**ViDA - Deemed supplier amendments proposals**

**RECITALS**

| **Current Text** | **Amendment** |
| --- | --- |
| (23) It is therefore necessary to lay down rules to address the distortions of competition in the short-term accommodation rental and passenger transport sectors by changing the role that platforms play in the collection of VAT (becoming the ‘deemed supplier’). Under this model, platforms should be required to charge VAT where VAT is due but the underlying supplier does not charge it because they are, for example, a natural person or a taxable person using the special scheme for small enterprises. | (23) It is therefore necessary to lay down rules to address the distortions of competition **where such distortions exists** in the short-term accommodation rental and passenger transport sectors **while avoiding the creation of new distortions,** by changing the role that platforms play in the collection of VAT (becoming the ‘deemed supplier’). Under this model, platforms should be required to charge VAT where VAT is due but the underlying supplier does not charge it because they are, for example, a natural person or a taxable person using the special scheme for small enterprises. **In the case of passenger transport services, where a similar passenger transport service not facilitated through an electronic interface, and provided by an underlying supplier using the special scheme for small enterprises is not subject to VAT, the deemed supplier rule shall not apply.** |
| **Justification**  The only instance where professional licensed ride-hailing drivers do not already pay VAT is where they are subject to the special scheme for SMEs. Neither they, nor their competitors cease to be SMEs because they use a platform to find customers, and so this exemption ensures that VAT is not charged on a ride where its direct substitute (a taxi or private hire vehicle sourced in an offline environment) would not be subject to VAT, while leaving in place requirements for platforms to collect and remit VAT on rides that are already VAT-able. | |

**OPTION 1 - Excluding Professional Licensed Drivers**

**Implementing Regulation (EU) No 282/2011**

| **Current Text** | **Amendment** |
| --- | --- |
| *Article 9b*  2. Article 28a of Directive 2006/112/EC shall not apply to a taxable person who only provides any of the following:  [...] | *Article 9b*  2. Article 28a of Directive 2006/112/EC shall not apply to a taxable person who only provides any of the following:  [...]  **(e) services facilitating the provision of passenger transport services by taxable persons duly licensed to provide such services under Member State law.** |
| **Justification**  The only instance where professional licensed ride-hailing drivers do not already pay VAT is where they are subject to the special scheme for SMEs. Neither they, nor their competitors cease to be SMEs because they use an online platform to find customers, and so this exemption ensures that VAT is not charged on a ride where its direct substitute (a taxi or private hire vehicle sourced in an offline environment) would not be subject to VAT, while leaving in place requirements for platforms to collect and submit VAT on rides that are already VAT-able. | |

**OPTION 2**

**Directive**

| **Current Text** | **Amendment** |
| --- | --- |
| *Article 28a* | *‘Article 28a - insert at the end*  [...]  **Member States shall exempt passenger transport services referred to in the first paragraph where the person providing the underlying service is subject to the special scheme under Sections 1 and 2 of Chapter 1 of Title XII of Directive 2006/112/EC and the exemption will not lead to a distortion of competition.** |
| **Justification**    In the European Union, all passenger transport drivers are licensed professionals, whether they work through platforms or not. Both “traditional” taxi and ride-hailing drivers are regulated in all Member States where they exist. Whether drivers are liable for VAT is not related to the fact they offer their rides offline or through a platform. This depends mainly on the level of their revenues and the VAT threshold set by each Member State. Member States should have the flexibility to exempt passenger transport services where their supply through digital means does not lead to a distortion of competition vis-à-vis "traditional” taxi services hailed in the street or booked by phone. For example, in a number of Member States where the VAT threshold is considerably higher than the national average income, the revenues of most professional drivers falls below it. The Directive needs to ensure that tax law will not actively discriminate against transport booking services using digital technology. | |

**OPTION 3 - Adapting the transposition and application dates**

**Directive**

| **European Commission’s proposal** | **Amendment** |
| --- | --- |
| Article 5    Transposition    [...]    2. Member States shall adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 2 of this Directive.    They shall apply those provisions from 1 January 2025.    When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. | Article 5    Transposition    [...]    2. Member States shall adopt and publish, by 31 December 202~~4~~**6**, the laws, regulations and administrative provisions necessary to comply with Article 2 of this Directive.    They shall apply those provisions from 1 January 202~~5~~**7**.    When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. |
| **Justification**    Changing the date of application to 1 January 2027 will ensure that platforms have enough time to adapt to the new regulatory framework. | |