike. In: IV. Slovensko-české dni daňového práva: Zdaňovanie virtuálnych platidiel a digitálnych služieb - COVID-19 a iné aktuálne výzvy pre daňové právo. Košice: UPJŠ, Vydavateľstvo ŠafárikPress, 2021, pp. 377–378. ISBN: 9788057400431. https://doi.org/10.33542/SCD21-0043-1-28.

[24] In this context, Prof. Babčák points out the divergency of the terminology of tax laws, where it is possible to observe inconsistent designation of taxable services in one provision as "transport" services and in another provision as "transportation" services. See: BABČÁK, V.: Slovenské daňové právo na ceste od tradičnej ku zdieľanej ekonomike. In: IV. Slovensko-české dni daňového práva: Zdaňovanie virtuálnych platidiel a digitálnych služieb - COVID-19 a iné aktuálne výzvy pre daňové právo. Košice: UPJŠ, Vydavateľstvo ŠafárikPress, 2021, p. 36 and following, ISBN: 9788057400431. https://doi.org/10.33542/SCD21-0043-1-01.

[25] Taxation at source is the traditional concept of taxation of non-residents in tax law. In this context, a further inquiry into the theoretical foundations for (source) taxation of transactions related to the digital economy may be deemed purposeless. See, for example: BAÉZ, A. – BRAUNER, A.: Withholding Taxes in the Service of BEPS Action 1: Address the Tax Challenges of the Digital Economy. In: WU International Taxation Research Paper Series No. 2015 – 14, p. 5 and following. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2591830.

[26] For more information on the issue of a permanent establishment of a digital platform, see, for example: CIBUĽA, T. – HLINKA, T. – CHOMA, A. – KAČALJAK, M.: Digitálna platforma ako stála prevádzkareň. In: Právny obzor, 102, 2019, No. 2, pp. 155–167, ISSN 2729-9228 and for double taxation conventions in the broader international law context, see: KAČALJAK, M.: Vybrané trendy vo výbere daní a možnosti ich právnej reflexie na Slovensku. Bratislava: Wolters Kluwer s.r.o., pp. 22–26. ISBN: 978-80-8168-643-6.

[27] In addition to the registration obligation, Section 49a(3) of the Income Tax Act regulates also the **notification obligation**, which arises under the same conditions, with the difference that the natural or legal person concerned is **already registered** with the tax administrator in accordance with the relevant provisions of the Income Tax Act. In that case, the natural or legal person shall only notify the tax administrator of the creation of a permanent establishment.

the tax administrator by the end of the calendar month following the end of the month in which the permanent establishment of the digital platform was created (i.e. initially by the end of February 2018).[28] In the event of a breach of the registration obligation, the procedure provided for by Act No. 563/2009 Coll. on Tax Administration (Tax Procedure Code), amending certain acts *(herein after referred to as "Tax Procedure Code")* shall apply, under which the tax administrator shall first request the taxable person to comply with the registration obligation within an additional time limit, and if such time limit expires in vain, the tax administrator shall register the taxable person *ex officio*.[29] According to the issued Opinion of the Ministry of Finance of the Slovak Republic, when registering digital platforms *ex officio*, the tax administrators shall rely in particular on the data provided by specific providers of transport and accommodation services[30] who are directly affected by a further legal consequence of the digital platform's breach of the registration obligation. Such further legal consequence of a breach of the registration obligation is the application of **withholding tax** under Section 43(2) of the Income Tax Act. The Ministry of Finance of the Slovak Republic specifies that the obligation to withhold tax is imposed on the providers of transport services (i.e. particular drivers) and the providers of accommodation services (i.e. particular accommodation establishments) in the territory of the Slovak Republic.[31]

