



On 24 January 2018, the TAX Authority has issued circular 223 in relation to the application of the provisions of the Tour Operators Margin Scheme (hereafter referred to as "TOMS") which is expected to have a serious impact on the way tour operators account for VAT on travel packages within the European Union. In particular the Tax Authority has adopted the decided ECJ cases of 23/09/2013 whereby the Court ruled that TOMS apply equally to wholesale (B2B) and to retail (B2C) transactions.

Practice of the Tax Authority up to now:

The practice of the Cyprus Tax Authority to date was that TOMS did not apply in relation to wholesale supplies of travel services, that is, when the travel services were sold to another travel agent for resale. This practice was stated in Circular 123 (dated 6 August 2008) of the Tax Authority.

Circular 223 (dated 24 January 2018):

In Circular 223, the Tax Authority makes reference to the decided ECJ cases of 23/09/13 in which the European Commission (hereafter referred to as "Commission") had launched legal proceedings against eight Member States (Greece, Spain, Italy, Poland, Czech Republic, France, Finland and Portugal) in relation to whether wholesale supplies of tourist services should be dealt with within TOMS. A wholesale supply is one made to another person for resale. In these cases, the ECJ ruled that TOMS should apply equally to wholesale and to retail supplies of travel services and disagreed with the Commission's position that the application of TOMS by the eight Member States to wholesale supplies of services was based on the incorrect substitution of the word "traveller" with the word "customer" in some of the translations of the European Directive.

On the basis of the above, the Tax Authority states in Circular 223 that TOMS will apply to both wholesale and retail supplies of travel services **from the date of publication of the ECJ ruling, that is from 23/09/2013** and that any other VAT treatment that may have been communicated to taxpayers in the past (either orally or in writing) **will not apply**. Circular 123 is also withdrawn. The only cases which will not be re-examined, in accordance with the Circular 223, will be those cases which have been examined by the Tax Authority by way of a VAT investigation.

Impact:

The above retroactive application of the change in practice by the Tax Authority will have serious consequences on tour operators who deal mainly with wholesale supplies and who have been called to account for VAT at the standard rate (currently 19%) on their travel services (at least those enjoyed within the EU) which would have otherwise been either subject to VAT on the basis of the reduced rate or outside the scope of Cypriot VAT, under the normal VAT rules.

Way forward: how PwC can help you

The dedicated team of VAT professionals at PwC is at your disposal to consider the impact Circular 223 will have on your business and to help you calculate any monetary impact that will arise. Correct calculation of the output VAT is necessary so that tour operators are in a position to correctly calculate their selling price and profit margins.