

# Association of Accounting Technicians (AAT) response to the HM Treasury consultation, “Online Sales Tax: Assessing an option to help rebalance taxation of the retail sector”

## 1. Introduction

### The AAT Tax Panel

- 1.1. The AAT Tax Panel is a group consisting of senior external tax professionals from the private sector, trade unions (NFU and Equity), business groups (FSB, CBI) academia, the trade press, AAT licensed accountants, former HMRC civil servants and the OTS. At the last Tax Panel meeting in January 2022, there was broad agreement that the business rates system is broken, that an Online Sales Tax (OST) was not an effective solution, that a broader Sales Tax would be preferable but that this could also have numerous unintended consequences. As one Panel member neatly surmised, all tax professionals agree the system is broken but nobody can agree on how best to fix it.

### Missed opportunity

- 1.2. As AAT highlighted in its 2021 Budget response, it supports the decision to explore the arguments for and against a UK-wide OST but agrees with former Government adviser, Iceland and Wickes Chief Executive Bill Grimsey who questioned why a sales tax should only apply to online retailers. His study<sup>1</sup> suggests that a “sales tax” of 2% on all UK retail sales would produce the same amount of revenue for the Exchequer as that produced by business rates in the retail sector. As a result, this consultation represents a missed opportunity to look at the wider advantages and disadvantages of an all-encompassing sales tax that could more effectively help level the playing field between online and bricks and mortar retailers by enabling business rates to be scrapped for all.
- 1.3. If a sales tax is to be introduced, it is highly questionable as to why this should distinguish between online sales and any other form of sales. This is not simply as a principle of fairness (would it be fair for customers to pay different rates for the same item, from the same shop simply because of the nature of the purchase) but recognises the numerous cliff edges, avoidance measures and unintended consequences that an OST would generate. These include but are far from limited to concerns around definitions e.g. does click and collect count as an online sale?

### Uncertainty

- 1.4. The nature of the consultation and the type of questions being asked demonstrate that there is no identifiable policy proposal save for a very vague idea of introducing a new tax in limited circumstances, with limited applicability, and that it will not replace business rates but may help reduce them for some retailers in unspecified circumstances - all in the hope of partially addressing the fact that businesses that substantially operate online pay comparatively less in business rates than ‘bricks and mortar’ competitors.
- 1.5. The high degree of uncertainty makes it difficult even for the most passionate supporters of an OST to support these proposals. It is interesting to note that both the CBI and British Retail Consortium have failed to support or reject these proposals because of the uncertain, unclear and often unspecified nature of the policy detail. The same can be said of AAT’s 6,000+ licensed accountants and their 600,000 small business clients as well as its 50,000 members in practice operating in organisations from the FTSE 100 to local authorities and charities.

### Does an OST solve the problem of lower business rates for online sellers?

- 1.6. Given the lack of commitment to fundamental reform, AAT suggests that if the Government is convinced of the tax imbalance between those operating via warehouses and distribution centres compared to high street retailers, then a simpler, fairer and more logical approach might be to impose additional taxes on warehouses and distribution centres. However, rents for prime industrial and logistic properties have increased considerably in recent years – by approximately 30% between the ratings revaluations of April 2015 and April 2021<sup>2</sup> and the next revaluation in April 2023 is likely to see business rates for prime industrial and logistics space increase dramatically. Colliers predict an average rise in London of more than 50%, 32.5% in the south-

<sup>1</sup> The Grimsey Review, Covid Supplement 2020:

<http://www.vanishinghighstreet.com/wp-content/uploads/2020/06/Grimsey-Covid-19-Supplement-June-2020.pdf>

<sup>2</sup> Colliers, April 2022:

<https://www.colliers.com/en-gb/news/11-04-22-rate-bills-in-london-for-prime-industrial-logistics-property-expected-to-soar>

west and 30.6% in the south-east<sup>3</sup>. These factors not only negate the need for additional taxes to be imposed on warehousing and distribution centres, but they also appear to undermine any government rationale for a limited Online Sales Tax to combat the problem. By way of example, as the Colliers research evidences, Amazon's biggest distribution centre in Tilbury, which currently has a £3.6m rates liability, will face an increase to £4.7m as a result of the April 2023 revaluation<sup>4</sup>.