The withholding tax is understood as a special method of collecting the tax by withholding it at source in the cases specified in statutory provisions where the collection of the tax directly at the source of income is more appropriate. Since withholding tax is a special method of tax collection, it is logical that tax cannot be collected by withholding (or any other method) where there is no tax obligation. As stated above, on the basis of the priority of international conventions over the law, digital platforms do not have a tax obligation and therefore, in our view, neither can arise the taxpayer's obligation to withhold and remit such tax to the tax authorities. Particularly in the context of the tax challenges of the digital economy, withholding tax is also conceived, by the very nature of its mechanism, as a mechanism to remedy the difficulty of attributing profits to a non-physical commercial presence of a particular entity in a particular jurisdiction.[32] In this context, withholding tax represents an ancillary obligation of a domestic taxpayer to withhold and remit tax in the event that the primary own tax obligation of a non-resident taxpayer who has no physical presence at all in a particular jurisdiction is not fulfilled. We are inclined to the view that, even with this understanding of withholding tax, an interpretation in favour of domestic taxpayers should be applied, according to which, if there is no primary own tax obligation as a result of the application priority of international double taxation conventions, no ancillary obligation of the domestic taxpayer can arise in respect of that domestically non-taxable income either.[33]

2. Judgment of the Court of Justice of 25 July 2018 in Case C-553/16

The obligations described in the previous subchapter are imposed on taxpayers under threat of enforcement. It is also established in tax law theory that tax-law relations are always directed

[28] See Section 49a(3) of the Income Tax Act.

[29] See Section 67(8) of the Tax Procedure Code.

[30] Opinion of the Ministry of Finance of the Slovak Republic No. MF/010531/2018-724 of 23 March 2018, p. 2, Available at:https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Zverejnovanie_dok/Dane/Novinky_leg/Medzinarodne_zda novanie/2018.03.28_dig_platform.pdf.

[31] Ibid.

[32] BAÉZ, A. – BRAUNER, A.: Withholding Taxes in the Service of BEPS Action 1: Address the Tax Challenges of the Digital Economy. In: WU International Taxation Research Paper Series No. 2015 – 14, p. 6 and following. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2591830.

[33] A similar conclusion, according to which if there is **no primary tax obligation**, which is excluded in the given case by an international double taxation convention, there can be no **accessory obligation of the Slovak taxpayer** in relation to the non-existent taxable income, has also been reached by CIBUĽA, T. – HLINKA, T. – CHOMA, A. – KAČALJAK, M.: Digitálna platforma ako stála prevádzkareň. In: Právny obzor, 102, 2019, No. 2, pp. 155–167. ISSN 2729-9228.

towards the correct identification and timely payment of tax.[34] A tax case concerning the admissibility of imposing financial penalties in tax proceedings which do not appear to lead to compliance with a tax obligation was dealt with by the Court of Justice in a factually similar case, C-553/16, which concerned (similar) national legislation imposing an obligation on tax residents to apply **withholding tax** on payments of income abroad in situations covered by a double taxation convention. The Bulgarian Law on Corporation Tax (zakon za korporativnoto podochodno oblagane) contained a provision pursuant to which the income of non-resident legal persons obtained from domestic sources, where it is **not obtained through a permanent establishment** in Bulgaria (i.e. income which, under Article 7 of the OECD Model Tax Convention on Income and on Capital, is not taxable), is subject to withholding tax, which extinguishes the tax debt. In this case, the company, a tax resident in Bulgaria, considered that the income in question, on which it was obliged under national law to apply withholding tax, was covered by double taxation conventions and, for that reason, it did not deduct any withholding tax and did not remit the tax to the tax authorities within the statutory time limit. Subsequently, however, the tax resident of Bulgaria was subject to a tax inspection covering the period in question, resulting in an authoritative imposition of tax. In addition to the tax, (irrecoverable) default interest was imposed on the tax resident in an amount significantly in excess of the tax itself, from the point at which the statutory time limit for the payment of the withholding tax expired until the date on which the non-resident persons furnished the evidence that the requirements were fulfilled for the application of the double taxation convention. Later, in the domestic proceedings, it was established and decided that the tax resident was not obliged to pay the withholding tax imposed by the earlier decision. However, in spite of the non-existence of a tax obligation, the tax resident was not reimbursed the default interest already paid in respect of the tax originally levied.

