

5.5.2022

EGDF response on the VAT in the Digital Age consultation

About EGDF

1. **The European Games Developer Federation e.f. (EGDF)**¹ unites national trade associations representing game developer studios based in 18 European countries: Austria (PGDA), Belgium (FLEGA), Czechia (GDACZ), Denmark (Producentforeningen), Finland (Suomen pelinkehittäjät), France (SNJV), Germany (GAME), Italy (IIDEA), Netherlands (DGA), Norway (Produsentforeningen), Poland (PGA), Romania (RGDA), Serbia (SGA), Spain (DEV), Sweden (Spelplan-ASGD), Slovakia (SGDA), Turkey (TOGED) and the United Kingdom (TIGA). Through its members, EGDF represents more than 2,500 game developer studios, most of them SMEs, employing more than 40,000 people.
2. **The games industry** represents one of Europe's most compelling economic success stories, relying on a strong IP framework, and is a rapidly growing segment of the creative industries. The European digital single market area is the third-largest market for video games globally. In 2021, Europe's video games market was worth €23bn, and the industry has registered a growth rate of 22% over 2020 in key European markets². There are around 5 100 game developer studios and publishers in Europe, employing over 87 000 people.³
3. **For years European game developer studios have relied on platforms acting as deemed suppliers for VAT reporting.** This system has worked well and does not need to change. However, now that alternative third party payment options are becoming more common in traditional digital distribution platforms and more and more game developers are experimenting with so-called web3 games, European SMEs are again starting to increasingly take care of VAT reporting by themselves.

¹ For more information, please visit www.egdf.eu

² ISFE Key Facts 2021 from GameTrack Data by Ipsos MORI and commissioned by ISFE
<https://www.isfe.eu/data-key-facts/>

³ 2019 European Games Industry Insights report:
http://www.egdf.eu/wp-content/uploads/2021/08/EGDF_report2021.pdf

1. VAT Reporting/e-invoicing requirements

The European Commission should:

- **Introduce precise requirements for platforms to prove that they have paid the VAT for B2C transactions on behalf of companies operating through them:** Currently, both Apple and Google only provide complex and unclear sales reports on the transaction they are processing. Consequently, the commission should introduce mandatory legal requirements for platforms to provide a clear invoice/receipt for European SMEs operating through the platforms. This invoice/receipt should explicitly state which one of their global subsidiaries is paying the money to a game developer/publisher. Furthermore, it should list all taxes (e.g. VAT and withholding taxes) and other payments explaining the difference between the in-game sales recorded and the sum paid to the game developer. It is currently challenging for game developers to provide evidence for tax authorities that the platforms they are using are actually paying the VAT and other taxes for B2C trade and why the internal sales reports do not always match with payments from platforms.
- **Follow data protection on default and design and data minimisation principles while designing new reporting/e-invoicing rules:** It is essential to remember that payment data often includes personal data. The more personal data companies share with tax authorities, the more significant the risks for data breaches. Consequently, the data processing should generally happen as far as possible at the company level. Only when absolutely needed companies should transfer data to tax authorities, and when they transfer the data, it should be as far as possible anonymised and aggregated data.
- **Secure sufficient time to implement new rules:** After the EU introduced MOSS and new digital VAT reporting obligations in 2015, many new service providers entered the markets to support companies in implementing the new rules. It is, therefore, crucial to have sufficient transaction time for any changes in reporting/e-invoicing requirements so that these service providers and tax authorities have time to update their systems.

2. VAT treatment of platform economy

The current system where platforms are considered deemed suppliers of digital content for VAT purposes works well and does not need to change.

In particular, the commission should be careful not to break the fundamental logic of the European taxation framework where enterprises pay the VAT in the country where a consumer makes a purchase and corporate tax in the country where the company is established:

<https://www.egdf.eu/documentation/5-fair-digital-markets/4-digital-ready-taxation-framework/>

The commission should approach corporate taxation and VAT framework as a unified system. The OECD is already considering reallocation of corporate taxation revenue from the small EU member states where the successful enterprises are established to the big EU member states where consumers are located. If the commission is considering building a system where even more taxation revenue is reallocated to the big EU member states by changing the place of taxation for VAT on advertisement from the company's place of the establishment to the location of the consumer, it would be highly problematic. This could easily lead to an unfair situation for

small EU countries that have made significant investments in building a flourishing local ecosystem of high tech companies.

3. Future development of one-stop-shop (OSS) for VAT

The EU must take global leadership in VAT/Sales tax reporting.

Digital services and content like games are quickly becoming an essential part of the European economy. The success of European digital services and content has primarily been based on European SMEs having immediate access to global markets regardless of their location. Unfortunately, governments all over the World are continuously fragmenting global markets by introducing novel VAT / Sales tax practices.

As digital markets are global rather than regional, EGDF believes the EU must try to minimise the fragmentation of the global digital markets by taking global leadership in VAT/Sales tax reporting. The commission should focus on opening OSS to third countries if they commit to European standards for the VAT/Sales tax treatment of merchants of record and platforms deemed to be suppliers etc. Furthermore, third countries should use the same standardised invoices and joint file format requirements.

Furthermore, to encourage tax compliance for traders from third countries and the use of OSS outside the EU, the commission should consider introducing a reward system for tax automation service providers that are acquiring clients to pay VAT to the EU through their systems. The reward should be based on taxes paid through an individual automated tax compliance system. In the short run, it would secure that these service providers will do all they can to ensure that as many companies based in third countries as possible will take care of their VAT obligations in the EU. And the more familiar local traders from a third country are with OSS, the easier it is to convince the third country to start using OSS.

In the long run, the EU should consider widening the reward system to the VAT reported in the EU. It would create a significant economic incentive for tax automation service providers to maximise the number of transactions happening through their service by streamlining their service and cutting their service fees. All in all, it would, therefore, significantly reduce the tax compliance costs of European SMEs.

When the Union and third countries do not agree on a joint approach to regulation, the different regulatory approaches must be as transparent as possible for European companies operating on global markets. This can be reached, for example, by introducing mandatory transparency requirements on VAT/Sales tax in the trade agreements.

For more information, please contact

Jari-Pekka Kaleva
Managing director, EGDF
jari-pekka.kaleva@egdf.eu
+358 40 716 3640
www.egdf.eu