## 2. Executive summary

- 2.1. **AAT has repeatedly stated that the business rates system is broken and that fundamental reform is needed.**  
The imposition of an online only sales tax, that will not replace business rates but will instead provide some funding for rates to be reduced for some retailers, would not be an effective solution.
- 2.2. **If Government believes warehousing and distribution centres are not sufficiently taxed then it should look at addressing this issue directly rather than introducing an OST.**  
Although as noted above, the rationale for doing so is likely to be weakened by the April 2023 revaluation.
- 2.3. **Defining an online sale is already problematical but will become increasingly challenging in the future.**  
As such an OST in isolation will not only be difficult to implement, but it will also be open to abuse.
- 2.4. **Noting the uncertainty around whether or not to include services in any future OST or if this should only apply to Goods, AAT believes that a goods only approach would be preferable.**
- 2.5. **AAT does not support the introduction of an OST but if it is to occur, whilst there may be sound policy reasons for exempting business to business sales from a new OST this will almost certainly lead to evasion.**
- 2.6. **AAT does not support the introduction of an OST but if Government does proceed, proposals to limit an OST to UK consumers and not overseas buyers of UK goods appears to undermine the credibility and fairness of such a tax.**
- 2.7. **AAT does not support the introduction of an OST but if it is to occur, it must be on the basis of revenue i.e. charged as a percentage rather than as a flat fee.**  
This is to ensure the tax is progressive.
- 2.8. **AAT does not support the introduction of an OST but if it is to occur, small businesses operating below the VAT threshold (currently £85,000) should be exempt.**
- 2.9. **Recognising that many retailers now sell both online and offline, the impact of an OST is likely to be broadly negative for most UK retailers.**  
The only businesses likely to benefit are small businesses who do not sell anything at all online. Given there is a possibility of exempting millions of small businesses from the OST anyway, this begs the question as to whether or not it is worthwhile proceeding along the proposed path, especially when factoring in the likely impact of the April 2023 business rates revaluation referenced in the above introduction.
- 2.10. **There is much debate about the environmental damage created by online sales that necessitate delivery.**  
However, an OST that encouraged higher levels of instore shopping would probably lead to increased travel movements, increased pollution and increased congestion depending on the number of items purchased and the last-mile travel method.

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<sup>3</sup> Ibid

<sup>4</sup> Ibid

### 3. AAT response to the consultation paper

#### 3.1. **Chapter Two: Scope**

#### 3.2. Would you favour a tax for all 'remote' sales or just a subset of 'online' sales?

- 3.3. This very first consultation question highlights precisely why an OST in isolation is a bad idea.
- 3.4. Whether the distinction is based on the method of ordering, the degree of in-person interaction or the timing and location of the sale, the complexity is substantial, the opportunity for distortions and avoidance considerable and the degree of unfairness (perceived or real) great.
- 3.5. If an online reservation is made but payment and collection takes place in store, is it reasonable that this consumer pays more than someone who telephoned to reserve an item or reserved the item in person on a previous visit? Likewise, as retailers increasingly operate omni-channel sales, Government will not simply be distinguishing between high street retailers and online only businesses like Amazon and eBay but between the same customers using the same company but who might make purchases in different ways.
- 3.6. Looking to the future, the issue of definitions is only going to get more complicated. For example, an increasing number of consumers are undertaking live video shopping supported by in-store assistants, would that be covered by an Online Sales Tax?
- 3.7. At a recent meeting of AAT Licensed Accountants it was suggested that many businesses first question to their accountant would be, "*how can we legally avoid this*" and that much gaming of the system would inevitably occur.
- 3.8. Goods vs Services
- 3.9. AAT notes that the Government appears to favour a goods only approach, stating that, "*From an implementation perspective, a tax applicable only to tangible goods could ensure that the administrative challenges are more manageable. Businesses may find it easier to identify which products were subject to the tax. This should reduce the burden of calculating liability for an OST for reporting to HMRC.*"
- 3.10. The consultation goes on to suggest that a goods only approach "...*would bring other challenges, such as determining whether what has been supplied is a good or a service. For example, there would be questions about how a goods-only approach should apply to takeaways.*" But this appears to be somewhat overplayed. The main product in a take-away is the food being sold, the delivery aspect is a minor element, usually "free" to the consumer and is no different from the delivery of any other item ordered online which must also be delivered.
- 3.11. Business to Business Sales
- 3.12. Although uncomfortable with the basic principle of businesses being excluded from an OST if it is imposed on consumers, not only because of the significant additional revenues this would raise but because of the basic principle of equal tax treatment, AAT accepts that to do so would probably have a distortive effect, as the consultation document notes, there is potential for multiple layers of taxation to be created in business distribution and supply chains, increasing the price of the item being sold at each stage. These are costs which would inevitably be passed on to the consumer in the form of significantly higher prices. For this reason alone, AAT accepts that exempting business to business sales makes sense.
- 3.13. However, it is again worth noting the VAT situation where there is no cascading effect through business supply chains because VAT registered businesses reclaim the VAT they have paid their suppliers alongside collecting the VAT paid by their customers. This is yet another reason to consider the VAT regime as a more appropriate vehicle i.e. increasing VAT to enable a reduction in business rates.
- 3.14. Given business to business sales are likely to be exempt, this opens up another minefield of potential avoidance. As HM Treasury notes, not all genuine businesses have a company registration or VAT registration number. Even those that do have a legitimate company registration number may not be making legitimate purchases. For example, personal purchases through a business account which is likely to be a particular problem when dealing with limited companies given three quarters of these (over 4 million small businesses) are one person operations with no employees<sup>5</sup>.

