



VAT on letting holiday accommodation

In a recent case between Sonder Europe Ltd and HMRC, the First Tier Tribunal ruled that supplies of leased apartments that were then let out as holiday accommodation (known as the 'rent to serviced accommodation' business model) were subject to the Tour Operators' Margin Scheme (TOMS). Whilst the ruling does not have legal precedent and may be appealed, the case is significant because the VAT payable on the supplies under the TOMS scheme is likely to be much lower than under standard VAT accounting.

What is the Tour Operators' Margin Scheme?

TOMS applies to supplies of 'designated travel services' made by 'tour operators'. A designated travel service is defined in law as goods or services that are acquired by way of business and then supplied to a traveller without material alteration or further processing. A tour operator is defined as a person who provides designated travel services.

To calculate the VAT, 1/6 of the margin on designated travel services is declared to HMRC. The margin is the selling price of the supply, less any direct costs.

For businesses such as Sonder Europe Ltd, this treatment is preferable to standard VAT accounting because the VAT due on the margin will be lower than the VAT due on the full selling price.

Does TOMS apply to 'rent to serviced accommodation'?

According to the First Tier Tribunal, yes. Sonder Europe Ltd leased self-contained apartments in the UK from third-party landlords, which it then sub-let to both corporate and leisure travellers. The average length of stay in the apartments was five nights. Sonder accounted for VAT on the supplies under the TOMS, meaning VAT was accounted for on the margin.

HMRC argued that the supplies were not 'designated travel services' and that VAT was payable on the selling price at the standard rate.

HMRC's reason for excluding Sonder's supplies from TOMS is that the supplies were not onward supplies of travel accommodation, but in-house supplies being made from its own resources, similar to that of a hotelier, not a tour operator. Furthermore, HMRC argued that by leasing the flats and subletting them to travellers, the flats were being 'materially altered' from a supply of exempt land for residential occupation into a standard-rated supply of hotel accommodation.

The Tribunal disagreed with HMRC and ruled that the apartments were supplied for the benefit of travellers. Changing the nature of the supply of the apartments, from residential to travel accommodation, did not materially alter them, nor did the cosmetic and decorative alterations made by Sonder to the flats before they were let as travel accommodations. The supplies were therefore subject to TOMS.

What happens next?

This case has significant implications for businesses operating in the rent to serviced accommodation sector. Following the Tribunal's decision, such businesses can potentially benefit from substantial VAT savings by utilising TOMS. Claims for overpaid VAT going back 4 years can be made. If HMRC appeals the First Tier Tribunal ruling, the claims will be 'stood behind' the Sonder case. It may be that HMRC decides not to appeal, or conversely, we may see that the law itself is changed to exclude this kind of supply from TOMS. We will keep you updated on any developments in this area.

The First-Tier Tribunal ruling can be read here: [TC08852.pdf \(bailii.org\)](#)

HMRC's guide to the Tour Operators' Margin Scheme can be found here: [Tour Operators Margin Scheme \(VAT Notice 709/5\) - GOV.UK \(www.gov.uk\)](#)