Taxation Law

Name

Institution

QUESTION A

Black Economy

Markedly, defining black economy is not a walk in the park as a significant number of scholars have laboured extensively to concisely define the phenomenon. As articulated by Beer, Maude & Pritchard, (2003) there seems to be no consensus on what constitutes black economy or shadow economy. According to them, black economies are commercial activities that are unregistered by their corresponding laws and regulations in their respective jurisdiction (Beer, Maude & Pritchard, 2003). Fundamentally, the legality of these activities is immaterial as failure to have them registered makes it difficult for them to be regulated (Bajada, 2002). Nonetheless, there is a blanket illegalisation of commercial activities that tend to operate underground. This is to mean that the mere fact a commercial activity is unregistered is in itself felonious and attracts the prevailing sanctions (Bajada, 2002).

Obviously, the rationale of failing to register a business could presume that the commercial undertaking in question is illegal or circumventing the relevant laws and regulations (McCouat, 2012). Uniquely, some commercial undertakings purposely operate as the black economy in order to avoid taxation (McCouat, 2012). However, debate is on as why an undertaking might want to pursue this treacherous route. Economists have argued that a stringent taxation regime could force some businesses to operate in the shadow economy (McCouat, 2012). Similarly, having a complicated taxation regime could have the potential of yielding such results. Additionally, operating in shadow economy could have been motivated by commercial entities avoiding to pay social security contribution. Comparatively, businesses operating in the dark economy may by design attempting to circumvent to the prescribed market standards such as labour and other administrative procedures (McCouat, 2012).

Sharing Economy

Comparatively, there is no consensus on the definition of sharing economy and exactly what it constitutes a sharing economy (Deloitte Access Economics, 2015). To begin with, there is a myriad of terms deployed by economic scholars as to what constitutes a shared economy. Nonetheless, the standout terns are; connected consumption, collaborative consumption and access based consumption. However, what is agreed upon by these scholars is that goods and services are flowing between strangers and technology is more of an enabling factor. Contemporarily, informal peer to peer transactions have been adopted far and wide and technology seems to be the driving force (Deloitte Access Economics, 2015).

Crucially, there seems to be a perennial tug of war between the liberal and conservatists in addressing the issue of regulation of the shared market. What cannot be ignored is the disruptive nature of the conventional market (Deloitte Access Economics, 2015). Notably, liberals argue that self-regulation should be adopted as the sharing economy has mechanisms to check the system. For instance, the reputation feedback mechanism is deemed to cure the problem of information asymmetry. Arguably, legal scholars will state that goods and services related to intellectual property due to its complicated ownership. Additionally, sharing economy upsets the property law doctrines as it is not certain as to when the property has been deemed to have passed between the transacting parties (Deloitte Access Economics, 2015). Correspondingly, this could have ramifications on the taxation regime that may want to ascertain income and ownership. By and large there is a raging debate as what should be classified as sharing economy and how it should be subjected to regulation (Deloitte Access Economics, 2015).

QUESTION B

Camplify

Generally, most recreational vehicles owners use their own vehicles for an average of six weeks annually (Camplify 2016). Following this computation, these recreational vehicles are left gathering dust and other weather elements for about forty-five weeks. At the base level, a camp van costs about $4000 depending on the amenities and the age of the vehicle. Realistically, spending $4000 on an item that you intend to use for less than two months annually could be classified as being a spendthrift. This is where Camplify comes in. Additionally, for those who own sites that can be used as campsites are also given a platform to advertise to the public through a portal (Camplify 2016).

For Camplify to work three aspects need to be met (Camplify 2016). Firstly, there must be a recreational vehicle owner willing to let out his/her vehicle. Secondly, there is a camper willing to rent that particular vehicle. Thirdly, it is the managers of Camplify who set up and maintain the interactive portal. These three aspects also apply to campsites owners. Uniquely, recreational vehicle owners are required to create a free account with Camplify. Further, they proceed to take pictures of their recreational vehicles which they proceed to upload to the portal. There are standard rates set although owners are allowed to vary these rates. Moreover, Camplify will contact the owner through a messaging platform for verification purposes. Equally, potential hirers are required to create a free profile where they shall be furnished with login details. After login potential hirers will be able to browse for recreational vehicles of their choice. After identifying a recreational vehicle the hirer will have the opportunity to meet with the owner and hammer out a deal. The transaction occurs online and the platform acts as a custodian for both the hirer and the owner (Camplify 2016).

When it comes to tax matters the Australian Taxation Office (ATO) has structures on how to tax shared economy income earners (Australian Taxation Office, 2017). Notably, the only way ATO can ensure compliance is through record keeping. This means that both the portal and the digital applications have tax calculator by design. Therefore, service providers must be aware that their charges are tax inclusive. According to Goods and Services Tax Act 1999, anyone offering hire services for 27 days or less is supposed to pay 10% Goods and Services Tax rate. Correspondingly, long-term hires are stipulated under Section 87-20 of Goods and Services Tax Act 1999 and expounded under section 87-15. Income earners can choose to pay 10% rate for the first 27 days and 50% for subsequent days. Further, ATO requires that income earners must input full amount in order for ATO to determine if they qualify to pay tax in the first place. Obviously, passive income earners will be exempted from certain tax obligations while those who earn significant amounts such as $75,000 will have to pay tax (Australian Taxation Office 2017).

Maui Motorhomes Australia

Maui Motorhomes Australia is a conventional equivalent to Camplify. According to their website, Maui Motorhomes Australia boasts of being trusted and experienced for more than twenty-five years in the provision of car rentals and Camp-van hire (Maui Motorhomes Australia, 2017). Equally, they provide camp vans depending on what the client desires. Their transactions are straightforward because the client only needs to contact them either physically or digitally. The potential client will be asked to select the camp-van of his/her choice. Additionally, a booking is deemed to have been made after the client pays. The client will either collect or have the camp-van delivered (Maui Motorhomes Australia, 2017).