In relation to national legislation imposing an obligation to pay default interest from the point at which the statutory time limit for the payment of the withholding tax expires until the date on which the non-resident person furnishes evidence that the requirements were fulfilled for the application of the double taxation convention, even if that non-resident company is **not liable to pay any tax** in Bulgaria under the double taxation convention, the Court of Justice held that such national legislation constitutes a **restriction on the freedom to provide services** which is in principle prohibited by Article 56 of the Treaty on the Functioning of the European Union.

The possible justification of the restriction on the freedom to provide services was then examined, which, according to the case-law of the Court of Justice, is warranted only if it pursues a legitimate objective compatible with the Treaty on the Functioning of the European Union and is justified by overriding reasons of public interest; if that is the case, it must be suitable for securing the attainment of the objective which is pursues and not go beyond what is necessary in order to attain it.[35]

The Court of Justice has already held that (i) the need to ensure the **effective collection of taxes** and the need to ensure the effectiveness of fiscal supervision, and (ii) the imposition of penalties, including criminal penalties, necessary in order to ensure compliance with national rules, may constitute overriding reasons in the public interest, however, to the condition that the nature and amount of the penalty imposed is in each individual case proportionate to the gravity of the infringement which it is designed to penalise.[36] In this case, the Court of Justice has reached a clear conclusion and has emphasised that, in the event that it is established that

[34] The monetary form of tax-law relations is their exclusive form. See: BABČÁK, V.: *Daňové právo na Slovensku a v EÚ*. Bratislava: EPOS, 2019, p. 96 and following, ISBN: 978-80-562-0247-0 .

[35] Paragraph 52 of Judgment of the Court (Seventh Chamber) of 25 July 2018 in Case C-553/16, "TTL" EOOD v Direktor na Direkcija "Obžalvane i danăčno-osiguritelna praktika" – Sofija,

[36] Paragraph 57 of Judgment of the Court (Seventh Chamber) of 25 July 2018 in Case C-553/16, "TTL" EOOD v Direktor na Direkcija "Obžalvane i danăčno-osiguritelna praktika" – Sofija.

the tax is not payable under the relevant double taxation convention, a penalty in the form of irrecoverable default interest calculated on the basis of the amount of such tax is logically not appropriate to ensure the effective collection of the tax. In a situation as such, there is no connection between the amount of interest payable, on the one hand, and the amount of tax payable, of which there is none.[37]

III. VALUE ADDED TAX TREATMENT OF TRANSACTIONS IN THE COLLABORATIVE ECONOMY

The variety and continuous development of new models of collaborative platforms, including the number of transactions carried out between collaborative economy entities, has also an impact on the assessment of their VAT regime. The assessment of the collaborative economy from the perspective of the VAT system requires the determination of the status of two main groups of transactions in the supply chain:

1. **the transactions between the collaborative platform and its users** (the providers and users of the underlying services) and
2. **the transactions consisting in the actual provision of the underlying services** between the providers and users of these services, which have been intermediated by the collaborative platform.[38]

From the point of view of the VAT system, these transactions should be treated on their own merits, as the character of a particular transaction in the supply chain is not dependent on earlier or subsequent transactions.[39] In the context of the tax treatment of transactions in the collaborative economy, the most common classification of transactions is based on their remuneration,[40] where it is essential for VAT purposes that these transactions are carried out for consideration. Of course, other aspects of transactions in the collaborative economy are also relevant for VAT purposes, in particular the character of the service provided, which has to be assessed on a case-by-case basis, the taxable status of the user of the service, the specification of the place of supply for cross-border transactions, etc.

