

VALUE ADDED TRAVEL

The introduction of a temporary 5% VAT rate for the UK tourism and hospitality sectors and its impact on tour operators, travel agents and events agencies

July 2020

On 8th July, the Chancellor announced the introduction of a reduced VAT rate of 5% for certain services in the hospitality and tourism sectors. The purpose of this paper is to describe what the new measures are and to consider the effects on tour operators, travel agents, events agencies and others involved in the distribution of the products affected.

There is also to be an Eat Out to Help Out scheme under which the government will subsidise the cost of eating out on quieter days in August this year.

Set out below are my thoughts on the implications for different sectors but first I will describe the new measures themselves and some other points important in understanding their effect.

We now have a number of brief guidance documents from HMRC and the relevant VAT Notices have been updated. Please note, however, that no draft legislation has not yet been released (as of 10th July) and there are still some unanswered questions.

The reduced rate services

The Chancellor announced that the reduced rate of 5% will be applied to food, accommodation and attractions in an attempt to support the UK tourism and hospitality sectors. The reduced rate takes effect on 15th July and will apply until 12th January 2021 (although it is of course possible that this period will be extended). The 5% rate applies to:

- food and non-alcoholic drinks sold for on-premises consumption in restaurants, pubs, cafes and similar
- hot takeaway food and hot takeaway non-alcoholic drinks (many items of cold takeaway food retain their zero rating)

- sleeping accommodation in hotels and similar establishments, holiday accommodation and pitch fees for caravans and tents
- admission to theatres, cinemas, circuses, fairs, amusement parks, museums, concerts, zoos, exhibitions and other similar cultural events (but not sporting events)

In the case of admissions, it is important that the reduced rate does not replace or affect the exemption already in place for many cultural services. The exemption continues to apply and overrides the reduced rate so admissions which are exempt now will continue to be exempt during the reduced rate period.

Tax points

To apply the 5% rate properly, it is necessary to identify the tax point (or time of supply) of each supply. Broadly speaking, supplies made in the period 15th July to 12th January will qualify for the reduced rate. But, as always, there are complications.

Normally, a tax point is created by the issue of a VAT invoice or receipt of payment (if earlier). The reduced rate would apply to supplies with a tax point within the reduced rate period. So, for example, a deposit paid to a hotel before 15th July would be subject to VAT at 20% even if the accommodation is to be provided in the reduced rate period and further supplies (i.e. invoices issued/payments received) during the reduced rate period would be taxed at 5%. However, suppliers may opt for a special rule which allows the rate to be determined wholly by the basic tax point, i.e. the date of actual performance of the service. Hotels, restaurants, attractions etc therefore have a choice to make: either to apply the normal tax point rules or to adopt the special rules for some or all of their newly reduced rated supplies.



To illustrate this, let's say a tour operator booked hotel accommodation on 1st July for arrival on 1st August and paid a 10% deposit at the time of booking. VAT at 20% was due on the deposit but the accommodation itself falls within the 5% period. The hotel now has a choice to make: it could stick with the 20% paid on the deposit and pay VAT at 5% on the 90% due in the reduced rate period, or it could apply the special rule and tax the full value, i.e. including the deposit, at 5%. This is because the basic tax point falls within the reduced rate period. If the hotel has issued a VAT invoice for the deposit, it would need to issue a credit note to correct the VAT charged if adopting the special rule.

Unfortunately, the option to adopt this special rule creates uncertainty as to how hotels, restaurants, attractions etc will treat deposits and similar paid to date for services to be provided during the reduced rate period.

Existing contracts

There has been conjecture on the extent to which hotels, restaurants etc will pass on the benefit of the reduced rate via lower prices. It is important to note that VAT legislation contains a provision on the effect of a VAT rate change on existing contracts. This states, where a contract is made before a rate change but the contracted supply is made after the rate change, that, unless the contract provides otherwise, the price is increased or decreased by an amount equal to the change.

Tour operators will want to ensure that the benefit of reduced VAT costs for services contracted before the rate change was announced is passed on to them as a lower price. The VAT legislation contains a provision which should help to ensure that this indeed the case. In addition, you will want to ensure that prices in new contracts are reduced to reflect lower VAT costs.

Tour operators and others within TOMS

Tour operators regularly purchase services which are now to benefit from the 5% rate. But will the margin made when selling these services also attract the 5% rate? Unfortunately, the margin made on services enjoyed within the EU is taxed at the standard rate, regardless of the liability attached to the services purchased, so the 5% rate does not apply. This has been confirmed by HMRC.

On this basis, the benefit of the reduced rate does not extend to tour operators within TOMS. This could be to the disadvantage of tour operators and reduce the efficacy of the government's measures. I understand, however, that ABTA will be making representations to government on this to find a means by which the benefit can apply so that the government's intentions are achieved and to remove the potential unequal treatment.

Any UK in-house supplies are eligible for the reduced rate.

Wholesale tour operators outside TOMS

Many wholesale suppliers account for VAT outside of TOMS and clearly the taxation rate for the margin is not an issue. Instead, wholesalers will need to consider the amount of VAT recoverable on services purchased and the rate to be charged on some supplies made. Ensuring that lower prices are passed on by suppliers will also be of great importance.

In many circumstances, tour packages are not subject to VAT and nothing in these current measures changes that. For non-packaged supplies, the 5% rate should be applied where appropriate and consideration will be needed on whether to adopt the special tax point described above. Care will be needed in all circumstances to ensure that the right value of input tax is recovered.

Agents

Disclosed agents do not supply the accommodation services etc and therefore do not account for output tax or input tax on any supply of accommodation, catering etc. Therefore, the 5% rate does not apply directly, although of course the price being collected on behalf of a principal should now, in many cases at least, be lower. There is no change to the treatment of commissions or fees so I expect these to attract the 20% rate even when the accommodation etc is taxed at 5%. TMCs and similar using the billback concession will need to ensure that they show the VAT actually charged by hotels etc.

Events agencies

Events agencies' VAT position is often a combination of the agency rules, TOMS and the use of "normal" VAT for non-travel services. As above, agency transactions should be unchanged so that the treatment of commission should not change. There should be no change either in the liability of management fees. The points made above for TOMS also apply.

The Eat Out to Help scheme

This is not a VAT measure as such but does raise a few VAT points. The detail of the scheme is [here](#).

It appears that tour operators and others re-selling qualifying meals do not fall within the scheme but it may affect the commercial arrangements between the restaurant and the re-seller.

Restaurants and similar should note that the government subsidies are subject to VAT (presumably at 5%!).

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