Since Maui Motorhomes Australia is a registered limited liability company, it attracts taxes imposed by limited liability companies. These commercial undertakings do accrue corporate taxes imposed at a flat rate of 30%. Similarly, for those corporate offering services like Maui a further 10% is imposed on income realized from its operations. Therefore, while charging for their services it is prudent for companies like Maui Motorhomes Australia to include these taxes on their charges (Maui Motorhomes Australia, 2017).

QUESTION C

Markedly, the publication by the Australian Treasury entitled the Black Economy Taskforce Interim Report outlines measures to mitigate the possibility of shared economy adopting characteristics of a dark economy (The Treasury 2017). Correspondingly, the report acknowledges the importance of sharing economy has to the overall market spurring innovation and solving some problems such as unemployment. Equally, the report noted that if proper regulatory frameworks are not implemented there is a high possibility that these shared economies could incline itself to the dark economy (The Treasury 2017). Thereupon, the report has prudently outlined initiatives that could realistically forestall the possibility of these shared economy undertakings acquiring the black economy tag. Fundamentally, this paper seeks to analyse these initiatives on their efficacy.

To begin with, the first initiative that has been put forward is for the facilitators to collect and remit the tax. This initiative stands out because it is efficient and devoid of complexities (The Treasury 2017). Notably, the facilitators do accrue some benefits when transactions are made via their platform. The justification for this proposal is based on the fact that the facilitators are more equipped with the resources human and tangibles to facilitate collection and remission of tax collected. Certainly, this is the best and the most efficient way to collect and remit taxes. Equally, it is accurate to state that collection and remission through this system will ensure that taxes are collected comprehensively. This is because these platforms always have records of both the nature of the transactions. Similarly, the initiative sounds sustainable as it will not scare away potential subscribers as there will be no significant changes that could result in ramifications that might worry users. It is important to note that each shared economy is unique and having a blanket taxation system instead of a tailor made one could have negative repercussions. Therefore, using facilitators to collect and remit taxes is ingenious as they are able to ascertain the dynamics of the shared economy. Furthermore, using facilitators as tax collectors and remitters will make the process consistent and easy to conduct oversight. Importantly, getting the facilitators handle the taxation is prudent as it shields the average users from the intrigues and complexity thus forestalling the possibility of generating unintended consequences (The Treasury 2017).

Another initiative that has been presented by the Black Economy Taskforce Interim Report is the use of a realistic threshold for taxation. Importantly, there is a blanket threshold of $75,000 per annum in earning. Realistically, this benchmark seems to favour some undertakings while hurting others. The primary purpose of a benchmark is to improve on coherence. Logically, commercial entities that are able to achieve $75,000 cannot be classified as passive. Uniquely, the initiative is sustainable as passive entities are able to improve as they do not have to grapple with the taxation burden. Likewise, this system is not only efficient but also tailor made because it only collects taxes from those that are active earners while exempting passive ones. In addition, the commercial undertaking is not likely to have negative results as only those who qualify by this annual turnover will be subjected to taxation. It is accurate to illustrate that this initiative is efficient as these sharing economies have simple and verifiable records of transactions that have been carried out (The Treasury 2017).

Crucially, there is a need to create a one stop shop for small businesses in terms of taxation. It must be noted that these undertakings do not grow overnight and therefore there is need to have a less complicated taxation regime for such commercial entities. Consequently, this initiative had the direct effect of making the taxation system efficient as it will make the users who are transacting conduct their taxation obligations coherently. Similarly, having a one stop shop makes the taxation regime more comprehensive as the operators and facilitators do not need to deal with significant formalities while responding to their tax obligation. Equally, having the one stop shop makes the taxation regime more coherent as facilitators will be highly motivated to abide by their obligation in tax. Also, there is significant streamlining of the tax process if it is amalgamated as it will directly promote compliance consequently reducing the undesired consequences of noncompliance (The Treasury 2017).

One of the most ingenious but radical initiatives of curbing sharing economies from transforming into black market is the limited use of cash. Understandably, cash in its nature is anonymous and once on circulation it becomes difficult to determine if it has been obtained legally. Nonetheless, increased use of digital money makes it easy for regulators to trace the cash flow thus improving efficiency and coherency. Efficiency is achieved as it is easy to calculate and account for electronic cash. Further, it is both convenient and fast to transfer making it easy for facilitators to collect and remit taxes in good time thus avoiding penalties or other sanctions that could impact negatively to the commercial undertaking. Crucially, the use of electronic money abides by the *mondus operandi* of most of these sharing economies. Fundamentally, these commercial entities tend to operate digitally and thus it becomes almost tailor made and prudent to adopt the use of electronic cash (The Treasury 2017).

Another initiative that has been proposed by the Black Economy Taskforce Interim Report is the improvement of the self-regulatory mechanism. It is obvious that shared economy is more dynamic and has the capabilities of rendering the existing laws obsolete or inoperative which push most of these businesses to operate in the dark economy. Having a self-regulatory framework for taxation makes the taxation regime more efficient as it will be compliant with the prevailing laws and regulations. Furthermore, implementing a self-regulatory framework makes it easy for the tax regime to be tailor made making it more responsive and coherent to both legal and commercial interests. Comparatively, self-regulation makes the tax regime to be consistent as operators and facilitators will not only be in control but also reduce unnecessary external interference that may cripple the industry. Further, self-regulation is mindful of unintended consequences as it foresees potential risks and opportunities and collaborates with tax institutions to enable proper collection of taxes that will not have detrimental effects (The Treasury 2017).

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