In the first group of transactions, the role of the collaborative platform in the supply chain is relevant for VAT purposes and may be dual. The collaborative platform most often connects or facilitates the interaction between the provider and user of the service, where it acts as an **intermediary**. The OECD refers to the above-mentioned role of the collaborative platform in the supply chain for VAT purposes as "*agent role*", whereas the European Commission does not use a specific term for this purpose and prefers the term *"intermediaries*". For the intermediation of that interaction, the collaborative platform may be paid a commission consisting of a percentage of the consideration for the intermediated service or a fee in a fixed amount, depending on the specific conditions.[41] The nature of the collaborative platform's

---

[37] Paragraph 59 of Judgment of the Court (Seventh Chamber) of 25 July 2018 in Case C-553/16, "TTL" EOOD v Direktor na Direkcija "Obžalvane i danăčno-osiguritelna praktika" – Sofija.

[38] OECD (2021), The impact of the growth of the sharing and gig economy on VAT/GST policy and administration. OECD Publishing, Paris, https://doi.org/10.1787/51825505-en.

[39] See e.g. Judgment of the Court (Third Chamber) of 12 January 2006 in Joined Cases C-354/03, C-355/03 and C-484/03, paragraph 47, according to which: *"Each transaction must therefore be regarded on its own merits and the character of a particular transaction in the chain cannot be altered by earlier or subsequent events."*

[40] In this context, a distinction is made between (i) **cash transactions**, which are the most frequent in the collaborative economy and are naturally associated with the applicable tax obligations. Some tax issues are raised by (ii) **cost-sharing arrangements**. Other transactions are (iii) **barter arrangements** and (iv) **gifts and donations**. See also: HUČKOVÁ, R. – RÓZENFELDOVÁ, L. – BONK, F.: Zdieľané hospodárstvo - otvorené problémy a diskusia (najmä s prihliadnutím na obchodnoprávne a daňovoprávne súvislosti). In: STUDIA IURIDICA Cassoviensia, Vol. 6, 2018, No. 2, pp. 125–140. ISSN 1339-3995.

[41] An example is the fees differentiated by the Airbnb platform. The first is the Airbnb **service fee**, which is charged by Airbnb for providing 24/7 community support and ensuring the system runs smoothly. Subsequently, Airbnb also lists a **cleaning fee** and an **extra guest fee** charged by the service providers (hosts). The fees also include a **security deposit**, which in some cases is requested by Airbnb and in some cases by the host. At the same time, **taxes** are explicitly included

activities does not generally raise questions as to its classification as an economic activity for VAT purposes and, insofar as the collaborative platform provides services for consideration, they are taxable transactions.

In addition, however, according to the OECD, a collaborative platform may also act in a so-called "*principal role"*, where the object of the transaction is first supplied/provided/made accessible to the collaborative platform, which then supplies/provides it on its behalf to users in return for consideration.[42] Similarly, the European Commission underlines that a collaborative platform may, in addition to the provision of intermediation services, be the provider of the underlying service, i.e. the intermediated service, and may also be the provider of other services that are ancillary to the core services.[43] In the above-mentioned case, the collaborative platform acts as a service provider with all the related obligations of a taxable person, acting in the capacity of a taxable person within the meaning of the applicable VAT rules. However, in that case, the definition of the conditions of supply of goods/services by the platform may also be relevant for the assessment of the characteristic of *independence* of the economic activity carried out by the platform.[44]

As regards the second group of transactions between the providers and users of services, *peer-to-peer* transactions require particular attention.

1. Peer-to-peer transactions from a VAT perspective

For peer-to-peer transactions to be liable for VAT, they must be carried out for (i) consideration, (ii) within the EU, (iii) by a taxable person, (iv) acting in the capacity of a taxable person. In the context of peer-to-peer transactions, the crucial question from a VAT perspective is whether *peers, i.e. private individuals who provide services through collaborative platforms, are considered taxable persons within the meaning of the VAT Directive.* [45] In this context, it is necessary to assess whether those private individuals carry out an economic activity and whether they do so independently.[46]

The case-law of the Court of Justice emphasises an extensive understanding of the term economic activities on an objective basis, without taking into account the results or the objective of that activity. Examples include the Judgment of the Court of Justice (Third Chamber) of 12 January 2006 in Joined Cases C-354/03, C-355/03 and C-484/03, according to which: "*an analysis of the definitions of taxable person and economic activities shows that the scope of the term economic activities is very wide, and that the term is objective in character, in the sense that the activity is considered per se and without regard to its purpose and results*."

