



## **Tax News - VAT**

### **Supreme Court rules on VAT on provision of accommodation services under 'commitment contracts'**

On 27 September 2017, the Cyprus Supreme Court issued its decision in a case involving the application of VAT to 'commitment contracts' in the hotel sector where tour operators do not use all the pre-booked rooms.

#### **Facts**

The hotels and tour operators had entered into agreements on a commitment basis. Based on the provisions of the relevant contracts, the tour operators booked a specific number of rooms for their clients for which they were committed to pay, irrespective of whether or not the rooms were ultimately required. The court examined the VAT treatment in cases where the tour operator had not used all of the pre-booked hotel rooms.

The hotels considered that the amounts received relating to the unoccupied rooms should be treated as cancellation charges and, therefore, no VAT should have been declared on these sums.

#### **Court decision**

The plenary session of the court considered that the amounts paid by the tour operators relate to the provision of a particular service; namely, the booking of hotel rooms for the use of tour operators, irrespective of whether the rooms are used.

The failure to fill all the pre-booked hotel rooms should be considered as an internal issue of the tour operators and not of the hotel.

Consequently, it is incorrect to treat the amounts received in respect of pre-booked but ultimately unoccupied rooms as compensation or a cancellation fee and VAT should have been accounted for on the revenue.

### **How does this affect you**

Businesses with contracts on a commitment basis or containing similar provisions, e.g. for cancellation charges, no-show fees, withholding of deposits etc., should examine the VAT treatment that has been applied to ensure they comply with the court's decision.

### **How can Deloitte assist you**

The Indirect Taxation Team of Deloitte is at your disposal to discuss any potential impact on your activities in relation to the above and advise you on any other VAT issues.

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## **Key Contacts**

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