Update from the Gig Economy Trenches – What’s New for Independent Contractors and Individuals with Business Income

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## The On-Demand Economy: Background Basics

<table>
<thead>
<tr>
<th><strong>INDEPENDENT CONTRACTORS</strong></th>
<th><strong>ON-DEMAND WORKERS</strong></th>
</tr>
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<tbody>
<tr>
<td>Self-employed, non-traditional workers working outside of traditional employment relationships</td>
<td>Individuals working in the On-Demand economy</td>
</tr>
<tr>
<td>Provide goods or services to customers</td>
<td>Do work as is needed (as demanded) by customers, clients, etc</td>
</tr>
<tr>
<td>NOT employees</td>
<td><strong>On-Platform:</strong> use apps that connect buyers and sellers of goods and services</td>
</tr>
<tr>
<td>◦ No income tax withholdings when paid</td>
<td><strong>Off-Platform:</strong> working without the use of platforms in the on-demand economy</td>
</tr>
</tbody>
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Types of Independent Contractors

- Self-employed workers
- Independent contractors
- Freelancers
- Contingent workers

On-Demand Platform Workers

Self-employed workers with no employees in occupations that frequently occur in on-demand work
Labor Platforms

Transportation

*drivers* transporting people or goods

Non-transport work

*workers* offering services such as dog walking, home repair or telemedicine

Capital Platforms

Selling

*independent sellers* of goods through online marketplaces

Leasing

*lessors* of assets such as homes or parking spaces

Source: JP Morgan Institute
### Fraction of participants by number of months with positive earnings in the year ending July 2016

<table>
<thead>
<tr>
<th>Duration</th>
<th>Transportation</th>
<th>Non-transport work</th>
<th>Selling</th>
<th>Leasing</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 to 12 months</td>
<td>12.5%</td>
<td>9.1%</td>
<td>7.3%</td>
<td>9.8%</td>
</tr>
<tr>
<td>7 to 9 months</td>
<td>10.0%</td>
<td>7.5%</td>
<td>6.8%</td>
<td>8.1%</td>
</tr>
<tr>
<td>4 to 6 months</td>
<td>19.2%</td>
<td>15.3%</td>
<td>15.1%</td>
<td>13.4%</td>
</tr>
<tr>
<td>1 to 3 months</td>
<td>58.3%</td>
<td>68.1%</td>
<td>70.7%</td>
<td>68.3%</td>
</tr>
</tbody>
</table>

Source: JPMorgan Chase Institute
Background Basics: Earnings

Independent Contractors

Avg. income for full-time was $69,100 (MBO Partners)

36% of freelancers made more than $75,000 (Upwork/Freelancers Union)

On-Demand Workers

• Earnings represent major source of supplemental income (20%)

• Avg. monthly income ranges in 4 key sectors:
  Transportation ($783)
  Leasing ($1,736)
  Selling ($608)
  Other Services ($793)

Source: JPMorgan Chase Institute
Participation in the Online Platform Economy was highest in Nevada.
<table>
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<tr>
<th>Data Source</th>
<th>Independent Contract Workers</th>
<th>On-Demand Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>BLS 2017</td>
<td>10.6M (A/C work is sole or main job)</td>
<td>1.6M (ODPW)</td>
</tr>
<tr>
<td>JP Morgan Chase Institute 2012-2018</td>
<td>NA</td>
<td>2.3M (ODPW)</td>
</tr>
<tr>
<td>Failure to Contribute-SIPP 2014</td>
<td>7.1M (SE/Non-EO)</td>
<td>3.1M (Occupations occurring in ODE)</td>
</tr>
</tbody>
</table>
Tax Compliance of Independent Contractors & Gig Workers

**Tax Gap Data**
In a 2008-2010 study the IRS found that there was an annual non-filing tax gap of $4B and underreporting of $65B of SE Tax.

When there is no withholding or information reporting (i.e. 1099 filing) there is a 63% chance of misreporting income.