Particularly in the case of peer-to-peer transactions, it is often stressed that peers provide services only on an occasional basis. According to the European Commission, the use of collaborative platform services by private service providers may in itself imply some **continuity**

in the fees section, namely VAT and local taxes (in particular accommodation tax). For more details see: Ako funguje tvorba cien. Available at: https://sk.airbnb.com/help/article/125/ako-funguje-tvorba-cien.

42 OECD (2021), The impact of the growth of the sharing and gig economy on VAT/GST policy and administration. OECD Publishing, Paris, https://doi.org/10.1787/51825505-en.

43 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European agenda for the collaborative economy {SWD(2016) 184 final}

44 European Commission Value Added Tax Committee Working Paper No. 878: VAT Treatment of Sharing Economy. 22 September 2015, p. 10 and following, Available at: https://circabc.europa.eu/sd/a/878e0591-80c9-4c58-baf3-b9fda1094338/878%20-%20VAT%20treatment%20of%20sharing%20economy.pdf.

45 Under Article 9(1) of the VAT Directive, **"taxable person"** shall mean any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity**.** Any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, shall be regarded as **"economic activity"**. The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis shall in particular be regarded as an economic activity.

46 European Commission Value Added Tax Committee Working Paper No. 878: VAT Treatment of Sharing Economy. 22 September 2015, p. 4 and following, Available at: https://circabc.europa.eu/sd/a/878e0591-80c9-4c58-baf3-b9fda1094338/878%20-%20VAT%20treatment%20of%20sharing%20economy.pdf.

in their activities.[47] At the same time, it cannot be concluded that the use of the services of collaborative platforms for the purpose of the subsequent provision of services would fall strictly within the scope of the management of property for private purposes.[48] For example, in its Judgment of 15 September 2011 in Joined Cases C 180/10 and C 181/10, the Court of Justice emphasised that: *"If that person takes **active steps**, for the purpose of concluding those sales, to market property by mobilising resources similar to those deployed by a producer, a trader or a person supplying services within the meaning of the second subparagraph of Article 9(1) of the VAT Directive, that person must be regarded as carrying out an 'economic activity' within the meaning of that article and must, therefore, be regarded as a taxable person for VAT*."

Another problematic aspect may be the assessment of the independence of the conduct of an economic activity[49] by private service providers. It is very difficult to draw a general conclusion on this issue because of the variety of conditions under which services are provided through collaborative platforms. Assessing the independence of the conduct of an economic activity thus requires a thorough *ad hoc* assessment of individual cases. However, the conditions for the provision of accommodation services through the Airbnb platform can be provided as an illustration. Under the Terms and Conditions for Hosts set out by the Airbnb platform, *the host is entering into a contract directly with the guest and is responsible for delivering the host service under the terms and at the price specified in his listing*.[50] Based on the above example, it can be concluded that the providers of accommodation services through the Airbnb platform comply with the condition of independent provision of services.

The conclusion that private individuals providing services through collaborative platforms are taxable persons will constitute the obligation to monitor the amount of turnover achieved in the statutory period in each individual case, with a consequent obligation to register if the statutory amount of turnover is reached in the statutory period.

IV. CONCLUSION

We can share the view that a common understanding of the collaborative economy phenomenon would be an appropriate first step towards a common solution to the related tax problems.[51] Following the content focus of this paper, it should also be emphasized that the collaborative economy should, in our view, be considered as one of the components of the digital economy. The collaborative economy is thus a narrower concept in relation to the digital economy. The digital economy is, by its very nature, a subcategory of the economy and, in this sense, is an umbrella term for the use of digital technologies and is linked to the rapid implementation of information and communication technologies in all areas of socio-economic relations.[52]

As mentioned in the introduction of this paper, the collaborative economy is a dynamically developing phenomenon and collaborative platforms are now operating in various sectors of

---

47 European Commission Value Added Tax Committee Working Paper No. 878: VAT Treatment of Sharing Economy. 22 September 2015, p. 6 and following, Available at: https://circabc.europa.eu/sd/a/878e0591-80c9-4c58-baf3-b9fda1094338/878%20-%20VAT%20treatment%20of%20sharing%20economy.pdf.

