

TOMS – Med Hotels***UKFTT 120 Secret Hotels2 Ltd (formerly Med Hotels Ltd)***

Med Hotels argued that they are acting as agent in arranging the sale of hotel rooms over the internet. They treat themselves as receiving commission from the hotels and this is reflected in their Terms and Conditions on the website. On the basis that this is a B2B transaction typically with a non UK hotel then no UK VAT is charged as the place of supply is where the hotel is located and the underlying supply of accommodation takes place. For example, a hotel in Spain may agree a net rate of say £100 with Med Hotels. Med Hotels agree a price of £120 with the customer. The customer pays £120 to Med Hotels who pass £100 back to the hotel, retaining £20 as commission. The hotel almost certainly only accounts for local VAT on £100 and therefore there is a tax gap comprising the £20 on which neither local nor UK VAT is declared.

The UK VAT authorities successfully argued that Med Hotels was acting as a principal and should be accounting for UK VAT on the £20 profit under TOMS, where the accommodation was EU.

Click [here](#) to read the case in full.

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