**2019 TIGTA Report**
25% of Taxpayers with Form 1099-K from Platform did not file Schedule C or report income on line 21
13% did not file Schedule SE

https://www.treasury.gov/tigta/auditreports/2019reports/201930016_oa_highlights.html

**2007 TIGTA Report**
- In a 2007 study the USTD found that 44.20% of Independent Contractors with income above $2,000 underreported their income and had an average tax liability of $1,542

**Shortchanged**
- A survey of On-Demand platform workers found that 68% did not receive a 1099-K or 1099-MISC

**FTB Data**
70% receive no tax information
35% did not understand what records are needed

Assumptions & Measures Used to Calculate Estimates

Intuit Tax Survey of Self-Employed
32% of Self-Employed properly report
32% of Earnings under-reported
36% of Earnings not reported

Form 1099-K Reporting
• Form 1099-MISC is required on amounts paid by nonemployers to service providers and sellers on amounts of $600, but, if a payment is made via a credit card or debit card, nonemployers use a Form 1099-K.
• Where a Form 1099-K is required by a On-Demand Platform, a taxpayer must have more than 200 transactions and payments exceeding $20,000 before the Form 1099-K reporting rules are triggered.
• Most On-Platforms workers do not receive any Form 1099-K because, on average, they earn substantially less than $20,000 per year.

CA STATE FRANCHISE TAX BOARD
September 2018 Findings
• In 2016, of the Top 100 Platforms – only 12% issued Form 1099-Ks to service providers
• Of 12% - only half issued more than 55
• Companies issuing 1099-Ks have grown in volume by 163%
• Workers receiving 1099-Ks only increased by 26%

## Summary of 2014 SIPP and BLS 2017 ACW Data

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<tbody>
<tr>
<td>Total # of Workers</td>
<td>10,600,000</td>
<td>1,600,000</td>
<td>2,300,000</td>
<td>3,779,329</td>
</tr>
<tr>
<td>Total # of Workers Underreporting SE Tax Liabilities</td>
<td>4,685,200 (10.6M x 44.2%)</td>
<td>685,400 (1.6M x 68% x 63%)</td>
<td>1,564,000 (2.3M x 68% x 63%)</td>
<td>812,018 (25% of gig workers who received 1099-K and didn’t report on Schedule C or Line 21)</td>
</tr>
<tr>
<td>Total Amount of SE Tax Underreported ($1,542)</td>
<td>$7.22 Billion</td>
<td>$1.05 Billion</td>
<td>$1.5 Billion</td>
<td>$1.25B</td>
</tr>
<tr>
<td>Total Amount of Underreported Social Security Contribution</td>
<td>$5.85 Billion</td>
<td>$856 Million</td>
<td>$1.2 Billion</td>
<td>$1 Billion</td>
</tr>
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</table>

### Comparison of Estimates of Underpayment of SE Tax and Social Security Contributions
We estimate at least $5.95 billion in Social Security contributions that were likely not contributed because of underpayment of $7.35 billion in SE tax in 2014. Our estimates are based on averages of underpayment of SE tax and do not account for the likely non-payment of tax by this population altogether.

Historically, government research on sole proprietors has found high rates of underreporting for their income—even higher than we used in calculating our estimates. That research pre-dates the advent of the On-Demand Platform Economy, the data we used from SIPP might, too.

The On-Demand Economy has grown substantially since 2014 and added millions of workers in the last four years. As a result, we suspect that our estimates, if anything, are conservative as to the regular underpayment of SE tax by the Independent Contractors and On-Demand Workers we estimated, particularly with respect to those On-Platform Workers we included, the majority of whom will not receive any Form 1099 to prompt proper reporting of their income.
Existing tax rules don’t work for this growing problem for taxpayers

- 2019 TIGTA Report shows that of the 9 major platforms that furnished 1099-Ks, the number furnished increased 115% from 1.3M in 2015 to 1.8M in 2016
- Recent IRS data correlates to our findings and the rise of the On-Demand Economy – underpayment of estimated taxes rose nearly 40% from 2010 to 2015 up to 10 million from 7.2 million.
- FTC shows there are major implications for Social Security, too.

“For TY 2012 through TY 2015, the IRS did not work cases involving $12B of payments reported on Forms 1099-K by the nine gig economy companies, but the gig economy workers had potentially not reported these payments on their tax returns.”