48 Ibid.

49 Under Article 10 of the VAT Directive: "The condition in Article 9(1) that the economic activity be conducted 'independently' shall exclude employed and other persons from VAT in so far as they are bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer's liability."

50 See: Terms of Service for European Users. Available at: https://sk.airbnb.com/help/article/2908/podmienky-poskytovania-slu%C5%BEby#EU5.

51 Commission Staff Working Document: Online Platforms Accompanying the document Communication on Online Platforms and the Digital Single Market {COM(2016) 288 final} p. 41 and following.

52 HRABČÁK, L. – STOJÁKOVÁ, M.: Digitálna ekonomika, digitálne služby a daň z digitálnych služieb – Hrozba alebo výzva pre normotvorcov? In: STUDIA IURIDICA Cassoviensia, Vol. 8, 2020, No. 1, p. 17 and following, ISSN 1339-3995, https://doi.org/10.33542/SIC2020-1-02.

the economy. For this reason, the examples of the Airbnb and Bolt platforms have been used in several places within this paper in order to flesh out individual conclusions. Accommodation and transport intermediation services are also included among the key sectors of operation of collaborative platforms.[53] However, attention has been paid to the Aibnb and Bolt platforms also due to the apparent intention of the Slovak legislature to tax the income of the operators of these two digital platforms.

In the context of the gradual adoption of unilateral digital taxation mechanisms by individual States, the solution in the form of extending the definition of a permanent establishment is the least frequent. According to the OECD, unilateral digital taxation mechanisms can be grouped into four main categories, which are (i) alternative applications of the permanent establishment thresholds, (ii) withholding taxes, but also (iii) new turnover taxes and (iv) specific tax regimes targeting large multinational enterprises.[54] It can be concluded that the Slovak legislature's approach suggests a preference for an incomplete solution rather than a complete absence of legislative change in this area. The solution adopted cannot be considered exhaustive in comparison with the challenges of the collaborative economy identified so far. The fundamental problem is the lack of conceptualisation of the legislation, which, although it imposes an obligation on operators of digital platforms to register a permanent establishment, does not allow for the levying of a tax as a result of the application of international double taxation conventions. It can be assumed that it is only a matter of time before, as a result of the legislation in question and the continuing state of uncertainty, the rights and obligations of taxpayers – whether collaborative platforms and/or service providers – in a particular tax case are decided by the competent court, as in Case C-553/16, in which the legal basis for the Court of Justice's decision was Bulgarian national legislation which, due to the absence of a tax obligation and the simultaneous application of withholding tax on non-taxable income, is similar to the legal provisions of the Slovak Income Tax Act currently in force and effect.

In relation to the indirect taxation of transactions carried out within the collaborative economy, the focus has been on two partial issues, namely the taxation of transactions between the collaborative platform and its users and, consequently, the taxation of peer-to-peer transactions. In general, the status of the collaborative platform as a taxable person is not in dispute. A different situation arises in the case of private service providers using collaborative platforms and their qualification as taxable persons. It is the use of collaborative platform services whereby service providers take active steps towards the provision of services that may be an important factor in their tax assessment for VAT purposes, as it may imply some continuity in the provision of those services. Finally, the VAT Committee has also taken a general opinion on this issue, according to which supplies of services for consideration by individuals through collaborative platforms, in principle, constitute economic activities, which establish for those individuals the status of taxable person for VAT purposes. When delivering them, taxable persons are acting as such, which means that they constitute taxable transactions for VAT purposes.[55]

[53] Other key sectors of the collaborative economy include the intermediation of other household services, professional and technical services, and collaborative finance. See: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European agenda for the collaborative economy {SWD(2016) 184 final}.