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<sup>5</sup> Small Business Statistics, House of Commons library, December 2021:  
<https://researchbriefings.files.parliament.uk/documents/SN06152/SN06152.pdf>

3.15. **Chapter Three: Design**

3.16. The seller

3.17. Policy questions around the distinguishing features of vendors, intermediaries, underlying sellers etc, are not as complex as they may first appear. AAT campaigned for online marketplaces such as Amazon and eBay to be responsible for the collection and remittance of VAT and despite initial Government scepticism and reluctance, implementation of this approach has proven hugely successful, reducing VAT fraud by more than £1bn annually. As a result, making such entities responsible for the collection and remittance of tax has already proven to be relatively straightforward, easily implemented and substantially reduces evasion and avoidance. This suggests that making the platform rather than the underlying seller, responsible for the OST (although it is still ultimately being paid by the underlying seller) would be a more effective approach.

3.18. UK customers

3.19. Questions around the definition of UK customers appear to be unnecessarily complex as the OST should apply to all.

3.20. The consultation document states that “*the rationale for such a tax is limited to sales to UK customers*” but this is not necessary. As the next sentence goes on to state, “*If implemented, an OST should not advantage sellers based on their location.*” That principle works both ways.

3.21. If introduced it must be chargeable to both overseas-and UK-based sellers who are selling to someone in the UK and vice versa i.e. UK based sellers selling to someone overseas as well as in the UK. Otherwise, as framed, overseas residents would receive preferential treatment that undermines the credibility and fairness of the OST and the tax treatment of UK residents.

3.22. Ensuring the OST is applicable to all would also remove the administrative burden of sellers having to identify UK and non-UK customers.

3.23. Revenue vs flat fee

3.24. As AAT has referenced elsewhere, flat fee approaches are simpler from both the seller and buyers' perspective and provide greater certainty<sup>6</sup>. However, a flat rate is also more distortive given, as the consultation rightly highlights, “*...tax payable would be greater for lower value orders than for higher value orders*”.

3.25. There is also a key sustainability benefit of a percentage based approach that is not mentioned in the consultation document. The tax is effectively future proofed from the impact of inflation and price rises, unlike a flat fee. This not only reduces or eliminates inflationary effects, but it also means there is no need - or certainly much less need - for Government to undertake periodic reviews of the amount charged. AAT therefore believes that a revenue based approach (a percentage) is more progressive, fairer, less distortive and should be adopted if an OST is to be introduced.

3.26. Small businesses

3.27. In responding to the question as to what a reasonable OST threshold and allowance would be in order to protect small businesses, AAT believes that an exemption that mirrors the VAT threshold (currently £85,000) would protect most small businesses given those operating below the VAT threshold number approximately 3m, accounting for more than half (55%) of all small businesses<sup>7</sup>.

3.28. However, this could undermine the Government's objective of ensuring the OST generates sufficient revenue. The simplest means of addressing that would be to increase the percentage at which the OST is charged, perhaps ensuring it is set at 2% rather than 1%.

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<sup>6</sup> AAT response to the Scottish Government Consultation on The Principles of a Local Discretionary Transient Visitor Levy or Tourist Tax, September 2019:

<https://www.aat.org.uk/prod/s3fs-public/assets/AAT-response-Scottish-government-consultation-tourist-tax.pdf>

<sup>7</sup> BEIS Statistics, January 2020:

<https://www.gov.uk/government/statistics/business-population-estimates-2019/business-population-estimates-for-the-uk-and-regions-2019-statistical-release-html>