- 2019 TIGTA REPORT, p. 13
State 1099-K Reporting Update

Massachusetts $600
Vermont $600

Illinois proposal (SB0119) for $600
Shortchanged

The Tax Compliance Challenges of Small Business Operators Driving the On-Demand Platform Economy

Written by Caroline Bruckner, Managing Director, Kogod Tax Policy Center
May 2016

KOGOD SCHOOL OF BUSINESS
AMERICAN UNIVERSITY • WASHINGTON, DC
KOGOD TAX POLICY CENTER

Shortchanged Found:
 One-third of respondents did not know whether they were required to file quarterly-estimated payments and that did not understand recordkeeping requirements;

 43% did not know how much they would owe in taxes and didn’t set aside money;

 Almost one-half did not know about any tax deductions, expenses or credits to offset their tax liability;

 61% did not receive any Form 1099; and

 Almost 70% did not received any tax guidance from the platform they worked with in 2015.

https://www.american.edu/kogod/news/Shortchanged.cfm
In response to Kogod Tax Policy Center (KTPC) research and testimony, steps have been taken to help On-Demand Economy Taxpayers

- August 2016, the IRS launched the Sharing Economy Tax Center on IRS.gov; https://www.irs.gov/businesses/small-businesses-self-employed/sharing-economy-tax-center
- December 2017, the National Taxpayer Advocate elevated the lack of tax guidance for sharing economy workers as one of the nation's most serious problems facing taxpayers on the basis of our survey of NASE members in her most recent annual report to Congress;
- Some industry platforms began issuing Form 1099-Ks to sharing economy operators even though not required to under current law; and
- The House Appropriations Committee, following recommendations from my team, included language in the Financial Services bill mandating the IRS to brief Committee members within 90 days on strategies for addressing underpayment and collection of self-employment taxes of gig economy workers.
What’s Been Done and The Road Ahead

In response to KTPC research and testimony, steps have been taken to help On-Demand Economy Taxpayers.


The IRS has opened a guidance project on this issues intended to clarify the definition of third-party network and aggregate payee under Section 6050W, but resources are focused on TCJA guidance.

The Joint Statistical Research Program in SOI is looking at data from 2010 and 2011 to assess tax gap implications.

Staff changes on the Congressional tax-writing committees indicates Congress is likely to consider legislative proposals in the 116th Congress.
The Sharing and Gig Economy: Effective Taxation of Platform Sellers

Chapter 1. Introduction
1.1. Scope of the project
1.2. Scale of the sharing and gig economy and key trends
1.3. Opportunities, challenges and risks
Notes
References

Chapter 2. Current tax administration approaches and limitations
2.1. General issues
2.2. Education, engagement and legislative simplifications
2.3. Withholding arrangements
2.4. Identifying platform sellers
Notes
References

Chapter 3. Considerations for effective taxation of platform sellers
3.1. Improving self-reporting by platform sellers
3.2. Legislation applying to platforms providing services in a jurisdiction
3.3. Multilateral automatic exchange of information

Chapter 4. Recommendations and considerations for further work
4.1. Recommendation 1: Development of a possible Code of Conduct
4.2. Recommendation 2: Continuing discussions to build the evidence base of tax risks and opportunities for reducing burdens
4.3. Recommendation 3: Development of a legislative model for standardised reporting

Annex A. Draft code of conduct for sharing and gig economy platforms
Notes

Annex B. Information fields reported as needed by tax administrations for direct tax purposes

Annex C. Considerations for domestic legislation for effective taxation of platform sellers for direct tax purposes
Founded in 2011, we conduct non-partisan research on tax issues specific to small businesses and entrepreneurs.

Develop and analyze solutions and promote public dialogue on tax issues critical to small businesses and entrepreneurs.

In 2016, we published a report *Shortchanged: The Tax Compliance Challenges of Small Business Operators Driving the On-Demand Platform Economy* and testified before Congress on our findings in 2016, 2017 and 2018.

In 2018, we published *Failure to Contribute: An Estimate of the Consequences of Non-and Underpayment of Self-Employment Taxes of Independent Contractors and On-Demand Workers on Social Security*. 