[54] OECD (2018), Tax Challenges Arising from Digitalisation – Interim Report 2018: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, https://doi.org/10.1787/9789264293083-en.

[55] European Commission Value Added Tax Committee Working Paper No. 878: VAT Treatment of Sharing Economy. 22 September 2015, pp. 7–8, Available at: https://circabc.europa.eu/sd/a/878e0591-80c9-4c58-baf3-b9fda1094338/878%20-%20VAT%20treatment%20of%20sharing%20economy.pdf.

KEY WORDS
collaborative economy, taxation, digital platform, permanent establishment, peer-to-peer transactions

KĽÚČOVÉ SLOVÁ
kolaboratívna ekonomika, zdaňovanie, digitálna platforma, stála prevádzkareň, peer-to-peer transakcie

BIBLIOGRAPHY

1. BABČÁK, V.: Daňové právo na Slovensku a v EÚ, 910 p. Bratislava: EPOS, 2019, ISBN: 978-80-562-0247-0
2. BABČÁK, V.: Slovenské daňové právo na ceste od tradičnej ku zdieľanej ekonomike. pp. 8–55. In: IV. Slovensko-české dni daňového práva: Zdaňovanie virtuálnych platidiel a digitálnych služieb - COVID-19 a iné aktuálne výzvy pre daňové právo. Košice: UPJŠ, Vydavateľstvo ŠafárikPress, 2021, ISBN: 9788057400431. https://doi.org/10.33542/SCD21-0043-1-01
3. BAÉZ, A. – BRAUNER, A.: Withholding Taxes in the Service of BEPS Action 1: Address the Tax Challenges of the Digital Economy. In: WU International Taxation Research Paper Series No. 2015–14, Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2591830
4. CIBUĽA, T. – HLINKA, T. – CHOMA, A. – KAČALJAK, M.: Digitálna platforma ako stála prevádzkareň. In: Právny obzor, 102, 2019, No. 2, pp. 155–167. ISSN 2729-9228
5. Commission Staff Working Document: Online Platforms Accompanying the document Communication on Online Platforms and the Digital Single Market {COM(2016) 288 final} 50 p.
6. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A European agenda for the collaborative economy {SWD(2016) 184 final}
7. Explanatory Memorandum to Act no. 344/2017 Coll., Amending Act no. 595/2003 Coll. on Income Tax and amending Act no. 563/2009 Coll. on Tax Administration (Tax Procedure Code)
8. European Commission Value Added Tax Committee Working Paper No. 878: VAT Treatment of Sharing Economy. 22 September 2015, 12 p. Available at: https://circabc.europa.eu/sd/a/878e0591-80c9-4c58-baf3-b9fda1094338/878%20-%20VAT%20treatment%20of%20sharing%20economy.pdf
9. General terms for Drivers. Available at: https://bolt.eu/sk/legal/sk/terms-for-drivers/
10. HRABČÁK, L. – STOJÁKOVÁ, M.: Digitálna ekonomika, digitálne služby a daň z digitálnych služieb – Hrozba alebo výzva pre normotvorcov? In: STUDIA IURIDICA Cassoviensia, Vol. 8, 2020, No. 1, pp. 15–28. ISSN: 1339-3995, https://doi.org/10.33542/SIC2020-1-02
11. HUČKOVÁ, R. – RÓZENFELDOVÁ, L. – BONK, F.: Zdieľané hospodárstvo - otvorené problémy a diskusia (najmä s prihliadnutím na obchodnoprávne a daňovoprávne súvislosti). In: STUDIA IURIDICA Cassoviensia, Vol. 6, 2018, No. 2, pp. 125–140. ISSN: 1339-3995
12. Judgment of the Court of Justice (Third Chamber) of 12 January 2006 in Joined Cases Optigen Ltd (C-354/03), Fulcrum Electronics Ltd (C-355/03) and Bond House Systems Ltd (C-484/03) v Commissioners of Customs & Excise
13. Judgment of the Court (Second Chamber) of 15 September 2011. Jarosław Słaby v Minister Finansów (C-180/10) and Emilian Kuć and Halina Jeziorska-Kuć v Dyrektor Izby Skarbowej w Warszawie (C-181/10)
14. Judgment of the Court (Seventh Chamber) of 25 July 2018 in Case C-553/16, "TTL" EOOD v Direktor na Direkcija "Obžalvane i danăčno osiguritelna praktika" – Sofija

