



Finance Act 2020

2020 CHAPTER 14

PART 2

DIGITAL SERVICES TAX

Digital services revenues, UK digital services revenues etc

40 Meaning of “digital services revenues”

- (1) This section applies for the purposes of this Part.
- (2) The “digital services revenues” of a group for a period are the total amount of revenues arising to members of the group in that period in connection with any digital services activity of any member of the group.
- (3) Where revenues arise in connection with a digital services activity and anything else, the revenues are to be treated as arising in connection with the activity to such extent as is just and reasonable.

41 Meaning of “UK digital services revenues”

- (1) This section applies for the purposes of this Part.
- (2) A group’s “UK digital services revenues” for a period are so much of its digital services revenues for that period as are attributable to UK users.
- (3) Revenues are attributable to UK users if—
 - (a) they are within Case 1, 2 or 3, or
 - (b) they are within Case 4 or 5 and, where subsection (9) applies, they are allocated to UK users under that subsection.

This is subject to subsection (10).

- (4) Case 1 is where—
 - (a) the revenues are online marketplace revenues,

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- (b) they arise in connection with a marketplace transaction, and
 - (c) a UK user is a party to the transaction.
- (5) Case 2 is where—
 - (a) the revenues are online marketplace revenues, and
 - (b) they arise in connection with particular accommodation or land in the United Kingdom (see section 42).
- (6) Case 3 is where—
 - (a) the revenues are online marketplace revenues,
 - (b) they arise in connection with online advertising for particular services, goods or other property, and
 - (c) the advertising is paid for by a UK user.
- (7) Case 4 is where—
 - (a) the revenues are online advertising revenues,
 - (b) they are not within any of Cases 1 to 3, and
 - (c) the advertising is viewed or otherwise consumed by UK users.
- (8) Case 5 is where—
 - (a) the revenues are not within any of Cases 1 to 4, and
 - (b) they arise in connection with UK users.
- (9) For the purposes of subsection (3)(b), revenues are to be allocated to UK users to such extent as is just and reasonable where they are—
 - (a) online advertising revenues within Case 4 and the advertising in question is viewed or otherwise consumed by UK users and others;
 - (b) revenues within Case 5 and they arise in connection with UK users and others.
- (10) Online marketplace revenues are treated as not attributable to UK users if—
 - (a) where they arise in connection with a marketplace transaction—
 - (i) they arise in connection with particular accommodation or land outside the United Kingdom (see section 42), and
 - (ii) the only UK user who is a party to the transaction is a provider or seller of the thing to which the transaction relates;
 - (b) in any other case, they arise in connection with particular accommodation or land outside the United Kingdom (see section 42).
- (11) In this section—
 - “marketplace transaction” means a transaction on the online marketplace between users;
 - “online advertising revenues” means revenues arising in connection with the provision or facilitation of online advertising;
 - “online marketplace revenues” means revenues arising in connection with an online marketplace.
- (12) For the purpose of the definition of “marketplace transaction”, “transaction on the online marketplace” includes the placing on the marketplace of an order that results in an agreement, even if the agreement between the users is made otherwise than through the marketplace.

42 UK digital services revenues: accommodation and land

- (1) This section, which supplements section 41 (meaning of a group’s UK digital services revenues), applies for the purpose of determining when online marketplace revenues arise in connection with accommodation or land.
- (2) The revenues are treated as arising in connection with accommodation if they arise in connection with—
 - (a) the provision of accommodation, or
 - (b) the provision of services, goods or other property in relation to accommodation, in connection with the provision of the accommodation on the online marketplace.
- (3) The revenues are treated as arising in connection with land if they arise in connection with—
 - (a) the sale of an estate, interest or right in or over land, or
 - (b) the provision of services, goods or other property in relation to land, in connection with the sale of an estate, interest or right in or over the land on the online marketplace.
- (4) In this section—
 - (a) any reference to providing or selling anything includes offering to provide or sell it;
 - (b) any reference to providing goods or other property includes providing it temporarily;
 - (c) “online marketplace revenues” means revenues arising in connection with an online marketplace.

43 Meaning of “digital services activity” etc

- (1) This section applies for the purposes of this Part.
- (2) “Digital services activity” means providing—
 - (a) a social media service,
 - (b) an internet search engine, or
 - (c) an online marketplace.
- (3) “Social media service” means an online service that meets the following conditions—
 - (a) the main purpose, or one of the main purposes, of the service is to promote interaction between users (including interaction between users and user-generated content), and
 - (b) making content generated by users available to other users is a significant feature of the service.
- (4) “Internet search engine” does not include a facility on a website that merely enables a person to search—
 - (a) the material on that website, or
 - (b) the material on that website and on closely related websites.
- (5) “Online marketplace” means an online service that meets the following conditions—
 - (a) the main purpose, or one of the main purposes, of the service is to facilitate the sale by users of particular things, and

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- (b) the service enables users to sell particular things to other users, or to advertise or otherwise offer particular things for sale to other users.
- (6) In subsection (5)—
- (a) “thing” means any services, goods or other property;
 - (b) any reference to the sale of a thing includes hiring it.
- (7) Any reference to providing a social media service, internet search engine or online marketplace includes carrying on an associated online advertising service; and any reference to a social media service, internet search engine or online marketplace is to be read accordingly.
- (8) In this section “associated online advertising service” means an online service that—
- (a) facilitates online advertising, and
 - (b) derives significant benefit from its association with the social media service, internet search engine or online marketplace.
- (9) Where an associated online advertising service derives significant benefit from its association with more than one type of digital services activity, revenues arising from the service are to be treated as attributable to each of the types of digital services activity in question to such extent as is just and reasonable.
- (10) See also section 45 (exclusion for online financial marketplaces).

44 Meaning of “user” and “UK user”

- (1) This section applies for the purposes of this Part.
- (2) Any reference to a user, in relation to a digital services activity of a person (the “provider”), does not include—
- (a) the provider or a member of the same group as the provider, or
 - (b) an employee of a person within paragraph (a), acting in the course of that person’s business.
- (3) “UK user” means any user who it is reasonable to assume—
- (a) in the case of an individual, is normally in the United Kingdom;
 - (b) in any other case, is established in the United Kingdom.

45 Exclusion for online financial marketplaces

- (1) In this Part any reference to an online marketplace excludes one that is for the time being an online financial marketplace.
- (2) An online marketplace is an “online financial marketplace” for a relevant accounting period if more than half of the revenues arising to the provider in the accounting period in connection with the online marketplace arise in connection with the provider’s facilitation of the trading of financial instruments, commodities or foreign exchange.
- (3) In subsection (2)—
- (a) the reference to the trading of financial instruments includes the creation of such instruments;
 - (b) the reference to the trading of commodities is to the kind of commodities, and the kind of trading, occurring on a commodities exchange.

(4) In this section—

“financial instrument” means—

- (a) a financial instrument within the meaning of the applicable accounting standards (see section 64), or
- (b) a contract of insurance as defined by section 64 of FA 2012;

“provider” means the person providing the online marketplace;

“relevant accounting period” means an accounting period of the group of which the provider is a member.