

Hotel & Leisure Bulletin

VAT: The 28 day rule

In our second issue of Hotel & Leisure Bulletin we discuss the application of the reduced VAT rule for long-stay guests in hotels.

VAT is due in full for the first four weeks, and the reduction then applies for the rest of the stay. This is intended to provide relief for people who reside in hotels. The assumption is that someone staying more than four weeks is not simply on holiday or visiting, but anyone who does stay for this length of time will qualify.

Qualifying for the 28-day rule

The rule applies where taxable hotel accommodation is provided to an individual for his or her own use, for a period exceeding four weeks.

If anyone else uses the accommodation during the period, they must occupy it along with the individual and not at their own expense. They must neither settle any of the bill, nor reimburse the individual for a share of the cost (although it seems unlikely that the hotel could be expected to know this).

The accommodation does not actually have to be contracted or paid for by the individual. The rule does not, however, apply where an organisation buys in accommodation for the use of a succession of people, each of whom stays for a shorter period.

The individual's stay must be continuous. So if someone stays for three weeks every month they will never qualify. However, HM Revenue & Customs accept that a stay is not broken if the guest:

- Is a long-term resident and leaves for an occasional weekend or holiday;
- Is a student who leaves during vacations and returns to the same accommodation for the next term; or
- Pays a retaining fee.

In these cases, the guest does not need to return to the same room.



Non-sleeping accommodation

The 28-day rule applies to accommodation in a hotel that is compulsorily standard-rated. It does not apply to accommodation that is only taxable because of an option to tax, for example the letting of rooms for conferences or meetings and the letting of space to other businesses such as a shop.

Applying the 28-day rule

A reduced amount of VAT is due after the 28th day of the period.

Output VAT should still be accounted for in full on meals, drinks and services. If there is an inclusive charge for accommodation and meals, the meals element should be split out and taxed in full.

The balance of the room charge is treated as relating to accommodation and facilities. The facilities element must be treated as at least 20% of it. The facilities are still standard-rated but the accommodation element is VAT-free.

The value of the facilities element should be calculated, and if it is more than 20% of the room charge, VAT should be accounted for on the greater amount. The law does not allow a lower figure than 20%, even if the facilities are worth less than that.

The benefit

The 28-day rule is intended to help the guest, not the hotel. But since most hotels quote a VAT-inclusive rate, the hotel is not obliged to reduce the amount charged to the guest – it can retain the VAT saved. The guest would need to negotiate a rate that takes account of the 28-day rule.

Making claims or adjustments

Hotels that have qualified for the 28-day rule but have continued to account for VAT on the full value of supplies made should consider lodging a retrospective claim for overpaid VAT either by making an adjustment to the current VAT return or by submitting a voluntary disclosure to HMRC. Claims are subject to the current time limits.

How can we help?

If you would like any further information regarding Cowgill Holloway or our work with the hotel and leisure industry, please contact one of the following members of the hotel and leisure advisory team:

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