15. KAČALJAK, M.: Vybrané trendy vo výbere daní a možnosti ich právnej reflexie na Slovensku. Bratislava: Wolters Kluwer s. r. o., 89 p. ISBN: 978-80-8168-643-6
16. KALAMÁNOVÁ, K.: Zdieľaná ekonomika či kolaboratívna ekonomika? In: Kultúra slova. Vedecko-popularizačný časopis pre jazykovú kultúru a terminológiu. Vol. 52, 2018, No. 3, pp. 172 – 176. ISSN: 0023-5202. Available at: https://www.juls.savba.sk/ediela/ks/2018/3/ks3-2018.pdf#page=46
17. LATTOVÁ, S.: Online Platforms and "Dependent Work" After Uber. In: Masaryk University Journal of Law and Technology Vol. 15, 2021, No. 2, pp. 197–223. DOI 10.5817/MUJLT2021-2-3
18. Liability of online platforms. STUDY Panel for the Future of Science and Technology. 170 p. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/656318/EPRS_STU(2021)656318_EN.pdf
19. OECD (2018), Tax Challenges Arising from Digitalisation – Interim Report 2018: Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, https://doi.org/10.1787/9789264293083-en
20. OECD (2019), Model Tax Convention on Income and on Capital 2017 (Full Version), OECD Publishing. http://dx.doi.org/10.1787/g2g972ee-en
21. OECD (2021), The impact of the growth of the sharing and gig economy on VAT/GST policy and administration. OECD Publishing, Paris, https://doi.org/10.1787/51825505-en
22. Opinion of the Ministry of Finance of the Slovak Republic No. MF/010531/2018-724 of 23 March 2018. 6 p. Available at: https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Zverejnovanie_dok/Dane/Novinky_leg/Medzinarodne_zdanovanie/2018.03.28_dig_platform.pdf
23. PONOMAREVA, K. A.: The concepts of legal status of the permanent establishment in the area of digital economy. In: J. Sib. Fed. Univ. Humanit. Soc. Sci., 12 (11), 2019, pp. 2079–2090. DOI: 10.17516/1997-1370-0513
24. RÓZENFELDOVÁ, L.: The Nature of Services Provided by Collaborative Platforms. In: EU and Comparative Law Issues and Challenges Series (ECLIC), Vol. 4, 2020, pp. 894–914. https://doi.org/10.25234/eclic/11932
25. ŠTRKOLEC, M.: Daňové právo a jeho reflexia na nové javy v ekonomike. In: IV. Slovensko-české dni daňového práva: Zdaňovanie virtuálnych platidiel a digitálnych služieb - COVID-19 a iné aktuálne výzvy pre daňové právo. Košice: UPJŠ, Vydavateľstvo ŠafárikPress, 2021, pp. 377–378, ISBN: 9788057400431. https://doi.org/10.33542/SCD21-0043-1-28
26. Terms of Service for European Users. Available at: https://www.airbnb.co.uk/help/article/2908/terms-of-service?_set_bev_on_new_domain=1639569484_N2U5YWQ0OGFlZmI3

CONTACT DETAILS OF THE AUTHOR

JUDr. Soňa Simić
Full-Time PhD. student
Pavol Jozef Šafárik University in Košice
Faculty of Law, Department of Financial Law, Tax Law and Economy
Kováčska 26, 040 75 Košice
Phone number: + 421 55 234 4111
E-mail: sona.simic@student.upjs.sk