- 3.29. Setting the OST at the same rate as the VAT threshold would have another potential benefit in dealing with consultation questions around quarterly or annual reporting. Given Making Tax Digital already requires VAT to be reported on a quarterly basis rather than annual, the OST could be incorporated into VAT returns and undertaken digitally. This would also reduce administrative burdens by removing the need for separate reporting and/or reporting at different times.
- 3.30. Of course, there is an argument that VAT may be a better vehicle for addressing these policy issues instead of introducing a new tax in the form of an OST. This was discussed at length at the last AAT Tax Panel meeting in January 2022, where it was acknowledged that although many small businesses are below the VAT threshold and would therefore pay nothing, this could be solved by requiring all businesses to register for VAT. This already happens in Sweden and Spain and is supported by an increasing number of AAT licensed accountants as our own surveys have shown. This would solve revenue generation problems and could allow for an overall lower percentage of OST given the broader base, but it would do nothing to protect small businesses which Government has indicated to be a key objective.
- 3.31. **Chapter Four: Impacts**
- 3.32. Impact on current business rate levels
- 3.33. As AAT has repeatedly made clear, examining the merits of a broad based sales tax rather than a narrowly defined OST would generate greater revenues, in a fairer manner and could potentially lead to the complete removal of Business Rates rather than a narrowly defined reduction for some businesses as proposed by this OST. This would also remove some of the design complexities and administrative burdens.
- 3.34. For those who are purely online sellers, there will inevitably be an increase in their tax burden and so the OST could exacerbate the downward trend in online retail sales, which saw the proportion of retail sales online fall to 25.3% in January 2022, continuing a broad downward trend since its peak in February 2021 (36.5%)<sup>8</sup>.
- 3.35. Recognising that many retailers now sell both online and offline, the impact here is likely to be broadly negative too.
- 3.36. The only businesses likely to benefit are small businesses who do not sell online. Given there is a possibility of exempting millions of small businesses from the OST anyway, this begs the question as to whether or not it is worthwhile proceeding along the proposed path, especially when factoring in the likely impact of the April 2023 business rates revaluation referenced in the above introduction.
- 3.37. If set at the right level (very low) and applicable to a broad base (to avoid competitive advantages) there is likely to only be a small impact on innovation, efficiency and productivity. The higher the tax rate and the greater the number of exemptions, the more damaging the tax will become to innovation, efficiency and productivity.
- 3.38. Impact on consumer behaviour
- 3.39. Again, provided it was set at the right level i.e. no more than 2%, the impact on consumers behaviour is likely to be minimal.
- 3.40. Some may choose to purchase in store to avoid a prohibitively high OST but that is unlikely to happen if the cost is a mere 1-2% greater, even if small numbers did opt to make a purchase in store instead, that may be no bad thing from a policy perspective in terms of encouraging high street footfall. Of course, if the tax was applicable to all sales rather than purely online, there would probably be no impact on consumers' behaviour in favour of in-store retail or online.

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<sup>8</sup> Office for National Statistics, March 2022:

<https://www.ons.gov.uk/businessindustryandtrade/retailindustry/bulletins/retailsales/january2022>



- 3.41. Environmental impact
- 3.42. The consultation neatly encapsulates the problem; if an OST encouraged shoppers to favour instore shopping (with associated travel requirements) over home delivery, the environmental impact could be dirtier air and increased congestion from individual travel movements. Indeed, AAT believes this to be the case and is inclined to agree with research from Professor Alan McKinnon and Dr Julia Edwards at Herriot Watt University that concludes the same<sup>9</sup>. This undermines the suggestion that a delivery based form of taxation being introduced in various other countries addresses environmental concerns around the delivery driving necessitated by online orders.
- 3.43. More recent research from the Netherlands Organization for Applied Scientific Research<sup>10</sup>, should be of interest to policy makers in the UK given it undertakes a detailed comparison in the “last mile” impact on Greenhouse Gas emissions of traditional shopping in the U.K. compared to China, Netherlands and the United States.
- 3.44. The same research highlights the obvious – that the number of items purchased and the last-mile travel method “...are the dominant contributors to the variability in the GHG [Greenhouse Gas] footprints”

#### 4. AAT

- 4.1. AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide. Of the full and fellow members, there are more than 6,000 licensed accountants who provide accountancy and taxation services to over 600,000 British businesses.
- 4.2. AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

#### 5. Further information

- 5.1. If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Phil Hall, AAT Head of Public Affairs & Public Policy:
- 5.2. E-mail: phil.hall@aat.org.uk Telephone: 07392 310264 Twitter: @PhilHall2021
- 5.3. Association of Accounting Technicians, 140 Aldersgate Street, London, EC1A 4HY

Phil Hall, 06 May 2022



<sup>9</sup> Logistics Research Centre, Heriot-Watt University:  
[https://www.abtslogistics.co.uk/green-logistics-resources/343c5312-af8f-4cc0-a271-4191cb2ccdff\\_Edwards-McKinnon-ShoppingTripOrHomeDelivery-FocusLogisticsJuly2009.pdf](https://www.abtslogistics.co.uk/green-logistics-resources/343c5312-af8f-4cc0-a271-4191cb2ccdff_Edwards-McKinnon-ShoppingTripOrHomeDelivery-FocusLogisticsJuly2009.pdf)

<sup>10</sup> Netherlands Organization for Applied Scientific Research, 2020:  
<https://pubs.acs.org/doi/pdf/10.1021/acs.est.9b06252>